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IMMIGRATION IN ITALY: FROM POLITICAL PHILOSOPHY TO COSMOPOLITANISM

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INTRODUCTION

Italy has always been the gateway from which the Mediterranean World entered Europe, the door that linked two contrasting cultures and ways of life. Now, more than ever, the reality of this is impacting every day life on Italian society and politics. Because if Italy lived throughout most part of the XXth century a phase a thorough emigration, now it has become the point of entrance, and in some cases destination, for most of the immigrants coming into Europe. Between August 2012 and August 2013, almost 25.000 migrants landed on Italian soil, possibly increasing the number of legal foreigners in Italy that at the end of July 2013 reached almost 3,9 million people¹. A century ago the numbers were different in many ways. Between 1876 and 1988 approximately 27 million italians left the country, with about 12 to 14 million of those never coming back². Year after year, however, these number would decrease, especially around the 1960s and 1970s. If in 1961 387.000 italians emigrated abroad, in 1973 that number reached merely 100.000 units. 1973 also signs the year of change, for the first time the people coming in were more than the ones going out, turning Italy from a country of emigrants into one of immigration³. Italy's strong economic growth, made it so that for the first time the opportunities given by the improving working conditions on the peninsula, outweighed the chances and the incentives that brings one to leave. Though a year of passage, 1973 certainly did not sign the end of the emigration, considering that in the following years the phenomenon would nonetheless continue with approximately 40.000 to 90.000 exits a year⁴.

The economic boom was evident, not only italians stopped leaving the country, many of them were returning. If in 1950 Italy's GDP was approximately

¹ *Italian Ministry of Interior*, August 2013

² L.EINAUDI *Le Politiche dell'immigrazione in Italia dall'Unità a Oggi*, Editore Laterza, Bari, 2007, p.52.

³ *Ibidem*

⁴ L.EINAUDI, *op. cit.*, p.53

half of Britain's (50,7%) and a third of the America's (36.6%), by 1973 Italy's GDP reached 92,3% of Western Europe's average GDP⁵.

GDP Growth in Western Countries (1951-2005)

Period	Italy	Germany	France	Ocse	UK	USA
1951-61	5.9	8.2	4.9	4.1	2.8	3.1
1960-73	5.3	4.3	5.4	4.9	3.1	4.0
1973-79	3.5	2.4	2.8	3.0	1.5	3.0
1979-89	2.4	2.0	2.4	2.8	2.4	3.0
1989-2000	1.9	1.8	1.8	2.6	2.2	3.1
2001-05	0.6	0.6	1.5	2.2	2.3	2.5

source: Ocse⁶

On top of this, globalization kicked in, and from the 70s on, the gap between the western world and the developing countries would increase year after year⁷. Naturally enough, rapid economic growth brings to the creation of “unwanted jobs” as expectations of italians for higher wage and living standards left many job opportunities for the workers coming from abroad. With improving education and qualification, italians desired more and more from the quality of their work, abandoning the will to undertake more “traditional” occupations, considered too tiring, dangerous, unstable and certainly not well paid⁸. This meant a trend that would eventually evolve to a very consolidated extreme. A very fragmented work environment in which specific parts of the population, namely immigrants, where pushed towards certain sectors of the job market, in this case

⁵ L.EINAUDI, *op. cit.*, p. 58

⁶ *Ivi*, p. 68

⁷ *Ivi*, p.59

⁸ *Ivi*, p.60

unskilled labor. The extreme of this situation was reached in 2005, where 80% of colf workers in Italy were coming from abroad⁹.

Occupations with large foreign influence	%
Cleaning in building construction sites	74.6
Home care/Assistance	69.4
Professional Nurses	63.9
Care/Assistance in centers	60.4
House Cleaning	57.7
Untrained labour	57.1
Cleaning in Hotels and other services	56.2

Source: Unioncamere-Excelsior 2005¹⁰

A fragmentation exemplified very strongly in two consideration. First of all in the professional work environment, there is little to no competition from foreign immigrants, mainly because Italy is characterized by the presence of very closed professional associations that have strong legal limits. Secondly, the opposite can be found in the house/family care sector, a job environment almost completely in the hands of foreigners¹¹.

To go hand in hand with this situation was Italy's aging population. A new socio-economic condition brings to a changing reproductive pattern. Between 1870 and 1950 birth rate and death were decreasing both at a steady pace, maintaining the demographic balance on the positive side, contributing to the general growth of the Italian population. The pattern changed in the late 1950s, when an improvement of the living condition, brought the general death rate to

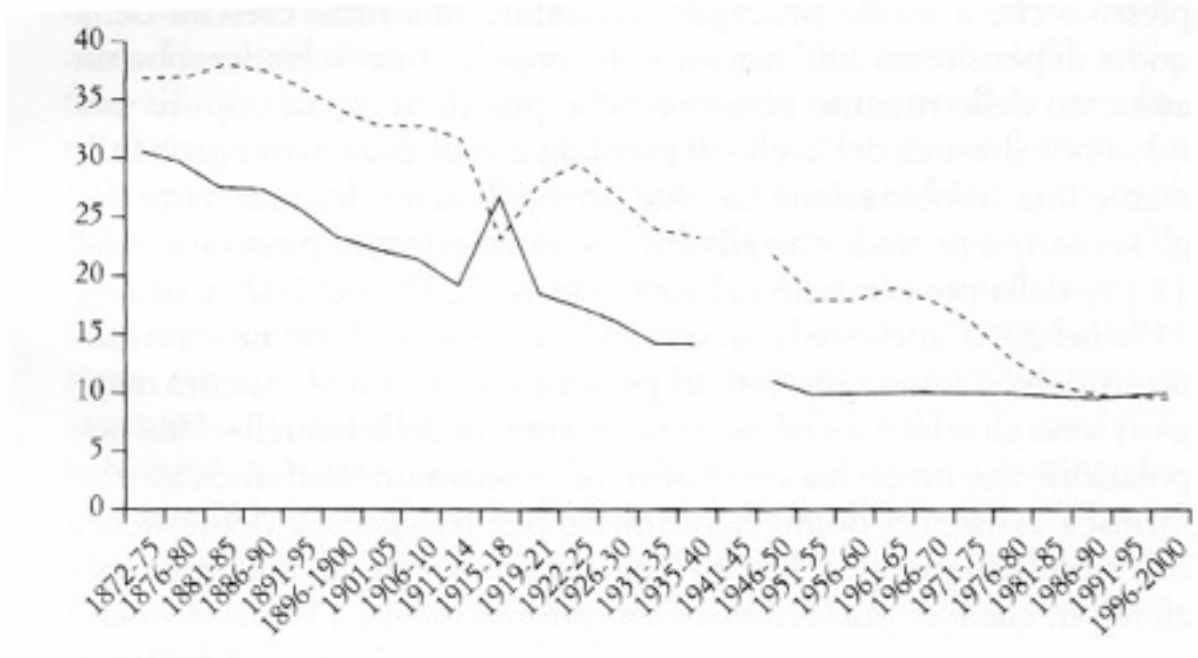
⁹ L.EINAUDI, *op. cit.*, p.63

¹⁰ *Ivi*, p. 63

¹¹ *Ivi*, p.64

stop decreasing. Accordingly the 1970s witnessed a further consolidation of the death rate, while a constantly decreasing birth rate, drastically changed the composition of age groups in Italy. Eventually, by the early years of the 1990s, the birth rate would fall under the line of the death rate, an event that would have meant, if it weren't for the growing number in immigrants, the beginning of a shrinking Italian population¹².

Birth and Death rate in Italy



Dotted Line = Births for 1.000 inhabitants Line = Deaths for 1.000 inhabitants ¹³

From a political and a sociological point of view, the dangerous element was not the shrinking population, but the aging population, a phenomenon that has

¹² L.EINAUDI, *op. cit.*, pp. 68-69

¹³ *Ivi*, p. 74

strong implications in pension and welfare policies, considering that a decreasing part of the population, the work force, has to sustain a strongly increasing one, the jobless and retired¹⁴.

Society was changing, requiring politics, policies and politician to do the same. In 1963, the Ministry of Labour officially took over from the Ministry of Interior the responsibility to create policies concerning immigration. On December 4th 1963, the Ministry of Labour promulgated its first official set of guidelines to regulate visa requirements. The granting of a work visa needed to pass by local detachments of the Ministry of Labour, that needed to make sure that the job contract upheld by the foreigner concerned a task that no other Italian could undertake. Granting a job visa was therefore an event limited and circumscribed to an assessment by the UPL (Ufficio Provinciale del Lavoro) that no Italian citizen wanted/could do that job. The Ministry's 1963 guidelines can be summed up in four points¹⁵:

- a. A regular job contract
- b. Clearance from the police regarding the criminal record
- c. Authorization by the UPL following the assessment of unavailability of the Italian work force for that specific job
- d. Work visa given by the Italian consulate in the country of origin

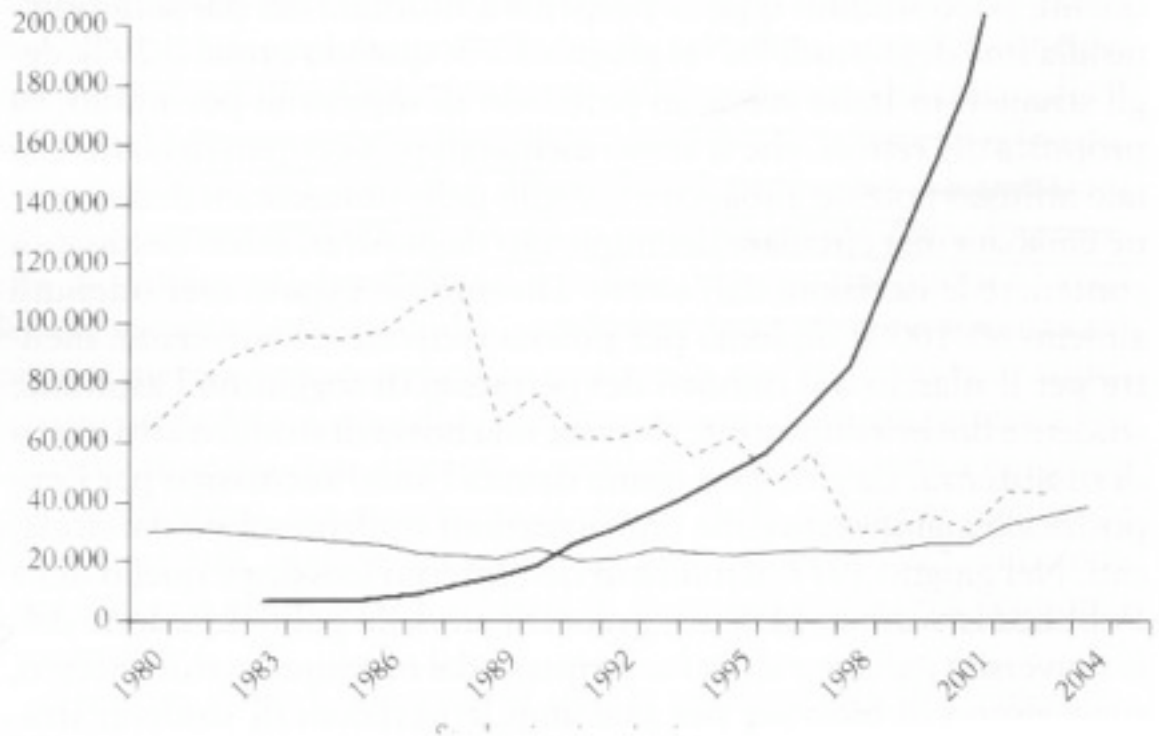
The guidelines were very strict, authorizing only one renewal, for the same job position and limited to 12 months. Basically, the end of the work contract meant the end of the regular visa. A very long process that did not link demand with supply in a straightforward manner. As we will see during the first chapter, until 1986, not important and structural law was promulgated to deal with immigration,

¹⁴ L.EINAUDI, *op. cit.*, p.70

¹⁵ *Ivi*, p. 99

making Italy's immigration policy a very passive one. The lack of specific norms made it so that study and tourist visa often became the shortcut to stay in Italy permanently. In 1973, 20% of foreigners in Italy entered through a study visa, "forcing" the Ministry of Foreign Affairs to raise the academic requirements to achieve a study visa Italy¹⁶.

Foreign students and foreign University students and study permits



Dotted Line = *Study Permits*; Bold Line = *Foreign Students*; Line = *Foreign University Students*¹⁷

Policy guidelines made it so that while the number of immigrants were increasing, the ones in university with a student visa were strongly decreasing,

¹⁶ L.EINAUDI, *op. cit.*, p.105

¹⁷ *Ivi*, p. 106

creating that "fragmentation" in the job market previously described. As a result of all of this, the amount of foreigners in the total of university graduates in Italy dropped in numbers¹⁸.

Pushed by labour movements and the catholic world, the bipartisan Andreotti Government set up in 1978 an inter-ministerial Committee to begin a first study on the situation in Italy. Headed by Democrazia Cristiana's Franco Foschi, member of the italian Foreign Ministry, the Committee eventually worked out a very confused, but very insightful scenario of the situation in the country¹⁹. Censis (an Italian research center) was given the responsibility to carry out the first census of the foreign population, publishing the following year its results. The total number was somewhere in between the 290.000 and 410.000 units, with only 200.000 green cards granted. The most interesting aspect of the study was the complete lack of full and comprehensive information available. Up to 1976 only 9.507 foreigners were "officially/legally working". Out of the 30.000 moroccans theorized by the labour movements in Morocco, only 300 were with regular permit to stay; of the thousands of house workers from Capo Verde present in Italy, only one was legitimately recognized by the italian government²⁰. The "legal/offical" numbers were of one kind, the actual and real situation was clearly another.

Throughout all of the 70s there was no public debate in Italy concerning immigration, and the only Government policies on the topic were general guidelines set out by specific Ministries regarding each of their competences. What was evident by 1978, and especially after the work of Foschi's Committee, was that Italy needed to normalize its situation, come up with an immigration policy, and generally understand which kind of solutions it wanted to adapt to overcome the already complex situation and to prepare for the future problems. From 1979 to 1986 the italian political elites began its bureaucratic meddling

¹⁸ L.EINAUDI, *op. cit.*, p. 106

¹⁹ *Ivi*, p. 116

²⁰ *Ivi*, p. 117

attempting to come up with the right norms to implement. The first part of the 1980s saw several different bills being proposed²¹, leading up to the approval of Italy's first immigration law in 1986: la *Legge Foschi*.

In 2013 the topic of immigration remains central in Italy's political debate, with discussion over *ius soli* and *ius sanguinis* evermore politically charged. Understanding why after almost 40 years of strong immigrations numbers, the topic remains a heated one will be the key question of this work. Why hasn't Italy been able to resolve its situation? Which mistakes have been made? What is so particular about immigration that it creates key societal, cultural and political dilemmas?

Three threads will be weaved throughout the paper, allowing us to identify the basic missteps taken since immigration has become an issue in the Italian political debate. Firstly *emergency politics* has erroneously been the driving force behind trying to solve the problem in Italy, forcing institutions to adopt last minute and short sighted solutions. Not understanding that enforcing a specific immigration policy means influencing in a very tangible way the development of society, turned past mistakes into long lasting societal burdens. Thirdly the massive normative gap left by the Italian Parliament and Government made it so that changes and improvements were mainly driven by the civic society and church organization and not by politicians and political institutions. What will become evident, is the strong power of "extra-Parliamentary" forces in the development and productions of immigration norms in Italy.

These three points will be proven in the following manner. Through an analysis of Italy's immigration laws, the first part of this paper, will deal with the mistakes of the past. Secondly the author will uphold the importance of political philosophy in creating an immigration policy, namely highlighting the strong potential of cosmopolitanism to resolve the issue in today's globalized world.

²¹ L.EINAUDI, *op. cit.*, p. 118

Lastly, the political philosophy behind immigration policies will be brought to our case study of Italy, trying to propose an innovative and tangible political proposal to the issue.

CHAPTER 1: THE HISTORY BEHIND IMMIGRATION

1.1.1 1980s: immigration officially enters the Italian political debate

In 1983 Italy witnessed its first and only socialist Government headed by Bettino Craxi (1983-1987). In that same year, Democrazia Cristiana proposed its first bill, pushed on by Foschi, that aimed and dealing with the country's immigration problems. Not simply general guidelines, but a full-fledged norm that eventually would be the backbone for the upcoming 1986 law. The bill was heavily in favor of immigrants, generally written with a strong sense of solidarity towards them. The proposal included²²:

- I. Goal: an equal treatment between foreign and Italian workers in all aspects of life: wages, social security, social services and school access.
- II. Application: creation of an *ad hoc* body to deal with the problems of immigrant workers and their families. This body was made up of representatives of the foreign workers, Italian firms, the government, local institutions and labor movements.
- III. Quotas: no annual bar was set up to guide the inflow of foreign workers. Instead, on a monthly basis, the government would monitor the number of jobs "rejected" by Italians, and would then make them available to the foreigners enlisted in Italian consulates abroad.
- IV. Duration: visas lasted longer, and after a second renewal (after a total of 4 years) the foreign worker could obtain an open-ended contract.

During these years the proposals were many, especially from leftist parties. The Italian Communist Party (PCI), inspired by the policies adopted in France and

²² L. EINAUDI, *op. cit.*, p. 124

Germany, was in favor of carrying out bilateral agreements with countries of origin to regulate the income of workers. Overall, however, there was a general feel in the Parliament that in order to normalize the situation, there was a need to “legalize” even all those that were not able to prove their legal and regular occupation in Italy²³. Between the socialist, communist and DC bills the discussion carried on for several years, and would only have a strong push forward towards a tangible norm through an extra-Parliamentary event. On December 27th of 1985, at Rome Airport a Terrorist Attack killed sixteen, when a group of Palestinians attacked the El Al and TWA air companies²⁴. The event brought to specific emergency measures, amongst all, from February until August of 1986, the obligation to have a regular visa for those coming from Algeria, Morocco and Tunisia. Political rhetoric started coming into play, with deputy Costa from the Ministry of Interior launched the alarm: “in Italy today we have 700.000 illegal immigrants, and only 499.760 foreigners with regular green cards”. According to Costa, in 1984, 12.500 foreigners were pushed away at the frontier, 13.645 expelled, 26.684 brought to court and 4.100 put into jail (10% of total detainees in the country)²⁵. Eventually this would give way to the annual census done by the Ministry of Interior on the situation of immigration and security and Italy. The number were in all actuality of a lower intensity, with the number of green cards reduced to 200.000, once doubles and expired permits were removed from the total count.

On April 7th 1986, labour movements (Cgil, Cisl, Uil) and church inspired institutions (Caritas, Acli, Comunità di Sant’Egidio) created the “Committee for a just law” with the intent to merge together the proposals of the Partito Comunista Italiano (Pci), Partito Socialista Italiano (Psi) and Democrazia Cristiana (Dc). The Committee managed to create a deep and widespread consensus, and would

²³ L.EINAUDI, *op. cit.*, p. 125

²⁴ *Ivi*, p. 125

²⁵ *Ivi*, p. 126

eventually lead to the approval of the Foschi Law in the Labour Commission of the Camera dei Deputati on May 7th 1986.

Before entering the discussion over the law and an analysis over its content, it is important to highlight how this law came about. The final push for its approval was given by extra-parliamentary events (the terrorist attack), by extra-parliamentary bodies (labour movements and church oriented organization) and in times of so called “emergency”. As stated in the introduction, and as will be seen throughout the whole chapter, the history of immigration laws in Italy is signed and marked by extra-parliamentary events and agents that push the Italian parliament and government to act in times of emergency. Policies have been the result of the emotional short sighted side of politics, rather than its thought-out long sighted one. By following day by day events, the Foschi law will fail to set up a thorough system that correctly dealt with the most important element in immigration laws: the civil society.

1.1.2 La Legge Foschi, 1986: the first amnesty

Article 1 called for a total equality of treatment between Italians and foreign workers legally working and living in Italy. In particular, rights such as health care, social services, school and household were regularly granted²⁶. The Committee responsible for the problems of foreign workers and their families was recuperated from Foschi’s proposal of 1983, as well as, the socialist idea to create a Commission in the Ministry of Foreign Affairs, that would monitor the implementation of bilateral accords with countries of origin. The right to family

²⁶ L.EINAUDI, *op. cit.*, p. 129

unification was granted to wife/husband, parents and minors, as long as the entrance did not lead to an occupation in Italy²⁷.

The most complicated aspect of the law, was the one that regulated and organized the recruitment of foreign workers. The system was broken down in the following manner:

- A. monthly assessments of job vacancies in Italy through regional work commissions. These commissions needed to organize the use of foreign workers based on the needs of the Italian job market
- B. monthly check by the Provincial Work Offices (Ulp) of incapacity or unwillingness of Italian and European workers fill the job vacancies
- C. list of extra-European workers that requested to come to Italy to work. These were ranked to privilege the ones already in Italy and their family rather than the ones still abroad²⁸

Employees could only make numerical requests, without marking preferences for specific subjects, and were forced to accept who ever ended on top of the rank. The problem of the law was that it was both based on a simplistic conception of the job market, and also set up a complex system to enter it. The system completely ignored independent workers, and the possibility to hire personally met individuals rather than random numbers from a list. Furthermore the law failed to deal a very “un-ignorable” part of society: the illegal/black job market²⁹. The so called *economia sommersa* (underground economy) has always been the main attraction for illegal immigrants, given them a quick and easy access to the job market. Being uneducated for Italian society, illegal immigrants would

²⁷ L.EINAUDI, *op. cit.*, p. 130

²⁸ *Ibidem*

²⁹ *Ibidem*

find it easier to become street vendors or take part in the massive industry that is “illegal economy” in Italy.

As written by Maciotti e Pugliesi in *Gli immigrati in Italia*, the problem was that the Foschi Law took really good care of certain categories of workers, granting them rights and privileges, while completely ignoring others, shutting down any other possibility of regular access in the Italian job market. The possibility of new individuals entering Italy was in the hands of unreliable employment agencies in the countries of origin³⁰.

1986 was also the chance for Italians to witness a policy tool that will eventually become Italy’s number one solution for immigration problems: a general amnesty for all illegal immigrants or illegal workers on Italian soil³¹. Seemingly a easy short cut answer to many problems, in all actuality it opened a massive can of worms. Immigrants, employed or jobless, and their employers had three months to communicate their situation in order to avoid expulsion (for illegal foreigners) and heavy fees (for Italian firms). Illegal workers eventually figured out that by legalizing their stay in Italy through the amnesty, they would be enrolled in Italy unemployment register. By doing so underground/illegal workers of the *economia sommersa* were “forced” to come out, and, in this way, the amnesty was a success. Two thirds of the 116.000 regularized foreigners declared themselves unemployed. This, however, was only a temporary solution. As their first green card would come to expire, the incapacity to prove their legal occupation, necessary for the renewal of their permit, would mean the end of their legitimate work stay in Italy³².

The amnesty resulted in a massive turn out by the foreign population. The initial three months period, intended to end in April of 1987, was extended to fifteen months, until June of 1988. The amnesty became the main aspect of the

³⁰ L.EINAUDI, *op. cit.*, p. 131

³¹ *Ibidem*

³² L.EINAUDI, *op. cit.*, p. 132

law, taking over all of the governments efforts to resolve immigration related issue. Massive lines in front of central police station not only made politicians understand the actual “size” of the matter, but also gave new public visibility to immigrations³³. Italians, willingly or not, were aware of the situation going on in their country.

The Foschi Law of 1986, sparked by extra-parliamentary forces, was an attempt to patch the hole in the bucket. Some solutions were given, but, as seen, the most tangible part of the foreign population in Italy, the one part of the illegal underground economy, was not properly dealt with. Furthermore, the issue of integration never came up. Immigrants were only perceived as work force, and not as individuals that besides contributing to the Italian economy, would become “units” of the Italian society. These people would eventually become citizens, have children and need to integrate in the Italian society. Understanding immigration as an economic issue is viewing the matter in a short-sighted way, grasping its heavy societal impact is dealing with the problem in a long term and comprehensive way.

1.1.3. the fall of the Berlin Wall and a changing immigration population

The end of the 1980s and the beginning of the 1990s signed a very important moment for Italian history, both internationally and nationally. A historical phase that for a number of reasons ended up influencing heavily the immigration phenomenon in Italy.

From the international perspective, the world witnessed the end of the Cold War with the fall of the Berlin Wall and the desegregation of the Soviet Union.

³³ L.EINAUDI, *op. cit.*, p. 132

This event had deep repercussions on the demographics of the foreign population in Italy³⁴.

Nationalities of foreigners in Italy (1970-2005)

1970	1985	1990
USA - 26.452	USA - 51.075	Morocco - 77.971
Germany - 16.988	Germany - 37.237	USA - 58.138
Switzerland - 11.971	Greece - 28.839	Germany - 41.623
UK - 10.855	UK - 27.914	Tunisia - 41.234
France - 9.574	France - 23.739	Philippines - 34.328
Spain - 7.058	Switzerland - 18.172	Yugoslavia - 29.790

1995	2000	2005
Morocco - 81.247	Morocco - 162.254	Albania - 348.813
ex Yugoslavia - 73.538	Albania - 146.321	Morocco - 319.813
USA - 44.830	Romania - 69.999	Romania - 297.570
Philippines - 36.007	Philippines - 65.073	China - 127.570
Tunisia - 30.666	China - 60.143	Ukraine - 107.118
Germany - 30.235	Tunisia - 45.972	Philippines - 89.668

Istat³⁵

Starting from 1991 the weight of countries of both former Yugoslavia and former Soviet Union in the total number of immigrants in Italy started growing year after year. In five years the Yugoslavian component in the country went from

³⁴ L.EINAUDI, *op. cit.*, p. 137

³⁵ *Ivi*, p. 410

29.790 units in 1990, to 73.538 in 1995 becoming the second “heaviest” factor in the immigrant population. In the second half of the 1990s countries like Albania and Romania contributed in making Eastern Europe the main area of origin of foreign workers in Italy.

Internally, Italy witnessed probably its most emblematic event of this Republican history. *Tangentopoli* signed the end of the First Republic, completely changing the political elites ruling the country. Besides the beginning of a new chapter in the country’s political history, the new parties entering the scene arrived with a strong and controversial view on the issue of immigration. Between 1989 and 1990, la *Lega Nord* began its relevant role in Italian politics as a federalist party, against both the foreign “invader” and the many southerners coming into northern Italy in search of an occupation³⁶. Doing so, the *Lega Nord* succeeded in picking up the title of “anti-immigration party”. In this sense Italy represented an exception in the European continent, where historically the far right parties (Front National in France, British National Party in England and the Republikaner in Germany) upheld the xenophobic battle. In Italy, for various factors, the Movimento Sociale Italiano (Msi), transformed in Alleanza Nazionale in 1993 decided to opt out of this critical role in the political national scene³⁷, remaining nonetheless opposed to the phenomenon.

By achieving 80 seats in the Italian Parliament in the 1992 political elections, the *Lega Nord* succeeded in turning immigration from a “foreign labour” issue to an “security and control of the illegal immigrant” one. A slow but key shift was taking place, as the phenomenon became more and more a political issue, highly controversial and at the center of the public debate labelled as a manner of “societal order”. The berth of the Italian Second Republic became a chance for

³⁶ L.EINAUDI, *op. cit.*, p. 139

³⁷ *Ivi*, p. 138

smaller parties (Msi and Lega Nord) to emerge in the party system³⁸. The new context made it much harder to reach a common agreement on policy solution, heavily decreasing the role and positive influence of the civic society and church organizations³⁹.

1.2.1. Political sides leading the Martelli Law of 1990

Due to its particular nature, immigration became a phenomenon capable of creating unlikely political alliances. Nationalist movements, in this sense, found much space for a common ground against the many foreign workers coming in the country. The *Partito Repubblicano Italiano* (Pri) and the Msi became unlikely partners, both very passionate about linking immigration to the issue of delinquency, apparently the result of political and social deviance⁴⁰. As stated by Natalia Magnini in her book “Framing Immigration Control in Italian Political Elite Debates”, both Pri and Msi used the “Conspiracy Argument” in their fight against immigration. For the *Movimento Sociale Italiano* a double conspiracy was taking place, aimed at exploiting immigrants to different ends. On one side an economic one, favoring cheap and illegal labour, and on the other a political one, in which the leftist parties and the church were simply trying to “attract” new members to join their side. Seemingly, the Pri treated conspiracy as a phenomenon of neo-colonialism, attacking mainly employers⁴¹.

The main point on which Pri and Msi insisted was the “threshold of tolerance”, meaning the presence of a natural limit beyond which immigration causes racism and social conflicts. To solution to this problem, according to both

³⁸ N.MAGNINI, *Framing Immigration Control in Italian Political Elite Debates*, Emil, Bologna, 2012, pg. 88

³⁹ L.EINAUDI, *op. cit.*, p. 140

⁴⁰ N.MAGNINI, *op. cit.*, p. 90

⁴¹ *Ivi*, p. 91

parties, would have been temporarily blocking entry quotas⁴². Another element that must not be ignored when analyzing the political theory that generated anti-immigration proposals in Italy, is the “external approach”. Basically according to Msi the best way to deal with immigration was to improve cooperation and aid towards the third world. Hidden by the discourse of solidarity with immigrants, the idea was that by improving the economic situation and future prospectives in countries of origin, the need to enter Italy for better luck would disappear. The argument was, why help them once they get in, if we can help them while they are home? Supposedly a win-win situation, that for many was just a way to hide a strongly xenophobic rhetoric⁴³.

On the other side of the political spectrum, the coalition led by the Democrazia Cristiana, used similar theoretical starting points to reach different conclusions. Here too phenomenon was framed in the context of immigration control, but with the goal to achieve the social inclusion of the many foreigners in the Italian society⁴⁴. Societal order not by limiting the numbers at the entry point, but by working on their integration.

Furthermore, here as well, the discourse of solidarity with immigrants was heavily touched upon. It was not a matter of closing the borders or improving the cooperation with countries of origin, but simply of balancing the rights of immigrants with the ones of italians. A process of societal inclusion through the concession of rights and regularizations. Here too the issue of a natural threshold of tolerance was dealt with, but not as way to justify the blocking entry quotas, but as something to take in consideration to reduce the pressure on the welfare state and thus to ensure an effective process of integrations⁴⁵.

⁴² N.MAGNINI, *op. cit.*, p. 92

⁴³ *Ivi*, p. 94

⁴⁴ *Ivi*, p. 96

⁴⁵ *Ivi*, p. 97

Before entering the analysis of actual law, a third actor must be taken in consideration, an institution that will grow in influence in years to come: the European Union (Eu). In the years in which Italy was trying to deal with its massive intake of immigrants, the rest of Europe through the Schengen treaty was attempting to consolidate the European common market by enforcing a strong system based on a very restrictive control on immigration. Both Pri and Msi used this point against Martelli's Law, and eventually Italy postponed its entrance in Schengen after the final approval of the Bill⁴⁶.

1.2.2. the Martelli Law of 1990

As it were for the Foschi Law, an extra-parliamentary event worked as the final spark necessary for the approval of the new national immigration policy. In August of 1989, in Rome, a South-African refugee was killed by a local criminal gang. Newspapers and the public opinion more in general, turned the homicide into an event caused by racism, officially reactivating the national debate over immigration. In October around 100.000-200.000 people gathered in Rome demanding a new law that would fight racism⁴⁷. In February of the following year, the Decreto Martelli became law.

One of the main innovations introduced regarded asylum seekers. The geographical limitation that limited candidates to only European citizens was removed, allowing anybody to apply for refugee status⁴⁸. This allowed Italy to enter in 1992 the Dublin Convention establishing European common rules in determining state responsibility when dealing with applicants⁴⁹. For the first time

⁴⁶ N.MAGNINI, *op. cit.*, p. 99

⁴⁷ L.EINAUDI, *op. cit.*, p. 142

⁴⁸ *Ivi*, p. 152

⁴⁹ N.MAGNINI, *op. cit.*, p. 101

entrance visas were regulated and organized in a proper manner. The new and formal visa system included national annual entry quotas for non european citizens (art. 3)⁵⁰. These were the result of the joint effort of the Ministry of Foreign Affairs, the Ministry of Interior and the Ministry of Labour, and needed to be turned in by the end of October each year⁵¹. Officially leaving behind the idea of bilateral accords with countries of origin, much attention was given to Italy's national labour force needs.

The annual *Decreto Flussi* needed to be based on:

- A. national economic needs
- B. financial and infrastructural capability of national institutions to greet and take care of non-european foreigners in compliance with international conventions
- C. number of foreigners already in Italy wanting to enter the job market by either converting their green card or by entering the national unemployment registry
- D. respect of international accord and treaties, and European Directives⁵²

Particular attention was given to foreigners who were condemned for drug trafficking, establishing restrictive quotas for their countries of origin⁵³. Besides attempting to pace the inflow of immigrants, the following years will show that the October deadline was never actually met, the Martelli Law succeeded in categorizing the different types of visas. Article 2 listed and limited the possible applications to: tourism, study, employment, health, family or religious matters⁵⁴.

⁵⁰ N.MAGNINI, *op. cit.*, p. 104

⁵¹ L.EINAUDI, *op. cit.*, p. 152

⁵² *Ivi*, p.153

⁵³ N.MAGNINI, *op. cit.*, p. 104

⁵⁴ *Ivi*, p. 104

The new national policy did a lot to improve the expulsion procedure. The Martelli Law formalized two different types of expulsions: administrative expulsion and expulsion for reason of national security. The first one was regulated by local prefects, regarded mainly irregularity of entry or stay and consisted in a notification to leave within 15 days. This more “indirect expulsion” was more common, but often enough ignored and rarely applied. The weakness of this procedure, its effectiveness was basically at the discretion of the individual being expelled, had two main causes. Firstly the lack of resources to assure the implementation of the expulsion made it impossible to accompany individual forcefully to the boarder each time, and secondly, most of the political parties were opposed to such harsh measures considered discriminatory and against individual liberties⁵⁵. The second type was administered by the Ministry of Interior, who could directly order the expulsion of specific individuals for the sake of national security and order. This was implemented through escorting the foreign citizen to the italian national boarder. In addition expulsion was compulsory for those with a long list of criminal offenses⁵⁶. Overall the Martelli Law was very successful in improving the numbers of expulsions in Italy. If in 1989 there were approximately 800 expulsions, in 1991 the numbers went up to 4,000, and in 1995 to 7,500⁵⁷.

As its predecessor, the law lacked any consideration about the integration of immigrants in the Italian society. Martelli himself planned to later implement the law with such regulations, but no such thing ever happened, strongly limiting the effectiveness of the measures adopted⁵⁸.

One again the new immigration policy was characterized by a national amnesty, a tool utilized by the italian political elites as it were for the Foschi Law. It was the widest and biggest in Italian history in eligibility terms, as it involved all

⁵⁵ L.EINAUDI, *op. cit.*, p. 154

⁵⁶ N.MAGNINI, *op. cit.*, p. 105

⁵⁷ L.EINAUDI, *op. cit.*, p. 156

⁵⁸ *Ivi*, p. 155

irregular and illegal immigrants without considering their occupational status. As it turned out, and to the surprise of many, the numbers of the amnesty were strongly inferior to what theorized by most experts. Only 218,000 immigrants applied for the amnesty, and while for many, such as Martelli and church based institution Caritas, this was a sign of its success, for others, like Pri leader La Malfa, it was an evident sign of how the new law failed⁵⁹. The main positive aspect of the 1986 and 1990 amnesties, was that for the first time the country had official and important statistical data to analyze. Africans went from being 47.778 in 1986 to 238.130 in 1990, representing 30% of the foreign population in Italy. The top five countries remained the same, with Morocco (70.600 between 1986 and 1990) leading the way followed by Tunisia (35.500), Senegal (25.400), Philippines (19.400) and finally Yugoslavia (18.400). At the turn of the decade the nationalities that later would most grow, Albania and Rumania, still did not show up in the top five contributing countries to Italy's foreign population⁶⁰. Through to the amnesties it was also possible to draw a demographic map of the situation in the country, with the South still playing a huge role in hosting a good part of the immigrant population. What did begin though, was the strong polarization of the foreign work force, with the south going from hosting 16,1% of the total population in 1990 to only 4,6% in 1998. The process, which began in 1990 and developed throughout the whole decade, would eventually bring to regions with very low unemployment rate (northern Italy) having a high immigrant population, and the regions with a high unemployment rate (southern Italy) having a low immigrant population⁶¹.

⁵⁹ L.EINAUDI, *op. cit.*, p. 168

⁶⁰ *Ivi*, p. 169

⁶¹ N.MAGNINI, *op. cit.*, p. 170

1.2.3. The Martelli Law, results and applicability

Though very controversial and heavily discussed during the approval of the Bill, the first *Decreto Flussi* did not produce any quota limiting the entrance of immigrants in the country. In addition, the old rules to enter Italian soil continued to be applied, limiting the circumstances in which employer's requests were limited to workers' profiles that could not be found in the already existing Italian job market⁶². Though the Government was failing in setting up the annual quotas, justified partially by the need to "digest" the 1990 national amnesty, the numbers of work visas kept on growing: from 6.000 in 1991 to 32.000 in 1992. All of this coincided with a structural economic crisis in Italy, further improving the many obstacles to deal with in order to enter the job market for the many new comers. If the national unemployment rate went from 8,6% in 1991 to 11,2% in 1995, the number of immigrants that started working went from 125.000 in 1991 to 85.000 in 1993, highlighting the many problems yet to solve⁶³. Eventually setting yearly entry quotas was postponed until 1995.

As previously analyzed, the other important innovation regarded the more restrictive measures for expulsion. Though the numbers showed in improvement, the process remained very complex. The first obstacle regarded the identification of the foreign worker, as often enough "double identities" or multiple names made it hard to legitimately recognize the person. Once the administrative expulsion was put in place, the system encountered several other obstacles. First of all individuals could appeal to the decision, giving them a three months residents permit for judicial reasons. Also, the consulate of the country of origin needed to sign the expulsion to re-admit the individual in his/her home State, but often enough there was no cooperation from the consulate in Rome. According to data released by

⁶² N.MAGNINI, *op. cit.*, p. 171

⁶³ *Ivi*, p. 172

Ministry of Interior Maroni (Berlusconi I), at the time of the Martelli Law only 10% of the expulsion actually took place⁶⁴.

Another point that raised much criticism, especially from the leftist parties, was that these people were irregular and illegal not for fault of their own, but for the incapability of the Italian system to successfully integrate them in the national work force. This sparked a debate that carried on for much of the 1990s based on finding the right compromise between avoiding an arbitrary State that went against individual liberties of migrants, and the need to respect the rules and keep the country safe and secure from civil unrest⁶⁵.

All of this, along with the heavy political instability in the country, led to six years of weak legislative implementation of any immigration policy.

1.3.1. The Albanian Crisis, the immigrant emergency

The year following the Martelli Law, Italy witnessed on its skins the results of the 1991 Albanian Crisis. From the 7th until the 10th of March around 25.000 migrants arrived in the country forcing the Andreotti Government to adopt emergency measures. The policies of the Martelli Law were “put on pause”, and the albanian immigrants were given 6 months temporary stay permit to find either an occupation or a household. As a result, 11.000 managed to stay with a regular green card, while the other 14.000 were forced to leave the country. As a result, on April of that same year, Andreotti created Italy’s first and only Ministry for Immigration given to the socialist Margherita Boniver⁶⁶. The situation in Albania kept on getting worse, and in August of 1991 more boats arrived on the shores of Italy. On August 9th on the boat Vlora, around 10.000-12.000 albanians reached

⁶⁴ N.MAGNINI, *op. cit.*, p. 174

⁶⁵ L.EINAUDI, *op. cit.*, p. 175

⁶⁶ *Ivi*, p. 178

Bari in inhumane traveling conditions. The event particularly attracted public opinion, with Italians beginning to have a feeling of being invaded⁶⁷.

The Government was incapable of dealing with the situation, furthering the emergency situation, and allowing racist discrimination to increase in the country. As a result diffidence towards immigrations went from 43% of the Italian population in 1989, to 61% in 1991⁶⁸. In 1992 Andreotti attempted to improve the situation, eventually failing in concluding any decisive improvement in policy implementation. The Decreto Boniver, that was actually never transformed into a law, expanded the cases of forced expulsion with police authorities escorting to the boarder to circumstances in which to foreigner had either no passport or no green card⁶⁹.

1.3.2. The first Berlusconi Government, 1994

The first time that Silvio Berlusconi was Prime Minister, his government did not last long enough to implement any new law or policy to resolve the immigration crisis in the country. Berlusconi's main concern was to successfully implement the Martelli Law, and in particular finally begin the yearly quota assessment on job entry permits. The Government's concern was to do so, putting special attention to the needs of the Italian industries and entrepreneurs, attempting to deal with the issue from a nationalistic perspective. Both Alleanza Nazionale and the Lega Nord were part of the Government, but neither side was yet giving all that importance in their alliance with Berlusconi's Forza Italia to the issue of immigration. In June of 1994 the EU adopted a resolution calling for the total

⁶⁷ L.EINAUDI, *op. cit.*, 179

⁶⁸ *Ivi*, p. 181

⁶⁹ *Ibidem*

closure of borders for non EU workers⁷⁰, an event that was particularly appreciated by Alleanza Nazionale who was starting to work on a national policy bill asking for more restrictive measures regarding immigrant expulsion⁷¹.

1.4.1. The Decreto Dini

In 1995, the President of the Italian Republic, decided to fill the gap left behind by the rapid fall of Berlusconi's Government, by nominating Lamberto Dini as Prime Minister⁷². Though the Dini Government did not have the political power or will to carry out a complete reform of the immigration control policy, both the pressure put forward by the Lega Nord and new "judicial" wave following Tangentopoli, put much attention on two aspects: legality and due process⁷³. The political elites were attempting to balance the need to have open borders for foreign workers with the will to contain illegal immigration inflow. An unstable situation caused by three contrasting factors: the Italian necessity to finally abide to European standards for entering the Schengen agreement, the presence of many left-wing mayors in Italy's biggest cities, and the growing political role of the Lega Nord⁷⁴. Basically the country's immigration policy was pushed by two opposite forces, one attempting to give more rights to immigrants, to other thinking solely to the interest of the Italian people and industries.

After Tangentopoli, the Italian identity was reshaped around the principle of legality, putting the respect for the law at the center of the democratic order. This brought to much discussion over extending the policy of immediate expulsion to more non serious crimes. On the other hand, legality was also often linked,

⁷⁰ L.EINAUDI, *op. cit.*, p. 185

⁷¹ *Ivi*, p. 184

⁷² N.MAGNINI, *op. cit.*, p. 115

⁷³ *Ivi*, p. 116

⁷⁴ L.EINAUDI, *op. cit.*, p. 188

especially in leftist parties, with the idea of due process, meaning the right to appeal against decisions of expulsion by the executive. As stated by Natalia Magnini “in the context of migration control, while the *principle of legality* was used to refer to the behavior of the immigrant who has to be respectful of Italian law, the *principle of due process* referred to the right of appeal of immigrants to decisions going against them⁷⁵”. As always, the unstable political situation, went along with the growing in-satisfaction amongst the general public, with several episodes in the summer of 1995 of violence towards immigrants⁷⁶.

Overall, the Dini Decree was the first valid attempt to partially reform the Martelli Law of 1990. In fact, it was the first Government to implement the annual quota benchmark regarding work permits, setting the limit to 25.000 workers⁷⁷. The text of the Decree was complex, and included several interesting innovations. Firstly it introduced work visas for seasonal workers that last a maximum of six months while granting welfare rights.

The two most “controversial” norms obviously dealt with both expulsions and regularization⁷⁸. Besides various changes regarding both judicial and administrative expulsions the most interesting innovations dealt with the technical aspects of the event. Not showing or destroying the green card became a crime, punishable with a jail sentence. People getting expelled could not re enter the country for seven years, event punishable from six months to three years in jail⁷⁹. Furthermore, the Decree included immediate expulsion for suspected or convicted clandestine migrants and “guaranteed expulsion” for irregular unsuspected migrants⁸⁰. With regards to the regularization of 1995 (art. 12 of the Dini Decree), it began as a pretty restrictive amnesty, meant only for illegal worker that had a job

⁷⁵ N.MAGNINI, *op. cit.*, p. 117

⁷⁶ L.EINAUDI, *op. cit.*, p. 188

⁷⁷ *Ivi*, p. 189

⁷⁸ L.EINAUDI, *op. cit.*, p. 199

⁷⁹ *Ivi*, p. 199

⁸⁰ N.MAGNINI, *op. cit.*, p. 123

for at least four months during the last year prior to the decree⁸¹. Though it started with small numbers, by being extended several times, it eventually became the biggest amnesty before 2002, with over 244.000 immigrants being regularized⁸².

Once again, as it were in 1986 and 1990, the amnesty was a chance for Italian politicians to look at the demographics of immigration in the country. The tense war zone of ex-Yugoslavia became always more a predominant factor influencing the foreign population in Italy, especially when considering countries such as Albania, Romania and Poland. What became a growing reality was the strong fragmentation in the work force. A study by Censis in 1994 showed how 27,5% of immigrants worked in agriculture (of which 49,3% illegally), 17,9% in industries (41,8% were illegal) and 12,4% in cleaning sector, where 92,6% of immigrants were working with no legal contract⁸³. Fragmentation in the job market was obviously always more an issue to be dealt with, as the growing numbers in the *economia sommersa* and in the unskilled labour industry show.

What turned out to be a major problem wasn't really finding a job, but finding a legal job. A study by Istat in 1995 revealed that the number of illegal extra-european immigrants was growing, especially when looking at southern regions: 22,9% in North East, 40,1% in North West, 48,9% in the Center, 55,2% in the South, and 62,6% in Sicily and Sardegna⁸⁴.

Being the Decree the result of a complex mediation between opposed sites, in the end, it upset everybody. Proof of it was the fact that the Decree was reiterated five times but never actually transformed into a law⁸⁵. Nonetheless, it must be said that it signed the creation of the first discursive alliance between the left and the right on the issue of immigration and expulsion, a common ground

⁸¹ L.EINAUDI, *op. cit.*, p. 199

⁸² *Ivi*, p. 205

⁸³ *Ibidem*

⁸⁴ *Ivi*, p. 206

⁸⁵ *Ivi*, p. 202

based on two key words: legality and due process⁸⁶. Though immediate expulsion started become something generally accepted in the public opinion, many were still concerned with the new norms implemented. The fact that many foreigners could be expelled without completing their jail sentence in Italy, was considered by many unconstitutional. As Silvio Berlusconi would state: “Italy is a country based on the rule of law, I am absolutely against the expulsion of immigrants that have not yet paid for their crimes⁸⁷”. Many Italian judges were also against the possibility of expelling immigrants without a definite court sentence, mainly because it clashed with the commonly accepted idea of “innocent until proven guilty”, and because it marked a disparity of treatment between italians and foreigners⁸⁸.

1.5.1. Political stability with the Prodi Government of 1996

After much political instability, started with *Tangentopoli* and continued with the first Berlusconi Government, Italy finally found its “peace” in the elections of April 1996. Romano Prodi, leader of the center-left coalition, became Prime Minister, stating from the beginning its intention to reform the immigration control system in Italy and give the country an all-encompassing new legislation⁸⁹. What became obvious from the start, was a change in the way immigration as an issue was perceived. The ruling majority coalition understood immigration as a natural and structural phenomenon characterizing the history of humanity since its origins⁹⁰. The idea that immigration was something to be dealt with as an emergency seemed for the first time in Italian history just and idea of the past. The

⁸⁶ N.MAGNINI, *op. cit.*, p. 122

⁸⁷ L.EINAUDI, *op. cit.*, p. 201

⁸⁸ *Ivi*, p. 202

⁸⁹ *Ivi*, p. 207

⁹⁰ N.MAGNINI, *op. cit.*, p. 129

slogan of the Prodi Government to resolve the problem was “safety and solidarity”, basically trying to put together two worlds that strongly clashed on the topic. The ones concerned with the safety of the Italian people, would not understand the idea of solidarity towards immigrants, and the once who believed in solidarity considered “national safety” as a feeling of the Right⁹¹. *Ulivo*, Prodi’s coalition, when discussing the causes of immigration, put a lot of emphasis on the so called “push factors”, mainly the economy world unbalance in the distribution of resources⁹². In general, for the first time the phenomenon was seen as a crucial economic resources for the host country, a completely new understanding for Italian politics. The center-left parties were adopting a functionalist perspective, which was combined with viewing immigration as an ethnic issue. Finally, and something that lacked for many years in Italian immigration policies, words such as multiethnic society, policy of integration and cultural identity, were coming out, completely changing the lenses through which the problem was looked at⁹³.

With the Lega Nord finally out of the majority coalition, Prodi was capable to finally put aside the Dini Decree, not continuing the legislative procedure that would turn it into a law⁹⁴. Already in June of 1996 Prodi understood the need to reform the whole system, creating an all-encompassing organic law that would deal with the issue considered all the related aspects. A special Commission was created, given the hard task to come up with the law. This *ad hoc* body was headed by Livia Turco, Minister of Social Solidarity and Giorgio Napolitano, head of the Ministry of Interior⁹⁵. Prodi wanted a law that worked for a “normal” country willing to accept immigration as something natural, not one in constant state of “emergency”, scared and xenophobic⁹⁶. In addition to finding new ways to deal

⁹¹ M.BARBAGLI, *Immigrazione e Sicurezza in Italia*, il Mulino, Bologna, 2008, p. 115

⁹² N.MAGNINI, *op. cit.*, p. 130

⁹³ *Ivi*, p. 130

⁹⁴ L.EINAUDI, *op. cit.*, p. 209

⁹⁵ M. BARBAGLI, *op. cit.*, p.115

⁹⁶ L.EINAUDI, *op. cit.*, p. 209

with the issue, the Government was wholeheartedly devoted to respect the Schengen accords, which meant more and better quality internal and borders controls⁹⁷. For Livia Turco the new law needed to be created on three pillars: i) annual quota planning for work visas, ii) fight against organized crime organizations that take advantage of desperate migrants, iii) build a process of citizenship that would eventually bring the new comers to full integration in the Italian society, avoiding second class citizens⁹⁸.

As a proof of the fact that times were indeed changing, the Turco-Napolitano Commission was a fairly open one. The table of negotiation was open to labour movements, church based organization and pro-immigration NGOs, widening the number of voices and ideas working for the new law⁹⁹.

1.5.2 The Turco-Napolitano Law, 1998

The Government presented the law to the Parliament on January 31st 1997, and after over a year the bill was approved, becoming the most comprehensive law on the issue of immigration in Italian history¹⁰⁰. Many were the innovations and for the first time much attention was given to elements never even touched upon in past laws. Green cards were more flexible, giving the possibility to change the type of the visa during ones stay¹⁰¹. In fact, even with a student visa, a foreigner had a twelve months time period, in which he/she could look for a job and therefore change the nature of his/her stay¹⁰². The idea, introduced by the Martelli Law, that one could obtain a job visa only through a specific job vacancy was

⁹⁷ L.EINAUDI, *op. cit.*, p. 210

⁹⁸ *Ivi*, p. 211

⁹⁹ *Ivi*, p. 213

¹⁰⁰ *Ivi*, p. 215

¹⁰¹ *Ibidem*

¹⁰² *Ivi*, p. 216

modified with the Turco-Napolitano, which made it possible to obtain an entry via a sponsor (art. 23). This meant that immigrants that did not have a specific job offer, could, nonetheless, legally enter the country¹⁰³, through an individual or an organization that provided a house and a pay to the foreigner looking for a job in Italy¹⁰⁴. The setting of entry quotas was turned into a three year planning document, written by the Government, (art. 3) that contained: “actions and interventions of the Italian Government, in coordination with the EU, international organizations, NGOs, and also through the stipulation of agreements with the countries of origin¹⁰⁵”. One of the goals was to stabilize the presence of foreigners in Italy, and green cards were renewed for more years each time they would expire¹⁰⁶. Eventually, who regularly lived and worked in Italy for five or more years, could obtain an unlimited green card in Italy¹⁰⁷.

The innovative way of dealing with immigration was supported by a strong externalization of migration control. As highlighted by Natalia Magnini, art 12.6 “introduced the concept of carrier liability establishing a binding duty for the carrier of the immigrant to national borders to carry out identity checks towards its passenger¹⁰⁸”. In addition, the idea of “reserved quotas” was used for the first time, giving special conditions for those coming from countries with whom Italy had signed bilateral accords aimed at controlling the inflow of migrants and coordinating re-admission of illegal migrants in their country of origin¹⁰⁹. Basically countries of origin were involved and given responsibilities in the fight against illegal migrants¹¹⁰.

¹⁰³ N. MAGNINI, *op. cit.*, p. 140

¹⁰⁴ M. BARBAGLI, *op. cit.*, p. 115

¹⁰⁵ N. MAGNINI, *op. cit.*, p. 140

¹⁰⁶ L. EINAUDI, *op. cit.*, p. 216

¹⁰⁷ M. BARBAGLI, *op. cit.*, p. 115

¹⁰⁸ N. MAGNINI, *op. cit.*, p. 145

¹⁰⁹ L. EINAUDI, *op. cit.*, p. 216

¹¹⁰ N. MAGNINI, *op. cit.*, p. 144

Following the new trend set out by Prodi of dealing with immigration in a “normal” way and not as a country in emergency, no amnesty and general regularization of illegal migrants was carried out¹¹¹.

Internal control had become a priority, and the creation of *Centri di Permanenza Temporanea* (Cpt) was the card Government decided to play. One of the main reasons for which often enough the police was forced to release or loose track of immigrants was their lack of official documents. Many of them were not identifiable, and to resolve this problem Cpt’s were set out as a way to forcefully hold immigrants until they were completely and thoroughly identified¹¹². Often enough confused with emergency welcome centers for new immigrants, the Cpt’s were a place in which individuals with no documents were held for 30 days in order for authorities to achieve the necessary information to return him/her to his/her home country. In most cases the problem was either to identify and get in contact with the country of origin, or get the needed travel documents¹¹³. The idea behind the whole concept was the make more effective expulsions, by giving a name and an origin to the ones that were kicked out. From a procedural point of view, Italy used the European Convention on Human Rights (1950) has a legal basis. The treaty authorized countries to implement extraordinary custody norms prior to the expulsion of the individual¹¹⁴. The creation of Cpts caused much public debate, considered by a good part of the public opinion has an illegal treatment to the many immigrants coming into Italy. The forced custody of these people became an excuse for people that accuse the Government of violating human rights. In all actuality the measures implemented in Italy with the Turco-Napolitano were far less repressive than the ones adopted in other countries¹¹⁵. First of all there are eight countries in Europe (Belgium, Finland, France, Ireland,

¹¹¹ N. MAGNINI, *op. cit.*, p. 145

¹¹² L. EINAUDI, *op. cit.*, p. 217

¹¹³ M. BARBAGLI, *op. cit.*, p. 116

¹¹⁴ L. EINAUDI, *op. cit.*, p. 218

¹¹⁵ M. BARBAGLI, *op. cit.*, p. 116

Germany, Greece, Luxembourg, and the United Kingdom) that considered illegal entrance has a crime that can be punished with a jail sentence. Secondly, in some other countries (Denmark, Finland, France, Germany, Ireland, Portugal and the United Kingdom) to expel illegal immigrants it is possible to put them in jail. Thirdly there are very few countries that instead of prisons have temporary custody centers, and often enough the period of time is not three months but longer (in Belgium force custody in temporary centers can reach five months)¹¹⁶.

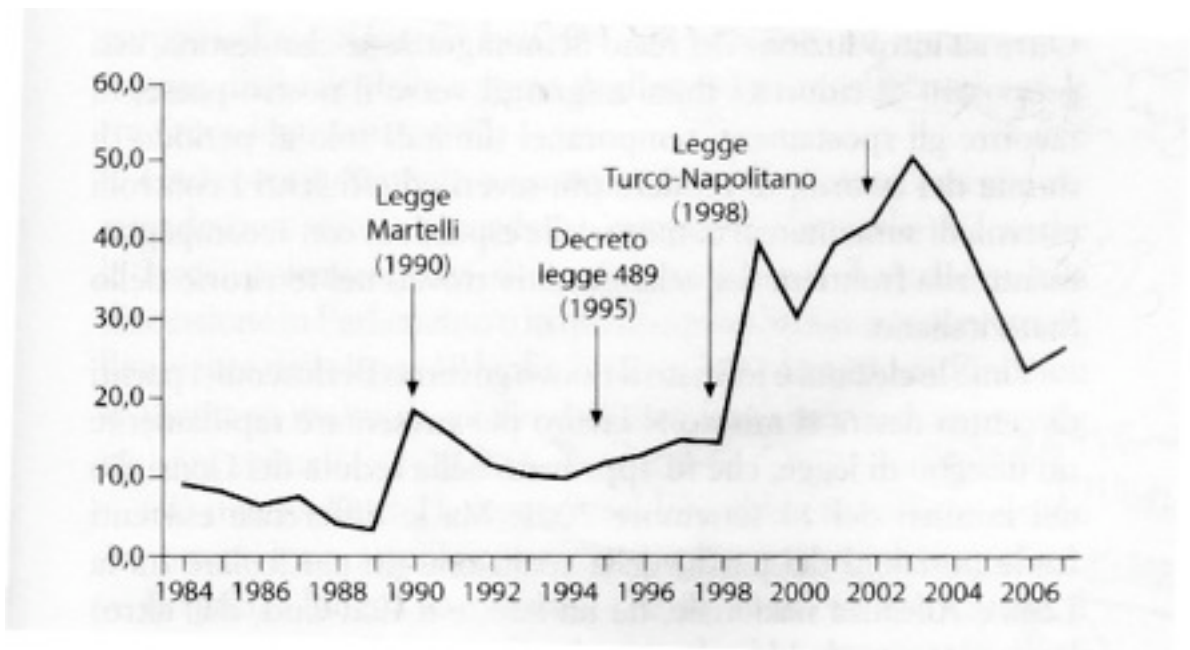
1.5.3 The effects and results of the Turco-Napolitano

To evaluate the Turco-Napolitano one must start by considering its main programmatic concern: increase internal control by implementing the Cpts. Overall Cpts were surely a positive innovation, but as all political measures a good amount of problems arose. Besides the already mentioned public discontent that caused the growth in number of these centers to be very slow, the Government realized that often enough three months was not a sufficient amount of time to correctly identify the illegal immigrant. However, it must be said that the Turco Napolitano changed the numbers of internal control in an impressive way. To better understand this, we must introduced a new concept in the discussion: tracked illegal immigrants. By “tracked” illegal immigrants we mean those that are found on Italian soil with a prior court sentence already forcing them to leave the country. Obviously, from 1986 on the number of “tracked” illegal immigrants increased (going from 13.000 to 60.000 in the mid 90s) but following the Turco-Napolitano the situation improved heavily reaching, in 2001, the level of 91.000 people¹¹⁷.

¹¹⁶ M. BARBAGLI, *op. cit.*, p. 117

¹¹⁷ *Ivi*, p. 123

Percentage of illegal immigrants expelled on total of tracked immigrants (1984-2007)¹¹⁸



Even the number of direct and forced expulsion increased, going from 12.000 in 1999 to 21.000 in 2001, with the percentage of tracked immigrants being expelled reaching 35%¹¹⁹.

Other than internal control, the law aimed also at improving the need for these people to integrate in Italian society. As mentioned earlier, the Turco-Napolitano included a Commission responsible for implementing integration policies. The *ad hoc* body elaborated two reports analyzing how these “new citizens” were becoming one with Italian society. The reports highlighted how numbers were increasing, in the field of legal workers (+3%), in the number of legal work visas (almost doubled between 1995 and 2000), and in the amount of foreign students in Italian schools (going from 50.032 in 1995 to 147.406 in 2000,

¹¹⁸ M. BARBAGLI, *op. cit.*, p. 123

¹¹⁹ *Ibidem*

still merely 1,8% of the national student body)¹²⁰. This of course did not mean that integration was taking place, but certainly the matter finally became an element of political discussion.

A proof of the much work still to be done, was the fact that the job market was still very fragmented and second generation immigrations did not have better job opportunities than their parents¹²¹. Foreigners were still strongly present in unskilled labour (agriculture, construction and house cleaning), and completely excluded from many other categories. A new element, was the possibility, often taken advantage of, of autonomous work with foreigners starting their own companies¹²².

Though positive for many aspects the Turco-Napolitano Law was not certainly perfect, especially when considering that two important features were left out. More specifically a reform of citizenship norms was missing, strongly wanted by Livia Turca but never actually implemented, and new system to deal with asylum seekers¹²³.

1.5.4. end of the 90s - the importance of yearly immigration quotas and the growing paradox

The second half of the 1990s was characterized by a pretty much established tendency to set up both annual work entry quotas as well as special “reserved” quotas for specific countries of origin¹²⁴. Before the approval of the Turco-Napolitano Law in 1998, quotas were set without a programmatic study and with a very low limit. The so called “*Decreti Flussi*” were always approved late in

¹²⁰ L. EINAUDI, *op. cit.*, p. 283

¹²¹ *Ibidem*

¹²² *Ivi*, p. 284

¹²³ *Ivi*, p. 219

¹²⁴ *Ivi*, p. 248

the year, and showed a decreasing pattern: 23.000 in 1996 and 20.000 in 1997¹²⁵. As the law was approved in 1998, the pattern changed, especially thanks to the new spirit set out by the Prodi Government. After the bill passed, the annual entry quota was raised to 38.000 units, and a year later (1999) to 58.000 units. 1998 was also the year in which Italy began experimenting bilateral accords with those countries that particularly collaborated in the fight against illegal immigration. These accords “reserved” special quotas for people coming from those countries, and were “inaugurated” with Albania (3.000 entries), Tunisia and Morocco (both with 1.500 reserved spots)¹²⁶.

Another sign that things were changing was the new mentality of the Italian industry, especially in the North where employers began demanding to increase the annual quotas, to the point in which Confindustria (the organization of Italian industries) asked for the elimination of the yearly visa limit¹²⁷. As a result in 2000 the bar was pushed to 63.000 work entrances, and the reserved quotas were tripled, going from 6.000 units to 18.000¹²⁸. The growing paradox was that while firms and companies were in favor of the immigrant wave, from a social and political point of view there were growing tensions in the country. The second Albanian crisis in 1997, which brought to 16.964 new arrivals on Italian soil¹²⁹, and the War in Kosovo in 1999, put the country back in its state of emergency. As a result, in the summer of 2000, the annual limit was pushed from 63.000 to 80.000, especially because of the growing demand of the manufacturing firms¹³⁰. The immigration paradox was now obvious, on one side Silvio Berlusconi and the Lega Nord being against the growing number of immigrants in the country, and the other industries finally realizing the economic potential of the new labour force.

¹²⁵ L. EINAUDI, *op. cit.*, p. 249

¹²⁶ *Ivi*, p. 250

¹²⁷ *Ivi*, p. 251

¹²⁸ *Ivi*, p. 254

¹²⁹ *Ivi*, p. 230

¹³⁰ *Ivi*, p. 257

As Guido Bolaffi, staff member of Minister Turco, stated “the economy wants them, society doesn’t”¹³¹.

In this general state of debate, the 2001 quota was thought with particular methodology, pushing the limit to 83.000 units. The *Decreto Flussi* had many different innovations, setting out specific regional quotas, introducing a reserved number of spots for certain jobs and creating quotas for 33.000 seasonal workers¹³². All in all the quotas system, as highlighted by Luca Einaudi in his book “*Le politiche dell’immigrazione in Italia dall’unità a oggi*”, had three main limits. First of all its programming rarely fit the situation, often enough not calculating properly the actual need of a foreign work force. Secondly the extremely slow bureaucratic system, brought to Quota Decrees being approved late in year, in a moment in which all programmatic research had lost any economic foresight. Thirdly, the “quota chaos” gave little political stability¹³³.

1.6.1. 2001 - Berlusconi comes to power: Alleanza Nazionale and Lega Nord part of the Government

Already in 1999 Gianfranco Fini, leader of Alleanza Nazionale, began proposing changes to the Turco-Napolitano, letting one imagine that a possible center-right victory in the upcoming 2001 elections would bring to a new immigration law. The whole center-right political campaign was centered around three points. Fight the growing foreign crime rate (with more and harsher expulsion), reduce entry quotas and thirdly, increase “temporary immigration”¹³⁴. As Berlusconi won the elections, and set out his center-right Government, the

¹³¹ L. EINAUDI, *op. cit.*, p. 259

¹³² *Ivi*, p. 261

¹³³ *Ivi*, p. 264

¹³⁴ *Ivi*, p. 308

Cavaliere lost no time in preparing a reform of Italy immigration control system. Having learned from passed mistakes, Berlusconi wanted to avoid what happened in 1994, where he had no time to deal with problem. In September of 2001, the Government prepared its bill, turning it for the approval to the Italian Parliament.

The Government, and the bill, had three points clearly in mind: i) whoever comes in Italy, needs to come for work and not to commit crimes. Arriving in Italy means gaining rights, but also having obligations (the original idea was the turn the residents permit into a residents contract); ii) turning illegal immigration into a crime would be a bureaucratic chaos; iii) after much past criticism, Berlusconi eventually became in favor of having himself a general amnesty, setting out the regularization of 634.728 illegal immigrants (the biggest one in European history)¹³⁵. Ironically, though a political phase strongly against immigration, the period that goes from 2001-2006, was one with the highest increase of foreign work force in Italy¹³⁶.

The initial proposal elaborated by Berlusconi with Lega Nord and Alleanza Nazionale was very harsh and discriminatory. Forced expulsion with police bringing the individual directly to the boarder was originally generalized to most situation, introducing the possibility of a jail sentence for the ones that entered Italy illegally for the second time. One of the possibility considered, was authorizing the use of force and fire arms against people transporting illegal immigrants¹³⁷.

¹³⁵ M. BARBAGLI, *op. cit.*, p. 125

¹³⁶ L. EINAUDI, *op. cit.*, p. 307

¹³⁷ *Ivi*, p. 313

1.6.2. The content of the Bossi-Fini

Harshness was certainly the key idea behind the Bossi-Fini Law. Even the very little that was done regarding integration was strongly restrictive. Starting from family reunification, where the right limited to third degree relation, and withdrew if not followed by cohabitation¹³⁸.

The residence permit was linked to a residence contract, increasing the bureaucratic weight of the procedure to legally enter the country. The idea was to legally bind the employer to the employee, increasing the responsibility given to the Italian counterpart (employer also had to assure accommodation)¹³⁹. Basically the legality of the immigrant was strongly linked to the availability of a job, and being fired resulted in also losing the residence permit¹⁴⁰. The entrance permit to seek a job was completely cancelled. As it were for the Martelli Law, the principle of availability was brought back¹⁴¹, in a way to make sure that no Italian or European citizen wanted or could fulfill the job vacancies¹⁴².

Once the Government successfully linked the legality of the stay with a work contract, the situations of irregularity doubled, obviously increasing the cases of expulsions. As if it weren't enough, the *Popolo della Libertà* (Berlusconi's Party) manage to transform immediate and direct expulsion into the ordinary way of implementing expulsion orders, basically eliminating the due process right of immigrants¹⁴³. To fight illegal arrivals on Italian soil, the law included the possibility for local authorities to expand boarder patrol from the mainland to sea, authorizing the police to stop, inspect and seize foreign ships suspected of transporting illegal immigrants¹⁴⁴.

¹³⁸ N. MAGNINI, *op. cit.*, p. 173

¹³⁹ L. EINAUDI, *op. cit.*, p. 314

¹⁴⁰ N. MAGNINI, *op. cit.*, p. 173

¹⁴¹ *Ivi*, p. 172

¹⁴² L. EINAUDI, *op. cit.*, p. 315

¹⁴³ N. MAGNINI, *op. cit.*, p. 175

¹⁴⁴ *Ivi*, p. 175

As mentioned earlier, though fairly unexpected, the Berlusconi Government opted for a general amnesty. What is important to add, however, is that the center-right Government was very adamant in convincing the general public that this time the regularization was different from past ones. The word used by Berlusconi was *regolarizzazione* and not *sanatoria* (adopted by the center-left), the difference was that now the employer and not the immigrant was responsible for the process, being forced to sign a contract of residence with the foreign worker¹⁴⁵.

In order to fulfill one of the intended goals of the law, there was a strong change in the way the annual quotas were programmed. The 2002 *Decreto Flussi*, lowered the bar from 89.400 entries to 79.500, seasonal workers were cut by 61% (from 50.000 to 19.500), reserved quotas for specific countries were lowered to 10.000 (-41%) and temporary green cards to find a job were cancelled¹⁴⁶. The trend continued in the following years, and the drastic cuts in reserved entry quotas was particularly dangerous for the risk of losing the working relationship with countries of origin.

1.6.3. Effects and numbers of the Bossi-Fini

Finger prints were introduced to keep track of immigration population and identity, and in 2002 and 2004, 200.000 and 400.000 foreign citizens were classified with this method¹⁴⁷. By expanding the period of the stay in the Cpts from 30 to 60 days, the percentage of successfully expelled foreign citizens improved, reaching its peak in 2005. In addition the percentage of those released

¹⁴⁵ N. MAGNINI, *op. cit.*, p. 177

¹⁴⁶ L. EINAUDI, *op. cit.*, p. 324

¹⁴⁷ M. BARBAGLI, *op. cit.*, p. 126

for unsuccessful identification went from being 46% in 2001 to 18,6% in 2005¹⁴⁸. The effectiveness of Cpts continued to improve up until 2006, year in which a new Prodi Government took office.

The main contribution of the Bossi-Fini regarded internal control, the percentage of tracked immigrants being successfully expelled kept growing reaching 50% in 2003. Everything changed in 2004, when the Constitutional Court declared direct expulsion without legitimate due process unconstitutional, and the percentage of tracked foreigners being expelled went back to 20,4% by 2006 (an even lower amount than under the Turco-Napolitano)¹⁴⁹. All in all, this proved that the Bossi-Fini law's effectiveness dependent solely on its harshness, being it concerned mainly with security and internal control.

All in all the restrictive policies implemented were certainly effective in some ways, but very expensive. The Bossi-Fini increased, year after year, the money for immigration control: 63 million euros in 2002, 164 million in 2003 and finally back to 115 million euros in 2004¹⁵⁰ (year of the Constitutional Court sentence). Evidently, direct expulsion with police authorities bringing the illegal immigrant to the boarder wasn't only unconstitutional, but also very expensive. Eventually it was found that on a yearly basis 100 million euros budgeted for expulsions, had no financial guarantee to value for it¹⁵¹. In 2004 the Government decided to shift attention on Cpts, but in that same year Doctor's Without Borders released a report accusing the centers of being overcrowded, lacking legal and humanitarian standards¹⁵².

¹⁴⁸ M. BARBAGLI, *op. cit.*, 127

¹⁴⁹ *Ivi*, pp. 128-129

¹⁵⁰ L. EINAUDI, *op. cit.*, p. 336

¹⁵¹ *Ivi*, p. 338

¹⁵² *Ibidem*

CHAPTER 2: IMMIGRATION CONTROL: FROM POLITICAL PHILOSOPHY TO COSMOPOLITANISM

2.1.1. Theoretical and philosophical approach: the missing key

The second part of this paper will attempt to understand why since 1986 immigration control in Italy is still an issue to be dealt with. Without undermining the complexity of the problem as a whole, immigration is something many other countries have difficulty handling with as well, and the obvious difficulty of the Italian case study, for its strategic position on the Mediterranean Sea Italy is forced to receive a huge inflow of illegal immigrants on a constant basis, much can be done to improve the way the phenomenon has been dealt with.

Three elements came out in the first part of this work. First of all, the constant state of emergency, at times real other simply created by the political elites, has strongly interfered with the country's policy response capability. If at times the "state of emergency" was brought upon by local regional conflicts (see the Wars in Yugoslavia and the Albanian Crisis), often enough political groups contributed to pushing public focus on the matter of security in order to implement controversial, short sighted and ineffective measures. The second element worth mentioning, is that extra parliamentary events and actors played a heavy role in the way the country responded. Inclusiveness is of course a positive aspect in the political process, but it becomes worrying when including these actors is mainly a way to remedy to the legislative gap left by a stuck and frozen political elites. From sudden new waves of immigrants, to racist/security matters raised by Italian newspapers, passing by the role played by labour movements and church centered organization, often enough it was who and what happened outside the Italian Parliament that changed the political stalemate. A complex issue requiring the right amount of political programming, in which all sides wanted to have a say, led to a

status quo situation in which most actors in the Parliament and Government feared to take any decisive step. Third factor to take in consideration, is what has been missing in the many attempts to regulate the matter in Italy. From the Foschi Law to the Bossi-Fini Law, only Romano Prodi, Prime Minister during the Turco-Napolitano, understood the importance of integration. Turning the matter from an emergency to a normal phenomenon, by turning immigrants from “invading working force” to valuable Italian citizens contributing to society with their economic potential. Short-sighted political solution, often forgot that immigration is not only a labour related issue, but mostly something that has deep repercussions on society and the mentality of people.

After a historical analysis of past immigration policies, the obvious question becomes: what has been the missing element in a successful immigration response? As already stated, the incapacity to make the switch between “potential-workers” to “potential-citizens” has led to short-sighted policy decisions. But finding the answer to the question is only half of the journey, the rest of our effort will now focus on understanding why this error has been made. The lack of a philosophical and theoretical approach to the matter is what mainly affected Italian politicians. Not understanding the implications of immigration and not grasping the repercussions that any policy reform has on society, is evidently something that needs to be dealt with. The following chapter will attempt to identify and analyze what have been the responses of the main branches of modern political philosophy to the phenomenon of immigration and border control. Different theories and ideas will be brought to the table, in a brief journey that will eventually “land” on viewing cosmopolitanism as a possible innovation to deal with the phenomenon.

2.1.2. *The Genesis of Immigration as a political issue: between Nation States and Culture*

The literature on immigration is pretty recent, and mostly takes the nation state as the unit of analysis¹⁵³. As viewed by Sassen, the classical differentiation between citizens and foreigners is something strongly linked with the formation of the modern nation state¹⁵⁴. Throughout mercantilism immigration was something encouraged, as a growing population was mainly perceived as a way to increase wealth. The real issue at the time was emigration, considered a loss of resources and economic assets¹⁵⁵. Until World War One it was possible to move around Europe without identity card or visa requirements¹⁵⁶. But the planet after the first world conflict was a very different place, with a growing importance of the international relation system¹⁵⁷. From wars of independence, the idea of self determination, the establishment of the Communist regime in Russia and the limitation on immigration imposed by the United States during the 20s, Europe was eventually forced to begin dealing with the issue¹⁵⁸.

Throughout the 1950s and 1960s European countries took a very liberal approach to border control, and immigration flows were allowed with no concern. Until the second half of the 1970s, immigration policy and norms were considered, with few exceptions, a secondary aspect of the political debate. The idea of controlling immigration was left to administrative norms rather than political decisions, leaving out Parliaments from any kind of possible debate¹⁵⁹.

¹⁵³ N. MAGNINI, *op. cit.*, p. 26

¹⁵⁴ S. SASSEN, *Guest or Aliens*, The New Press, New York, 1999, p. 78

¹⁵⁵ C.BONIFAZI, *L'immigrazione straniera in Italia*, il Mulino, Bologna, 1998, p.177

¹⁵⁶ J. TORPEY, *Coming and Going: On the State Monopolization of the Legitimate Means of Movement*, *Sociological Theory*, 16,3: 239 - 259

¹⁵⁷ S.SASSEN, *op. cit.*, p. 78

¹⁵⁸ N. MAGNINI, *op. cit.*, p. 26

¹⁵⁹ C.BONIFAZI, *op. cit.*, p.178

Authors like Soguk and Lippert, on the other hand, theorized that immigration is not only the result of the formation of the modern Westphalian state, but also has been playing a crucial role in the process of state formation¹⁶⁰.

As Zolberg successfully attempted to suggest, the phenomenon is characterized by strong link between a Marxist-Economic approach and a national identity-centered approach, meaning that each immigrant is at the same time an economic presence and a cultural/political one¹⁶¹. For this very atypical way of being, immigration creates very heterogenous interest groups, from business oriented actors to cosmopolitan political activists. As it were for the Italian case, manufacturing industries with catholic groups and labour movements formed an unusual “task force” lobbying in favor of the new comers¹⁶². This, however, is both a strong advantage allowing possibly a good amount of leverage of Government figures to deal with the issue in a proper way, and also a very substantial limit, making immigration a very multi-faceted problem with an impressive amount of variables to deal with.

If the genesis of immigration as political issue goes back to the formation of the modern nation state, the capacity of a country to deal with it and its size (both in numbers and international importance) have drastically changed in recent years. Sassen highlighted that globalization with the “formation of transnational social networks and communities, weakened the regulatory power of the nation states through the increasing movements of goods, capital and people”¹⁶³. Basically, the evolution of the modern state in the globalized world, is making immigration an always more complex matter for national states to deal with. An example of this, as suggested by Soysal and Jacobson, is the fact that fundamental rights once based on nationhood, have become based on personhood, forcing

¹⁶⁰ N. MAGNINI, *op. cit.*, p. 26

¹⁶¹ *Ivi*, p. 28

¹⁶² *Ibidem*

¹⁶³ *Ivi*, p. 30

countries to grant them to foreigners as well¹⁶⁴. Understanding State responsibility as merely something limited to national citizens, is something that is slowly changing and expanding to immigrants as well.

2.2.1. Conventional Views on Immigration: the case for Closed Borders

In Shelley Wilcox' *"The Open Border Debate on Immigration"* we have a chance to take a glance at the main philosophies that have supported the idea that States should regulate immigration simply based on national priorities. The most important author in this field is Michael Walzer, a firm believer in the communitarian school of thought. The key unit of society is constituted by an individual's political membership, a social good made possible by a shared understanding of political community¹⁶⁵. Basically everything in his theories rotated around the idea that individuals are part of communities, in which all members have a common understanding of basic values and rights. Once understood this, one needs to define and understand the meaning of political community.

Walzer wants to identify the best immigration policy for modern liberal democracies, and to do this he analyze three different community models: neighborhoods, private clubs and families¹⁶⁶. "Neighborhoods have no formal legal admission policies; people move into neighborhoods for reasons of their own, constrained only by market contingencies. While residents may choose not to welcome newcomers, the state does not prevent individuals from settling in¹⁶⁷". Basically neighborhoods are "open border" entities in which pretty much anybody

¹⁶⁴ N. MAGNINI, *op. cit.*, p. 30

¹⁶⁵ S. WILCOX "The Open Borders Debate On Immigration". *Philosophy Compass* 4/1, 2009, p. 2

¹⁶⁶ *Ibidem*

¹⁶⁷ *Ibidem*

“can move in”. Walzer is not in favor of this option, suggesting that individuals must be free to regulate the inflow of new comers to protect their rights and welfare privileges. The second options proposed are private clubs. Private clubs are free to regulate the new arrivals, deciding criteria and method of admission decisions. However, the private club comparison, leaves out a key aspect of liberal societies. These, differently from club members, sometimes feel moral obligations towards certain groups of outsiders, those that are perceived as “national or ethnic relatives”¹⁶⁸. Eventually Walzer abandons his “club theory” and proposes a third model to better comprehend liberal societies. If neighborhoods and clubs weren’t the answer, the concept of “families” comes in handy to solve the problem. The families model includes those people that members feel morally connected to, who live outside the household¹⁶⁹. This of course is easily connected to immigration policies, situations in which countries give priority in admissions to relatives of current citizens or to displaced ethnic nationals¹⁷⁰. Does Walzer feel that countries should “owe” anything to immigrants? To answer the question in a simple way, affluent countries are morally just simply by exporting some of their wealth (aid) towards poor countries. Regarding refugees, people that are escaping from political or religious persecution, liberal societies are obliged to help only if their need is particularly acute, by allowing them to enter the territory legally¹⁷¹.

For the conventional view of closed borders, liberal states have little to no responsibility towards foreign citizens. The morally arbitrary element of citizenship limiting the life options of people born in the less developed countries, is something of no concern for affluent nations. According to Michael Blake, limiting immigration and closing borders holds no violation of “ideal moral

¹⁶⁸ M. WALZER. *Spheres of Justice: A Defense of Pluralism and Equality*. Basic Books. New York, 1984, p. 41

¹⁶⁹ S.WILCOX, *op. cit.*, p. 2

¹⁷⁰ *Ibidem*

¹⁷¹ *Ivi*, p. 3

equality”¹⁷². States do not owe immigrants any justification, because a state’s authority and coercive power is merely over its citizens. Blake argues that a State’s right to exercise coercive power, automatically brings to specific protections and guarantees in the form of participation rights, to those who are subject to that power¹⁷³. What results from all of this a situation of shared liability to political authority, a type of justification that Blake defines as “hypothetical consent” to coercion, which is granted to members of the nation stated¹⁷⁴. Foreigners are not “included” in the territorial scope of a State’s authority, and therefore are not owed any special treatment sparked by the need of moral equality. States, concludes Blake, do not owe immigrants anything¹⁷⁵.

Another author that needs to be considered is Thomas Nagel. Nagel’s priority is stressing the importance of authority acting in the name of its citizens¹⁷⁶. States are considered to be tied to the will of its citizens acting on their behalf, an agency in specific activities that justifies any State policy. Even when dealing with the possibility of dictatorships, considering the normative engagement being in place, “there is a sense in which coercion is imposed in their names¹⁷⁷”, and is therefore “fine”. Once understood what kind of relationship ties together citizens with state institutions, Nagel’s opinion on immigration policies is clear enough. As for Walzer and Blake, individuals do not owe any kind of justification to those outside the political community. One cannot deny that immigration laws and norms have influence on outside members, but these policies are not imposed in their name. Considering that no acceptance is demanded by foreigners, no justification is required¹⁷⁸. State Institutions act in the name of their citizens,

¹⁷² M. BLAKE “Immigration” *A Comparison to Applied Ethics*. Eds. R.G. Frey and Christopher Heath Wellmann, Blackwell, USA, 2005, p. 228

¹⁷³ S.WILCOX, *op. cit.*, p. 5

¹⁷⁴ T. CHRISTIANO. *Immigration, Political Community and Cosmopolitanism*, p. 5

¹⁷⁵ S.WILCOX, *op. cit.*, p. 5

¹⁷⁶ T. CHRISTIANO, *op. cit.*, p.8

¹⁷⁷ *Ibidem*

¹⁷⁸ *Ibidem*

justifying the demand for democratic participation in the decision making process only to those that are being represented. Though immigrants live the consequences of specific policies, those laws are not put in place in their names, and therefore not justification is owed to them. “Immigration policies are simply enforced against the nationals of other states; the laws are not imposed in their name, nor are they asked to accept and uphold those laws. Since no acceptance is demanded of them, no justification is required that explains why they should accept such discriminatory policies¹⁷⁹.” The only duties that States owe to foreign institutions and individuals is of no interference and no harm¹⁸⁰. The role and responsibilities of Nation States is quite clear: countries are supposed to be an impartial arbiter for those who fall under its jurisdiction¹⁸¹. Inequalities among the people of the world are of no concern, similar inequalities among fellow citizens are, on the other hand, of great importance¹⁸².

Certain moral principles, putting together Blake’s and Nagel’s standpoint, come into place only in the context of the modern state. Justification is only owed to citizens in the virtue “of being subjected to its authority and in the virtue of its acting in their name¹⁸³.”

2.2.2. *Unbounded Demos Theory: Arash Abizadeh vs. David Miller*

At this point the question is quite clear: is a State responsible for the well-being of immigrants? To answer this question, we will analyze and interesting

¹⁷⁹ T. NAGEL, “The Problem of Global Justice”, *Philosophy and Public Affairs* 33(2), 2005, pp. 129-130

¹⁸⁰ T. CHRISTIANO, *op. cit.*, p. 9

¹⁸¹ *Ivi*, p. 11

¹⁸² *Ivi*, p. 10

¹⁸³ *Ivi*, p. 11

debate between two political philosophers on the issue, Arash Abizadeh and David Miller.

Abizadeh attacks the principle that States should have unilateral control over their borders and that foreigners are not owed justification for this. He believes that whoever accepts democratic theory of popular sovereignty should reject the idea of unilateral domestic control over borders¹⁸⁴. The world he imagines is one where democracy is an unbounded concept, in which immigration policy needs to be justified to foreign citizens. Abizadeh is a believer, like his colleague Raz, that all individuals have a fundamental right to personal autonomy. This autonomy is satisfied only if three conditions are met. A person is free if it:

- i) has the appropriate mental capacities to formulate personal projects and pursue them;
- ii) enjoys an adequate range of valuable options;
- iii) is independent and free from subjection to the will of another through coercion or manipulation¹⁸⁵.

By going against any of these three principle, a State becomes coercive and therefore undemocratic. These three elements are very important, and therefore need a further analysis. As we will analyze later in the chapter, Miller's arguments clash with Abizadeh precisely on the understanding and importance given to personal autonomy. According to Abizadeh:

First being subject to coercion sometimes simply destroys the requisite mental capacities. Second, it inherently eliminates options otherwise available to person. It is true that autonomy does not require the maximization of the number of options, but only an adequate range of valuable options [...] Thus the coercive reduction of options

¹⁸⁴ A. ABIZADEH, "Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Borders" *Political Theory*, 2008; 36; 37, p.38

¹⁸⁵ *Ivi*, p. 39

*undermines the second condition of autonomy only sometimes: only if the agents is left with an inadequate range of other valuable options. Bu the third condition of autonomy - independence - is always invaded by subjection to coercion, because it subjects one agent to the will of another*¹⁸⁶.

This understanding of coercion is very rigid, and marks the strongest difference between Abizadeh and Miller. The natural consequence of this understanding of personal autonomy requires any State going against any of these points to justify its actions in a proper way. A justification of coercion that is only accepted if it means a global contribution to the autonomy of those persons subject to them¹⁸⁷. Different States, and different theories, conceptualize this justification in different ways. If one side liberalism considers that “the exercise of political power be in principle *justifiable* to everyone, including the persons over whom it is exercise¹⁸⁸” engaging in a strategy of hypothetical justification, democratic theory, on the other hand, demands an institutionalized and discursive participation in the decision making process, establishing legitimacy over institutions and political actors. Basically, liberal justification is not enough for democratic legitimacy. A law or a norm, like closing borders, cannot simply be justified “hypothetically” but also in practice, including all sides affected by the decisions in the decision making process.

In this way, liberalism and democratic theory, appear at two opposite. Jean Cohen helps us understand the strong contrast between these two school of thought. If liberalism is “universalizing and inclusive but apolitical and individualistic”, democratic theory is “political, internally egalitarian and uniform but externally exclusive and particularizing¹⁸⁹. Democracy by definition is inclusive and egalitarian, two elements that by nature require a collective demos

¹⁸⁶ A. ABIZADEH, *op. cit.*, p.40

¹⁸⁷ *Ibidem*

¹⁸⁸ *Ivi*, p.41

¹⁸⁹ *Ibidem*

forming a distinctive a limited political community. Political action is always justified, and not only in theory, because its members are defined and limited. As a consequence a democracy is inherently bounded, demanding a collective demos. While liberalism opts for impartiality in the treatment of all human beings and consequently open borders, democratic theory necessitates collective control without outside interference. The idea of self-determination immediately comes to mind, meaning the people's right to control all matters that affect their common interests. In this perspective, the admission of new members obviously affects the quality of public life¹⁹⁰.

Losing control of that community over which all is actually justified because all are included in the decisions making process, means not only lowering the quality of life of the collective demos, but also making institutions lose its political legitimacy. If coercion needs to be justified, and if justifications means political participation of all those affected by the coercion, closed borders are a necessary element in democratic regimes. Abizadeh wants to challenge this argument, by proving that a democracy should be unbounded, eliminating the idea of unilateral control over borders. If it is true that justification through participation is legitimate only if it involves all those affected by the coercion, then it is also true that implementing unilateral closed borders affects demos members as well as non members¹⁹¹. Inevitably justification for border control is owed also to non members since it also affects them. The point is that justification is owed not to those that are affected by the decisions, but to those that are subject to its coercion. For Abizadeh perceiving democracy as bounded makes no sense, and is strongly incoherent. Whose participation is necessary for legitimacy? If closed boundaries require legitimacy, and if legitimacy means participation, then closed boundaries are justified if all those affected by its coercion are involved in the

¹⁹⁰ A. ABIZADEH, *op. cit.*, p. 42

¹⁹¹ *Ivi*, p. 44

decision making process. The question of boundaries poses as external problem: though democracy is justified to its bounded limitation and limited to its members, issues such as borders inevitably relate to external non members. We are taking about internal rules that by nature have external consequence. These elements bring Abizadeh to state that a bounded demos makes no sense¹⁹².

Consequently, there are two types of solutions to solve this problem. If what is missing is justification, then this needs to be addressed, specifically in the case of foreigners. There are two options: either include foreigners and non-members in the decision making process, or implement a “cosmopolitan democratic institution in which borders received actual justifications addressed to both citizens and foreigners”¹⁹³. The goal is for a global demos, a cosmopolitan world institution, which of course still does not exist, and finds in the European Union its closest example¹⁹⁴. Abizadeh is very drastic: unilateral closed borders go against an individual’s autonomy and therefore individual need to have a say in the regulations that possibly could limit their freedom of movement.

As a reply to Abizadeh 2008 paper “Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Borders”, David Miller wrote his “Why Immigration Controls are not Coercive”. Miller’s issue with Abizadeh’s argument is exactly in the last point of his conclusion: the participation of foreigners in the decision making process¹⁹⁵. His theory is quite simple, border control itself, as in the act preventing somebody from entering a specific country without including him in the decision making process, is not a coercive action¹⁹⁶. Miller attacks Raz’, and consequently Abizadeh’s, second point in the theory of personal autonomy, concerning the “adequate amount of alternative options”. For Miller, blocking a certain individual from a specific decision does not mean he is

¹⁹² A. ABIZADEH, *op. cit.*, p. 46

¹⁹³ *Ivi*, p 48

¹⁹⁴ *Ibidem*

¹⁹⁵ D. MILLER, *Why Immigration Controls are not Coercive: a reply to Arash Abizadeh*, p.1

¹⁹⁶ *Ivi*, p. 2

being coerced because other options might be available¹⁹⁷. Since there still might be other valuable options, unilateral closed border do not necessarily go against personal autonomy and individual independence. According to Miller, by conceiving coercion as done by Abizadeh and Raz, we obtain very broad definition, which incoherently categorizes certain State actions as coercive. What is needed is a narrower understanding of coercion. As it stands, the second point of Raz' theory isn't a necessary factor to analyze State coercion. The real parameter that needs to be considered is the third point, meaning forcing an individual into a specific action.

If we define coercion in this narrower (and more plausible) way, then we can draw a distinction between coercion and prevention, where coercion involves forcing a person to do some relatively specific thing, and prevention involves forcing a person not to do some relatively specific thing while leaving other options open¹⁹⁸

Prevention prohibits an individual to do something he/she wanted to do, and therefore stands as an action that limits his/her freedom to act. However, by possibly having other options, prevention does not limit personal autonomy in the way coercion does. Consequently democratic justification, including the individual in the decision making process, is not necessary, considering that the he/she still has other alternatives¹⁹⁹. Abizadeh's limit, according to Miller, is that what he considers coercion is simply "hypothetical coercion". Hypothetical coercion occurs in cases "where a person *would* expose themselves to coercion if they were to decide to pursue a particular course of action²⁰⁰". Miller suggests that this kind of definition of coercion makes it omnipresent, and therefore not destructive of

¹⁹⁷ *Ivi*, p. 5

¹⁹⁸ D. MILLER, *op. cit.*, p. 6

¹⁹⁹ *Ivi*, p. 7

²⁰⁰ *Ivi*, p. 8

personal autonomy. We constantly live in a state in which by deciding to do certain things we would be subject to coercion, but this does not limit our personal autonomy²⁰¹. The difference between the two authors is exactly on this point, for Abizadeh, differently from Miller, even a hypothetical threat is considered coercion. For David Miller, the “hypothetical threat” becomes real only when there isn’t an adequate range of alternative in his society of origin, or other countries. If an individual is forced to leave his home for “unsuitable” living conditions, and a country decides to close its borders to him, we aren’t necessarily experiencing coercion. While that specific option isn’t available, other adequate options are still in place for the migrant, for example other countries²⁰². But what if the individual does not have the necessary amount of adequate alternatives? Millers continues to believe that closing borders is legitimate, however States deciding to implement this policy, have the obligation to improve rather than worsen the living conditions in involved countries and to collaborate on refugee policies²⁰³.

For Miller, Abizadeh’s thesis in favor of an unbounded demos is simply false. A democratic State obviously does not have the right to implement whichever immigration policy it desires. The policy needs to be justified on general liberal grounds, but not to the democratic extend of including all those affected by the norm in the decision making process²⁰⁴.

David Miller isn’t new in writing in favor of closed borders. To complete the discussion between Abizadeh and Miller, we will examine another publication by the latter. Through his “Immigration: The Case for Limits” we can better comprehend his position on immigration. Miller introduces the idea of “decent” States, developed and wealthy countries supposedly not giving its citizens any

²⁰¹ D. MILLER, *op. cit.*, p. 8

²⁰² *Ivi*, p. 11

²⁰³ *Ivi*, p. 12

²⁰⁴ *Ivi*, p. 13

justified reasons to leave. A basic distinction is also made between *bare* and *basic* interests. While basic interests are considered vital and therefore protected by a right, bare interests are surely legitimate but not worthy of such protection. Basic rights enter within the classification of human rights, while bare rights do not²⁰⁵. Something like the right to free movement within a State is a basic necessity, a key element in a satisfactory life style. Freedom of international movement, on the other hand, cannot be considered a basic interest. As long as basic rights, and freedom of internal movement is granted, with adequate alternatives in job possibilities and cultural activities, a person has no basic right to leave. Basically, if one lives in a “decent” State, there is no real justification for his/her departure to another country and his “human right” to free entrance²⁰⁶. In this sense, right to free international movement becomes simply a “remedial right” of people’s whose basic rights are not secured at home²⁰⁷.

The right to exit is classified as a human right by the author, a very important individual assurance which allows people to better live their citizenship. Freedom of movement is perceived has something real, inhibiting States from mistreating its citizens²⁰⁸. Now, while the right to exit is recognized, the same cannot be said about the right to entrance. A State, according to Miller, has no moral/legal obligation to take in migrants. While an individual can be free to leave, there is no forcing on States the acceptance of individuals that decide to enter. After having established this key point, Miller goes on justifying his argument in favor of limiting immigration. Two points are brought to the table, the first regards culture, while the second one population growth²⁰⁹.

²⁰⁵ D. MILLER “Immigration: The Case for Limits” *Contemporary Debates in Applied Ethics*. Eds. Andrew Cohen and Christopher Heath Wellmann. Blackwell. Oxford. 2005. p. 194

²⁰⁶ *Ibidem*

²⁰⁷ S. WILCOX, *op. cit.* p. 5

²⁰⁸ D. MILLER “Immigration: The Case for Limits”, *cit.*, p. 196

²⁰⁹ *Ivi*, p. 199

The entrance of immigrants in a State, sparks the following cultural process:

i) immigrants will enter with cultural values, including political values, that are more or less different from the public culture of the community they enter; ii) that as a result of living in that community, they will absorb some part of the existing public culture, modifying their own values in the process; iii) this process will also change the public culture in various ways²¹⁰.

Miller does not see immigration as a negative and destructive phenomenon, but simply as something that will naturally change a society's public culture. All of this, however, is a very long process that requires a good amount of cultural "absorption" from both hosting country and new-comer. In order to have a smooth change and development in the public culture of society, it might be necessary at times, to limit immigration²¹¹. If too many immigrants come in too quickly, the process of adaptation cannot take place in a proper way. For Miller, preserving the equilibrium of national culture is one of the main priorities for policy makers. This of course does not give a numerical and perfect formula to set the correct type of limitation on immigration, especially because the situation in each country will vary from case to case. The real issue is how easy or difficult will it be to create a symbiosis between the existing public culture and the cultural values of immigrants²¹². This of course is a problem that becomes exponentially more complex as times goes by, as societies are are now multicultural, the need to pace and control the inflow of immigrants is essential to the maintaing of a unified public culture that binds all together. Immigration certainly enriches national culture, but it is a process a State needs to monitor and control in order to avoid

²¹⁰ D. MILLER "Immigration: The Case for Limits", cit., p. 200

²¹¹ *Ivi*, p. 200

²¹² *Ivi*, p. 201

internal instability and cultural tension. The issue with population growth is quite simple, considering how much the amount of people living in a territorially limited State influences life in that specific society²¹³. According to Miller “members of a territorial community have the right to decide whether to restrict their numbers, or to live in a more ecologically and humanly sound way [...] If restricting numbers is part of the solution, then controlling immigration is a natural corollary²¹⁴”.

Once having justified his argument in favor of limiting immigration, the need to understand criteria and conditions of this limitation comes up. Miller suggests that States are completely entitled to consider benefits from admitting a certain type of person rather than another. To follow with his concern for cultural integrity, he believes that giving precedence to those people whose cultural values are closer to those of the existing population (ie. common language) makes perfect sense. The second criteria for selection should be based on understanding which skills and talents are needed in the receiving community ²¹⁵.

In his conclusion Miller underlines the importance of admitting all long-term immigrants to an equal citizenship in the receiving society. New comers should be assured integration in the political life of the community, by gaining the educational and linguistic skills necessary²¹⁶. By avoiding the permanent class of “non citizens”, societal conformity and stability is kept, keeping the process of cultural development at a steady and controlled pace²¹⁷.

Overall Miller understands the potential of immigration, but holds strong to his main priority: national cultural unity. Everything, immigration as well, needs to be thought out and planned in order to keep society stable and functional.

²¹³ D. MILLER “Immigration: The Case for Limits”, cit., p. 201

²¹⁴ *Ivi*, p. 202

²¹⁵ *Ivi*, p. 204

²¹⁶ *Ibidem*

²¹⁷ *Ivi*, p. 205

2.3.1 The Case for Open Borders - Joseph Carens

A different understanding and scope of freedom of movement, is one of the main differences between the ones that are in favor, and the ones that are against closed borders. Joseph Carens defends the case for open borders exactly on this point. If it is well recognized that, according to liberal egalitarianism, individuals have the right to emigrate to the country of one's choice, then liberal states have a duty to keep open borders²¹⁸. From this essential element, Carens develops his theory on the subject.

First of all, the liberal commitment to individual freedom should naturally imply a basic human right to free international movement. As seen with Miller understanding this point as a "basic human right" is slightly controversial, but this simply reaffirms the centrality of this issue in solving the problem. Carens believes in the analogy between free mobility within a state and free international mobility²¹⁹. In his *Migration and Morality*, Carens explains the issue in the following manner:

People should be free to pursue their own projects and to make their own choices about how to live their lives so long as this does not interfere with the legitimate claims of other individuals to do likewise²²⁰.

Putting limits to international movement, would immediately limit the chances and potential of individual desire. Basically, if liberals truly believe in the individual right to fulfill personal projects, while respecting the ones of others, why limit this basic human right to national borders? For Carens, differently than from Miller, international right to movement, and therefore to exit, is the same as

²¹⁸ S. WILCOX, *op. cit.*, p. 3

²¹⁹ *Ibidem*

²²⁰ J. CARENS, "Migration and Morality: a Liberal Egalitarian Perspective" *Free Movement: Ethical Issues in the Transnational Migration of People and of Money*. Eds. Brian Barry and Robert E. Goodin. The Pennsylvania State Press. 1992. p. 26

the right to enter, forcing states to keep open borders. The following step in his “battle” for a new conception of immigration regards moral equality and equal opportunity. The problem, according to Carens, is that citizenship is morally unfair, distributing rights and social positions simply according to the place of one’s birth²²¹. One’s life is mostly influenced its in beginning and later developments by the place birth. For Carens it simply makes no sense that so much of somebody’s life is decided arbitrarily by citizenship. Limiting immigration makes this unfair situation unchangeable, forbidding less fortunate nationalities to improve their disadvantaged position. The only way, according to Carens, to change the situation is to allow and maintain open borders²²² . If we understand the moral unfairness of citizenship, keeping closed borders deprives individuals from their “liberal basic freedom” to improve their lives. Limitations on immigration are only accepted if they are necessary to maintain public order, national security and liberal institutions²²³. Basically, like all liberal rights, freedom of international movement is limited to the respect of liberal rights of others.

Agreeing with Joseph Carens in the consideration that citizenship brings to unfair world inequalities, is Thomas Christiano in his paper “Immigration, Political Community and Cosmopolitanism”. Christiano understands that much has to be reformed in today’s world, and that the end goal should be an international cosmopolitan order. The reality is that we live in a system based on modern states, in which the concept of social justice is limited to territorial boundaries²²⁴. The modern democratic state has a number of limits. The concern for the interest of the person is limited to those who are citizens of the democracy, and the tools it gives for the advancement of the well being of individuals are

²²¹ S. WILCOX, *op. cit.*, p. 4

²²² *Ibidem*

²²³ *Ibidem*

²²⁴ T. CHRISTIANO, *op. cit.*, p. 15

given only to member of the society²²⁵. The issue here is that political communities aim at a just order among a group of specific people. The cosmopolitan concern with democratic states is that justice is limited to a small proportion of the population of the world²²⁶. The cosmopolitan goal should be to expand this limited understanding of justice to the globe as a whole. Clearly this objective at hand is very hard to achieve, but democratic modern states are the first step to get there²²⁷. Though they have many problems, they represent to first piece of the puzzle towards a cosmopolitan world. According to Christiano to goal is attainable also for the substantial success states have achieved in international negotiation. Varieties of issues have been dealt with, and positive results have been obtained in different areas, setting the path towards a more collaborative democratic order²²⁸. In the end, Modern States will need to expand the reach of social justice through international negotiations and international institutions. Overall, democracies need to be protected because they represent the fundamental actor to the long run establishment of a just cosmopolitan order²²⁹.

In the last part of his work, Christiano deals specifically with the issue of immigration. Democracies are great in extending the idea of trust amongst and between its citizens. When immigration comes in place, this balance is “ruined”. Foreigners bring with them new cultures and new uses, creating a sense of distrust amongst individuals. Secondly, the mechanism of social solidarity loses its grip, as “ethnic diversity and lack of identification brings to unwillingness to undertake sacrifices for the benefit of others²³⁰”. Third, the “trust balance” is destroyed by the lack of understanding. Linguistic misunderstandings could undermine the activities of democratic states and their institutions²³¹. The message is clear, large

²²⁵ T. CHRISTIANO, *op. cit.*, p. 17

²²⁶ *Ivi*, p. 14

²²⁷ *Ibidem*

²²⁸ *Ivi*, p. 15

²²⁹ *Ivi*, p. 18

²³⁰ *Ivi*, p. 19

²³¹ *Ibidem*

scale immigration might undermine, for no fault of the receiving society or the new comers, democracy and its institutions. There are two final points that need to be dealt with to fully understand Christiano's position. First of all, if open borders are a way to remedy to unfair global inequalities, much has to be added to the picture to fully grasp it. Open borders helps those that can (economically and physically) travel, but not the poorest of the poor societies. To a large extent, it is a system that favors smugglers and bribed local officials. Rather than demanding open border, what needs to be done is work for global justice²³². Lastly, since democratic modern states are the only way to achieve a cosmopolitan order, its essence and institutions need to be protected and saved. Whichever immigration policy is adopted, including open borders, should not undermine the democratic order and its institutions²³³. Christiano's theory is quite clear: the end goal is a cosmopolitan world order, and democratic modern states are the only way to achieve that goal. Consequently, any thing coming in the way of these two element is considered negative. Having theorized the possible "disorder" caused by large scale immigration and open borders, these two options need to be dealt with very carefully and with the right priorities in mind. Attempting to alleviate world inequalities is correct, and accepting immigrants is just, but these two points are only conceivable if democratic institutions are persevered in a balanced and ordered society.

²³² T. CHRISTIANO, *op. cit.*, p. 21

²³³ *Ivi*, p. 22

2.3.2 *The Case for Open Borders - Chandran Kukathas*

One of the authors that dealt with the issue of open borders and multiculturalism in the most comprehensive way is Chandran Kukathas. Kukathas understands that modern States refuse the idea of liberty of international movement, but wants to go the roots attempting to understand why. Besides the obvious issue of security and internal order, another reasons why open border is often a problem is the cost of it on the receiving society²³⁴. More specifically the issue is related to the concept of welfare states, a key characteristic of modern states. Immigrants, by entering a country, become potential recipients of benefits, which in economic terms is transformed in “extra cost”. The negative aspect of this cost is that, according to States, most of these immigrants are “infirm or too old to contribute enough to taxes in their remaining working lives to cover the costs of medical care and retirement subsidies²³⁵”. The problem is the nature of liberal states, that perceive citizenship as the key to obtain rights. “Modern states restrict immigration because they must manage access to the goods for which immigrants and natives would compete. Modern states are like clubs that are reluctant to accept new members unless they can be assured that they have more to gain admitting people than they have by keeping them out²³⁶”. Most States also fear the impact of migrants on the local market economy: the concern is that a large amount of numbers of people entering a society can change the balance of an economy. With wages possibly going down or pushing up the prices of specific goods, the native population might be the one paying the highest cost for immigration²³⁷.

²³⁴ C. KUKATHAS “The Case for Open Immigration” *Contemporary Debates in Applied Ethics*. Eds. Andrew Cohen and Christopher Heath Wellmann. Blackwell. Oxford. 2005. p. 208

²³⁵ *Ivi*, p. 209

²³⁶ *Ivi*, p. 210

²³⁷ *Ivi*, p. 211

Thought the economic concerns are acknowledged, Kukathas explains how they are not good enough reasons to close border to immigrants. Locals are always gonna be entitled to benefits of being residents, such as particular markets and deals secured by virtue of an arrangement. These elements create a situation that exclude foreigners from a particular market only accessible to locals²³⁸. With regards to the welfare state, Kukathas is quite clear “It would be enough to point out that, to the extent that immigrants join the workforce, they would also contribute to the revenues of the state through taxes, even as they consume resources dispensed by the state²³⁹.”

Having pinpointed the reasons why most politicians are in favor of limited immigrations, Kukathas goes on to defend his case in favor of open borders. His main concern is that the idea of open borders cannot be defended without rethinking the idea of modern state. It is not an option currently being considered in any state, because its a very remote possibility for all²⁴⁰. Nonetheless, Kukathas is eager in defending open borders, specifically for two major reasons: the principle of freedom and the principle of humanity. By keeping closed borders a country not only limits the freedom to move but also the freedom to escape an unjust regime. Shutting down the right to movement, consequently limits the access of individuals to a series of different basic human rights. If one is fleeing from a tyrannical leader, finding a “new home” is the only way to have the assurance that all of his/her basic human rights are upheld and respected. Furthermore, closing borders means denying people to both sell their labour and others to buy it and, more in general, this strongly restricts people’s freedom to associate²⁴¹. The principle of humanity is closely related, touching on something already introduced when talking about Joseph Carens. A significant amount of

²³⁸ C. KUKATHAS, *op. cit.*, p. 212

²³⁹ *Ivi*, p. 213

²⁴⁰ *Ivi*, p. 210

²⁴¹ *Ibidem*

people are born in a state of poverty, through no fault of their own, for which closing borders would mean denying them the possibility of improving their lifestyle - “to say to such people that they are forbidden to cross a border in order to improve their condition is to say to them that it is justified that they be denied the opportunity to get out of poverty, or even destitution²⁴²”.

Kukathas feels also the need to reply to one of Miller’s main concerns when arguing in favor of unilateral immigration control. David Miller viewed cultural unity as a very important element, and suggested to consider the “absorption” capacities of States, fundamental in order to maintain social solidarity, when discussing immigration policies²⁴³. Countries need to have time to “process” immigrants before accepting new ones. Foreigners that come from different cultures, if not introduced properly, might undermine local institutions. Modern States have, according to Kukathas, a fear that immigrants will change societal characteristics²⁴⁴. All in all, however, Kukathas believes that all these fears do not represent a real threat to modern societies, and should not be used to limit freedom of movement. If one considers countries such as Canada, the United States of America and Australia, change and immigration brought societies to prosper and grow²⁴⁵. Even when dealing with Miller’s concern with social solidarity, Kukathas defends very strongly his position. Agreeing with Miller that social solidarity is essential, nation states are not perceived as the appropriate site for settling the issue of distributive justice. If one would attack global justice by saying that different cultures and countries have a hard time agreeing on a common understanding of culture, the same could be said about national justice. Today’s world sees the co-existence, in national boundaries, of different conceptions of social justice²⁴⁶. Miller defines global justice difficult to defend, yet,

²⁴² C. KUKATHAS, *op. cit.*, p. 211

²⁴³ *Ivi*, p. 215

²⁴⁴ *Ivi*, p. 214

²⁴⁵ *Ivi*, p. 215

²⁴⁶ *Ivi*, p. 216

according to Kukathas, “the things that make global justice problematic also go to make problematic social justice within the nation state²⁴⁷”.

All in all, the real problems is that, as said, the modern state is neither a suitable site to discuss global justice, neither to deal with immigration. Evidently, at this point, the question is quite simple, why argue in favor of open borders if Kukathas himself understands its untenability? We answer this question by quoting Kukathas:

There is, nonetheless, good reason for putting the case for open immigration. One important consideration is that many feasibility problems have their roots not in the nature of things but in our way of thinking about them. Many of the reasons open immigration is not possible right now have less to do with the disadvantages it might bring than with an unwarranted concern about its dangers. Even to the extent that the source of the problem for open immigration lies in the nature of things, however, it is worth considering the case for open borders because it forces us to confront the inconsistency between moral ideals and our existence social and political arrangements. One of the reasons why open immigration is not possible is that it is not compatible with the modern welfare state. While one obvious response to this is to say, “so much the worse for open immigration,” it is not less possible to ask whether the welfare state is what needs rethinking²⁴⁸

What appears to be evident, is that immigration is not a “normal” problem. A phenomenon that goes at the root of our society, and our conception of the modern state. So if no extreme option can be taken now, neither open or closed borders seem to be plausible, some sort of middle grounds needs to be found.

²⁴⁷ C. KUKATHAS, *op. cit.*, p. 216

²⁴⁸ *Ivi*, p. 219

2.4.1. Chandran Kukathas - Multiculturalism

It is evident that today modern states are becoming more and more multicultural entities. Willing or not, with either open or closed border policies, affluent countries have seen their societies drastically change. Each nation is different, and nation states have responded in varieties of ways to cultural diversity. Kukathas, in his paper “Theoretical Foundations of Multiculturalism”, summarizes them in 5 models. The first possible reaction is Isolationism, which consists in excluding outsiders from entering the country. An example of this model was the Immigration Act of 1901 in Australia, when the goal was to preserve the predominant Anglo-Celtic population. The idea of “migrant selection” was introduced in order to preserve the ethnic and cultural white majority²⁴⁹. This policy and mentality has the clear goal to maintain the elitist advantages, conserving the societal status quo. Though seemingly simple, isolationism is very difficult to sustain, consisting in a very costly policy. To preserve cultural homogeneity, it is not enough to maintain restrictive immigration policy, it would be necessary to “shut down” the rest of the world. Trade, tourism, art and literature are only some of the main ways that cultures can “spread” without passing through immigration²⁵⁰.

Another possible reaction to multiculturalism is Assimilation. The idea here is to open to immigration, but only with the goal to assimilate foreigners into the existent national culture. Though more effective, and less costly, countries that opt for this option have to consider that assimilation is in all actuality a two way street. Even if foreigners are “assimilated” into the society, they will be exerting their own influence and cultural background influencing the attitudes of the host society. Secondly, another issue with this model, is that not all cultures will accept

²⁴⁹ C. KUKATHAS, *Theoretical Foundations of Multiculturalism*, p.4

²⁵⁰ *Ivi*, p. 5

so easily the idea of being “absorbed” into the societal scenario of the hosting country²⁵¹. Finally, assimilation might cause some problems in countries that have a strong tradition of respect for individual freedom.

A third possibility is labelled as Weak Multiculturalism. “While assimilation may be difficult to enforce, it is also difficult to avoid. In any society in which there is a reasonable degree of freedom, people will associate with and imitate one other²⁵²”. This model is open to immigration, accepting the diversity element of new comers, without any major concern for their assimilation in the local society. Individuals’ capacity and desire will determine, eventually, if co-existing as a different cultural reality, or assimilate in the local uses and tradition²⁵³. Closely related is the fourth model, known as Strong Multiculturalism. Here, diversity is not only accepted, but appreciated and firmly protected. The priority is to maintain separate identities and traditions²⁵⁴. Finally, Kukathas includes a fifth possible response, considered quite extreme, but nonetheless real: apartheid. Here, not only different cultures are maintained separated, but it becomes strictly forbidden for minorities to assimilate in local culture²⁵⁵.

In its conception and formulation, liberal theories react differently. In this sense, one has both classical liberal multiculturalism and modern liberal multiculturalism. Liberalism, in its classical conception, is sympathetic to multiculturalism, proclaiming the importance of individual freedom. If the question is “how can people with different values live together?”, the answer is “peaceful coexistence”. No one side needs to overtake the other, and a perfect balance needs to be achieved between the different cultures²⁵⁶. A complete regime of toleration, where the goal is not assimilated incoming cultures, but accepting

²⁵¹ C. KUKATHAS, *Theoretical Foundations of Multiculturalism*, p. 6

²⁵² *Ivi*, p. 7

²⁵³ *Ibidem*

²⁵⁴ *Ivi*, p. 8

²⁵⁵ *Ibidem*

²⁵⁶ *Ivi*, p. 13

everybody's right to be who they are. No special protection is given, and no particular effort is made to maintain cultural differences: a maximally tolerant regime²⁵⁷. If the purpose is to accept individual freedom, even those opposed to the regime will be welcomed and allowed.

In contrast, modern liberalism is against multiculturalism considering it implausible because against values central to liberalism itself. A State should not tolerate illiberal practices, setting the limit of personal freedom to the respect to liberal rights and values (i.e.. education, health, etc.). Tolerating a specific culture or religious community that is inculcating "implausible beliefs", simply for the sake of "individual freedom" is unthinkable²⁵⁸. Cultural differences are important, but a liberal society, must make sure that all communities and sub-groups respect liberal norms and values. So while classical liberalism accepts multiculturalism to the extent of being tolerant even to those hostile to liberal values, modern liberalism "rejects this position because it is too tolerant of illiberal values²⁵⁹".

Though classical liberalism appears to be, according to Kukathas, the only way to create a regime capable of dealing with multiculturalism: "in practical terms, it is a position that is unlikely ever to be found in the real world of politics for there cannot be such a thing as political regime that is morally culturally neutral²⁶⁰". Anarcho-multiculturalism, as he defines it, is a system in which all cultures are tolerated, ruled by an impartial liberal regime.

Kukathas' conclusion on the subject is very similar to the one he achieved when discussing open borders: an implausible solution meant to set the way. A classical understanding of liberalism should be the terminating point of multiculturalism, and while no regime will be capable of achieving it, setting the

²⁵⁷ C. KUKATHAS, *Theoretical Foundations of Multiculturalism*, p. 14

²⁵⁸ *Ivi*, p. 15

²⁵⁹ *Ivi*, p. 19

²⁶⁰ *Ivi*, p. 21

goal might simply may be the needed guidance to correctly govern today's multi-cultural world.

CHAPTER 3. ITALY'S IMMIGRATION PROBLEMS: BRINGING THEORY INTO THE GAME

As seen throughout the work, immigration is a phenomenon that by definition is extremely complex and multifaceted. The matter goes beyond the specific political situation it involves, reaching the heart of democracy as a whole. All of the authors analyzed in Chapter 2 recognize this, acknowledging the severe implications that immigration has on our conception of society in general. For these reasons, politics cannot avoid to deal with the issue in the correct manner. By correct manner one does not want to impose a specific rule book, but simply highlight the importance of handling with immigration in a “all encompassing” way. There is no exact recipe to resolve the matter, but one ingredient is essential, one that has been missing in Italy's policy responses: political theory. In this final chapter we will attempt to analyze Italy's immigration issue from a theoretical point of view, underlining the problems and attempting to propose, with the guidance of cosmopolitanism, some sort of solution.

3.1.1. Sciortino, Italy's normally - exceptional circumstances

One of the first authors that will be analyzed is Sciortino. One of Sciortino's main concerns is take down one of the problems that we analyzed in the mentality of Italian politicians. Most policy makers, in fact, approached the matter contextualizing the country in a constant state of emergency, in which the problem was more “Italy's situation” rather than immigration itself. The focus was often enough shifted from the phenomenon, to the supposedly very difficult and particular circumstances of the Italian cases. By basically distracting public attention away from immigration's core issues, forcing it to simply look at the

political aspect, the political elites authorized itself to handle the matter in whichever way the circumstances allowed. The main element that was used was the so called “Mediterranean *exceptionalism*”, the belief that southern European countries, Italy above all, lived immigration in a constant state of emergency, mostly for its geographical location²⁶¹. Sciortino wants to tear down this mentality, attacking this conventional view of the Italian case. Similarly to an approach utilized by north-central European countries, Italy adopted a stop-and-contain policy²⁶². Year after year, attempting to fix the “hole in the bucket”, the decisions makers always felt the need to make the country’s situation an “exceptional” one. Much energy was spent looking at the matter from the prospective of external controls, if immigration was a problem in Italy it was only because of the massive amounts of foreigners flowing in and the countries weak border control. Sciortino suggests that the real issue was not external control, but internal control²⁶³. An example of this, according to the author, was the labour market, highly “informal” and the employment of migrants. While the political elites wanted to focus on the external elements, the real matters to be dealt with to begin resolving the issue were strictly internal. In addition, Italy lived a continental context in which the European Union was implementing Schengen, further increasing the public’s concern with border control and external issues²⁶⁴.

On top of a political class contributing to Italy’s “emergency situation”, the media and society as a whole was well underway in contributing to the idea that country was dealing with “exceptional circumstances”. Dal Lago focused in his studies on public media and the debate on newspapers and TV on immigration. His findings underlined how immigrants were progressively constructed as non-human beings²⁶⁵, adding emergency factors in the political debate. Italy’s unwillingness to

²⁶¹ N.MAGNINI, *op. cit.*, p. 46

²⁶² *Ivi*, p. 47

²⁶³ *Ibidem*

²⁶⁴ *Ibidem*

²⁶⁵ N.MAGNINI, *op. cit.*, p. 49

deal with the real internal problems, was also augmented by the myth of the “good Italian people²⁶⁶”. Though obvious and clear, prejudice and racism were never considered as elements characterizing the society. Xenophobia was often enough ignored, according to some because of Italy’s Christian roots that always depicted the country as immune from racist practices²⁶⁷.

Avoidance is certainly one of the key problems. External control and circumstances were always considered the main drive behind immigration problems, justifying in a way Italy’s incapability to resolve the matter. The idea forced on the Italian people was that nothing could be really done, because the problems went beyond the political possibilities of policy makers. Pressing matters, such as social and labour integration, were therefore avoided, constantly shifting the focus on more general “systemic factors”. Immediately the spotlight was moved to the emotional soft-spot of society, and security became and remained the key issue to be deal with.

3.2.1. Security in Italy and the deviant behavior of immigrants

In all countries, security is often enough one of the most recurrent words related to immigrations. For obvious, some justifiable others not, citizens feel in some ways “attacked” when large amounts of immigrants arrive a country. All over Europe, the percentage of foreigners in jails is very high, a tendency that has increased in the second part of the 1970s²⁶⁸. The question, at this point, is quite simple: what is the actual relationship between security and immigration? To help us answer this question we will look at Marzio Barbagli’s book “Immigrazione e

²⁶⁶ N.MAGNINI, *op. cit.*, p. 49

²⁶⁷ *Ibidem*

²⁶⁸ M. BARBAGLI, *op. cit.*, p. 183

sicurezza in Italia”. The work is a complete outlook over the data of security and immigrants in Italy.

Italy, in this context, is a very atypical country in the European context. In countries such as Switzerland, Germany and Holland second generation immigrant are the ones that commit most crimes. In Sweden, on the other hand, second generation immigration commit less crimes than first generation immigrants. In Italy, however, the matter isn't of first or second generation immigrants. Illegality is related to immigrants for structural reasons, in a situation in which foreigners that arrive in the country are “forced” to commit crimes. This is caused by a very closed legal labour market and a very attractive illegal labour market²⁶⁹. Not only immigrants have to deal with the process of obtaining a legitimate stay permit, but also with finding a legal occupation with a legal contract. All of this is made worse by the fact, as seen, that often enough in Italy having a residence permit is related to having a work permit. If having a legal work contract is the key requisite to obtain a green card, and if most unqualified labour in the country is illegal, then by definition immigration in Italy will have “criminal” tendencies. The illegal labour market is more attractive and accessible than the legal one, “forcing” immigrants to have a deviant behavior.

On the elements that link deviancy and immigration, there are three theories that attempt to resolve the issue: Thorsten Sellin's Conflict of Culture, the Tension Theory and the Societal Control Theory.

²⁶⁹ M. BARBAGLI, *op. cit.*, p. 183

3.2.2. *Conflict of Culture*

Thorsten Sellin developed his Conflict of Culture theory in the late 1930s. Everything starts from the belief that all societies have specific rules of conduct, that indicate how citizens should and should not behave, that are passed on generation after generation²⁷⁰. In simple societies, culturally homogenous, these are easily accepted and transformed into laws based on public consent. But in today's multi-ethnic and complex societies, these norms often enough bring to conflicts between the various groups. These groups can come into conflict either when one "takes over" the other, see the case of colonialism, or when they are increasingly in contact due to immigration. As long as integration isn't complete, and the foreigner hasn't completely abandoned his values and tradition, conflict is bound to happen²⁷¹. All of this is very similar to David Miller's concern for societal unity, and his proposal to only open borders to those cultures that are similar and that most likely won't bring to civil unrest. Thorsten Sellin would write "Some years ago in New Jersey a sicilian father killed his sixteen year old daughter. He was very shocked when he was arrested, because according to him he was simply defending his family's honor"²⁷².

The Conflict of Culture Theory is very useful to understand the constant clash between the gypsy culture and Italian society. In the Gypsy culture the Gage (non gypsy) is considered differently from community members²⁷³. Kids from a young age are taught who to steal from and who not to steal from. Stealing from the Gage is considered acceptable, and at times desirable to protect the Gypsy culture. In this way stealing, something clearly unacceptable in western culture, is away to distinguish and define the Gypsy culture as something different from the

²⁷⁰ M. BARBAGLI, *op. cit.*, p. 185

²⁷¹ *Ivi*, p. 186

²⁷² *Ibidem*

²⁷³ *Ivi*, p. 190

Gage culture²⁷⁴. Though this theory is very interesting, it has many problems, mainly for the way it strongly over exaggerates cultural differences. Especially regarding security, committing crimes such as stealing and killing are considered wrong in most societies²⁷⁵. Useful in understanding some issues, it does not give us answers to clearly connect deviant behavior and immigration.

3.2.3. Control Theory

Here the axiom is that human beings by nature are deviant, and the only thing that makes them “behave” is the presence societal control²⁷⁶ (laws, family, etc). The theory has lots of potential when dealing with immigration, because it considers that the tendency that one has to commit a crime is proportionally related to relationship he/she has with the people that surround him/her²⁷⁷. Basically, if an immigrant does not know anybody in this new home, he has no reason to behave properly, because no family or friend is going to judge him. This theory helps us understand situations in which second generation immigration commit more crimes than first generation immigration, justifying this difference by the weakening of ties between sons and parents²⁷⁸. Second generation immigrants feel disconnected from their parents, because more willing to integrate in the local society, and therefore do not feel the parental pressure to behave in a certain way.

The theory helps us also understand cases like the Swedish one. As mentioned earlier, here second generation immigration tend to commit less crime than first generation ones. This is because Sweden has a very strong and effective

²⁷⁴ M. BARBAGLI, *op. cit.*, p. 190

²⁷⁵ *Ivi*, p. 191

²⁷⁶ *Ivi*, p. 187

²⁷⁷ *Ivi*, p. 192

²⁷⁸ *Ivi*, p. 182

welfare system that offers to possibility to kids (second generation immigrants) to learn at school their mother tongue in order to remain in contact with their culture of origin²⁷⁹. Though the theory gives us more answers than, according to Barbagli, it still does solve all the questions on the table.

3.2.4. Tension Theory

One of the key characteristic of crimes and immigration in Italy is geographical location: new comers in the South commit less crimes than in the North.

Percentage of foreigners on the total people under trial from production and selling of dugs

Area	2005	2006	2007
Torino	71	57	45
Milano	58	58	62
Genova	45	46	41
Venezia	44	52	59
Bologna	63	64	70
Firenze	64	64	64
Roma	47	40	40
Napoli	7	9	7
Bari	14	17	7
Palermo	6	8	10
Catania	3	3	12

²⁷⁹ M. BARBAGLI, *op. cit.*, p. 194

Area	2005	2006	2007
Center-North	55	52	52
South	8	9	7

source: Central Anti-Drugs Department²⁸⁰

The theory suggests that an individual has a deviant behavior when he is subject to a strong internal disequilibrium between his cultural expectation and actual social situation²⁸¹. A person believes that if one respects the law and works, he will obtain his goals, and that, unfortunately, is not necessarily the case. This situation is defined as *relative privation*²⁸², a circumstance of frustration not only for one's situation but for the comparison with the situation of others. So the feel of unfairness and failure that one might feel is often enough caused by the relationship between expectations and reality²⁸³.

If southern Italy is characterized by less foreign crime than northern Italy, many explanations can be given. First of all, being the South at times poorer, the expectation that an immigrants creates for himself are lower than the one he could have in the North. Secondly, illegal work in the South is more common. Street vendors, illegal staff in firms and finding a job without a residence permit are easily found in the South. This means that an illegal immigrant has more chances to live and survive here than in the North, and therefore has no need to commit crimes²⁸⁴. In some ways, southern Italy is a location in which immigrants can integrate more easily than northern Italy, especially for the different type of culture.

²⁸⁰ M. BARBAGLI, *op. cit.*, p. 68

²⁸¹ *Ivi*, p. 186

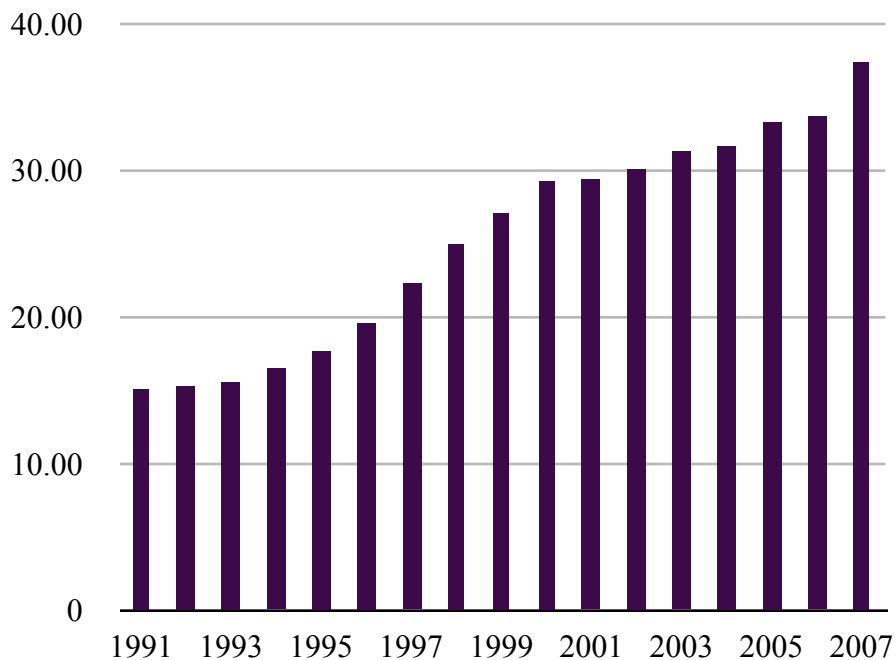
²⁸² *Ivi*, p. 187

²⁸³ *Ibidem*

²⁸⁴ *Ivi*, p. 195

This theory also helps us understand why second generation immigrants tend to commit more crimes than first generation immigrants. For the children of immigrants the culture of reference isn't anymore the one of origin, but the receiving one. This means, basically, that by living in a western country, the son or daughter of an immigrants creates for himself expectations to achieve specific goals that he would not have thought in his country of origin and that he will not necessarily achieve²⁸⁵. He/she creates for him/herself higher expectations, soon to discover the strong disequilibrium between cultural desires and social reality. If one looks at the data regarding the percentage of foreigners in Italian jails, the numbers, year after year, have steadily increased.

Percentage of foreign detainees in Italian jails ²⁸⁶



²⁸⁵ M. BARBAGLI, *op. cit.*, p. 196

²⁸⁶ *Ivi*, p. 52

As we can see, deviant behavior and immigration do have some ties, and appear to have some sort of connection. Understanding what makes up those ties varies from country to country. Besides the statistical data, numbers and different aspects the Italian case appears to be atypical for a very specific reason. As seen, deviant behavior often enough seems to only alternative immigrants have to survive following their arrival. Italy's labour market is not only strongly fragmented, but also characterized by the very strong presence of its complementary illegal branch. Illegal work and the so called *economia sommersa* will always represent the easiest and fastest way that immigrants have to find an occupation. The problem appears to be the structural characteristics of Italy, rather than immigrants themselves. Once again, the main problem is not, as made to believe, an external element (large numbers of immigrants coming in), but internal (Italy's very atypical labour market favoring illegal labour).

3.3.1. *Immigration Models in Europe: who should Italy follow?*

In 1992 Brubaker began analyzing how different cultural backgrounds bring about different political responses to immigration. As an example of this, Brubaker explained how the "state-centric and assimilationist conception of nationhood developed by France and the German ethnocultural and differentialist conception resulted in opposite immigration policies"²⁸⁷. On one side France has had the assimilation of foreigners into its society as a priority, and on the other Germany built its national identity on cultural, linguistic and ethnic factors creating a very compact and united society²⁸⁸. Germany has had consequently a sense of blood based citizenship, with a strongly closed feel towards new

²⁸⁷ N. MAGNINI, *op. cit.*, p. 27

²⁸⁸ C. BONIFAZI, *op. cit.*, p. 180

comers²⁸⁹. For these reasons Germany has had immigration norms based a “guest” workers model, attempting to strongly limit immigrants to being an economic/productive element in society. Foreigners were seen purely as a temporary presence in the country, and not as individuals that could possibly contribute to society in other terms as well. In recent years, Germany has seen the limits to its policy and shorten the years of residency to obtain citizenship from fifteen to eight²⁹⁰.

Besides the German and French opposite models, Europe has witnessed a variety of alternatives when dealing with the integration of immigrants. The United Kingdom, for example, adopted an “imperialist” approach to the issue, especially when dealing with immigrants coming from former colonies, understanding the belonging to a State not as a cultural and nationalistic matter but as being subject to a same rule. Slowly the country understood the need to regulate this model, having to deal with a number of difficulties in maintaining this very wide definition of citizenship. In the end, the UK elaborated a hybrid policy response, very similar to the ethnic relationships in place in North America²⁹¹. Other examples are the models present in Sweden and Holland, where immigration norms have been influenced heavily by multiculturalism. Here, much importance is given to ethnic differences and, at the same time, giving many possibilities to immigrants to find their way in the local political scenario²⁹².

Overall, as suggested by Corrado Bonifazzi in *L’immigrazione Straniera in Italia*, no European country, differently from the American case for example, built its national identity on the idea immigration. It seems evident, at this point, that European national identities have to be strongly reconsidered. Brubaker theorizes that national identities do not need to “frozen”, and neither can they be considered

²⁸⁹ C.BONIFAZI, *op. cit.*, p.180

²⁹⁰ *Ivi*, p.181

²⁹¹ *Ivi*, p.182

²⁹² *Ivi*, p.180

as inapplicable concepts, but they must be reinterpreted in accordance with the new economic, demographic and political scenario. The purpose, at least on the Old Continent, should be to enlarge the definition to at least a European citizenship, in a way to begin feeling a belonging to sovra-national institutions²⁹³

3.3.2. *Integration: Immigrants and the Italian society, what went wrong?*

In this context it becomes evident that Italy needs to decide with model to follow, or at least approach properly the issue of immigration. Bonifazzi agrees with the theory that two elements have been lacking in Italy's policy responses to immigration. According to Bonifazzi, and as suggested in the introduction of this work, policy makers in the country have implemented throughout the years emergency type solutions, solutions that have been proposed without any kind of decisions about which political theory and orientation was meant to be followed²⁹⁴. For several reasons, including the "game changing" event known as Tangentopoli, Italy's immigration policies have been characterized by a stagnant approach. Dilatory norms implemented more to calm the momentary tensions cause by sudden immigration inflows, rather than propose more thorough and comprehensive solutions²⁹⁵.

If we are suggesting that many mistakes have been made, and that these were also caused by a missing concern with the integration of immigrants, it is important to further analyze this essential element. Is there equality between italian citizens and immigrants in Italy? To answer this question one must analyze the matter on two different levels: the normative one and the reality one²⁹⁶. One thing

²⁹³ C.BONIFAZI, *op. cit.*, p.183

²⁹⁴ *Ivi*, p. 184

²⁹⁵ *Ibidem*

²⁹⁶ *Ivi*, p.216

is the implementation from a specific government, the Italian one in this case, of norms meant to favor the integration of foreigners in the society, another is actuality verifying the level “adaptation” of the new comers in all aspects of life²⁹⁷. What this basically means, is that to fully comprehend integration both formal and actual aspects need to be considered. Government rules mean nothing if the society is not ready and willing to welcome immigrants. All of this is made even more complex if one considers that a receiving society needs to be ready to both welcome those that want to integrate, and leave “breathing space” to those who want to maintain their cultural traditions²⁹⁸.

To calculate the level of integration in Italian society of immigrants, we will follow Bonifazi scheme based on an analysis of three aspects of their lives: school performance, housing accommodations and deviant behavior²⁹⁹.

One evident element is the steady and constant growth of foreigners in the Italian school system. In the school year 1983-1984 there were approximately eight thousand and four hundred non-Italians, and by 2005-2006 that number went up to 425,000³⁰⁰ (almost 50 times as much). Obviously enough these numbers prove the essential role that schools can play in the process of integration, being literally the everyday playground for second generation immigrants. Looking at enrollment numbers isn't enough however to grasp the real scope of the phenomenon. What must be analyzed is the school performance of this ever growing community of foreigners in the Italian school system. In 2005 the Ministry of Education carried out a survey to understand the difference between Italians and foreigners regarding their passing of the school year. The gap between the two groups augmented from school level to school level, with a 3.4% difference in elementary school, 7.1% difference in middle school and a 12.6% difference in high school³⁰¹. Numbers

²⁹⁷ C.BONIFAZI, *op. cit.*, p.216

²⁹⁸ *Ivi*, p.217

²⁹⁹ *Ivi*, p.219

³⁰⁰ *Ibidem*

³⁰¹ *Ivi*, p. 221

that were also marked by a huge territorial variable, with the gap in Friuli Venezia Giulia of 1.3% in elementary schools and 20.2% in the high schools of Basilicata³⁰².

Regarding housing accommodations, here the data becomes slightly more complex to analyze. These are the results of two surveys carried out in 1991 and 2001:

Immigrant Housing Accommodations

Year	Total	In houses (%)	Other accommodations (%)	Co-habitation (%)	Homeless (%)
1991	356.200	93.5	1.7	4.4	0.3
2001	1.334.000	96.6	1.0	2.1	0.3

Source: Istat³⁰³

In 1991 though foreigners represented merely 0.6% of the total surveyed population, they represented 20.4% of the homeless population. In 2001, on the other hand, though things did get better, the amount of foreigners that lived in accommodations other than houses was ten times higher than number of italians³⁰⁴. Another important number to consider is the percentage of foreigners living in overcrowded homes. In 2006, 6.5% of resident foreigners live in overcrowded homes, a very high amount considering that the same data for italian residents reached barely 0.9%³⁰⁵. If one takes foreign communities one by one, the results vary drastically if one considers the German population (2.8% lived in

³⁰² C.BONIFAZI, *op. cit.*, p.221

³⁰³ *Ivi*, p.223

³⁰⁴ *Ivi*, p.222

³⁰⁵ *Ibidem*

overcrowded homes, and the Senegalese community (the percentage goes up to 13.2%)³⁰⁶.

When considering deviant behavior of the foreign population, not much could be added to what already analyzed during this work. One element that will be added however, is Bonifazi's conclusion on the matter. Though it is true that both the number of foreigners in Italian jails and the number of foreign crimes have increased year after year, it is also true that these elements aren't enough to considered immigration proportionality related to deviant behavior. According to Bonifazi it is practically impossible to to generalize the behavior of the foreign population in Italy, because immigration varies, considering single individuals, in motivation, intention and results. Not only one must considered a wide scope of factors, but also the different phases that different foreign community and foreign resident are living in their migration experience³⁰⁷.

These three elements of the lives of immigrants in the Italian society are fundamental to reaffirm what wants to be proven with this work. Though the phenomenon has characterized the country for over 40 or so years, conceiving a fully integrated foreign population is still unthinkable. It is evident that 40 years isn't clearly enough time to have a receiving country fully adapted to the necessities of an incoming foreign population. Imagining Italy fully capable of absorbing and welcoming the large number of immigrants coming year after year isn't clearly realistic (the same could be said for all other European countries). Though perfection isn't required, what is really missing in Italy today is a road to follow. The country still does not know which immigration model it wants to adapt, it still isn't capable of elaborating an all-encompassing norm that correctly handles the matter, and most of all still faces a number of issues when dealing with foreign integration.

³⁰⁶ C.BONIFAZI, *op. cit.*, p.224

³⁰⁷ *Ivi*, p.227

What road should Italy follow? Once again Corrado Bonifazi comes in handy with his own idea on the subject. As Papademetriou and Hamilton suggest, two elements are key with forming an immigration policy. A country must intervene in an equilibrated way, without revolutionizing local culture and history, but, at the same time, make sure that demagogic anti-immigration feelings take over the public debate on the matter³⁰⁸. Bonifazi does not have a clear recipe to change the way things have been going in our country, but his proposal is simple and essential if we really want to improve the situation in the years to come. Politicians must understand that no norm, as wide in scope of action as it can be, will be capable of dealing with all the consequences of immigration. Decision makers must have the courage to constantly check the reality of the phenomenon, changing their policy, adding new elements and most of all taking examples from our continental colleagues³⁰⁹.

³⁰⁸ C.BONIFAZI, *op. cit.*, p.193

³⁰⁹ *Ivi*, p.194

CONCLUSION

The overall journey of this work can be summarized into two basic and fundamental points, the first regarding the phenomenon of immigration as a whole, and the other is specific to the Italian study case. All of the authors and philosophers taken in consideration throughout this piece have dealt with immigration from different perspectives, each underlining its emblematic features. The work of David Miller, Thomas Nagel and Michael Walzer, just to mention a few, described the reality of immigration from the perspective of today's world, putting our conception of the modern nation state as the starting point to analyze the phenomenon. On the other hand, authors like Abizadeh and Kukhutas attempted, each in their own way, to revolutionize our understanding of the matter, tracing new territorial lines and redefining the way individuals should understand their identity in the XXI century. No doubt, the same could be said about most issues related to globalization, that these two schools of thought represent two extreme opposites. The fact of the matter is that not only they stand far away from one another as possible, but they speak two completely different languages. While one speaks of a world that does not exist anymore, or should not exist anymore, the other treats a reality which is, admittedly, far away from our society in a future certainly far away. As stated by most authors, immigration was, is and will remain a pressing issue because it forces citizens to reconsider their idea of nation states. The idea of limiting the exit and entrance of individuals is something the world had not witnessed until recently.

Immigration is and will remain an "issue" not only for the frame (modern Westphalian state), but also for what we can find inside that frame. State competition in today's capitalistic globalized world further exacerbated the situation. The phenomenon lives in an environment with which it easily clashes by definition. Abizadeh's point, though at times extreme in its conception of State

coercion, is essential to focalize the real problem. Citizens accept State coercion because they participate in the decision making process. That same democratic coercion is therefore justified but at the same time limited to the territorial scope of that national entity. Laws, in democratic terms, are meant to effect those that participate actively, in a way or the other, in their creation. Immigration, in this sense, is an unexpected variable, because its internal regulation has automatically external consequences. The democratic justification of a law finds no place in immigration norms because foreigners do not take place in any way at the decision making process. In most theoretical analysis, once discovered the problem, a solution should closely follow. This, unfortunately, will not be the case for this line of thought, as the only possible answer to resolve this paradox demands a complete redefinition of the starting point of our analysis: the modern democratic nation state. In conventional terms, the “quest” to a better handling of immigration ends here.

As we leave the world of Miller, Walzer and Nagel, we will now look at the matter from a cosmopolitan prospective. Abizadeh himself was very clear in proposing two possible solutions to the severe limitations of today's conception of the nation state: either foreign participation in the decision making process, or giving power to a cosmopolitan institution. Both these propositions hold immense limitations for obvious reasons. While the first is unimaginable because simply impossible, the second needs a bit more time to be dealt with. Today's society lacks any real example of cosmopolitan institutions. The closest possibility in place is, though with some necessary variation, a successful implementation of an integrated European Union. This alternative, however, has the exact same limitation than the one highlighted above: the modern democratic nation state. For a variety of reasons. From national interest to immense cultural differences, there are many obstacles to overcome before realistically imagining the European Union as a real cosmopolitan institution.

Both proposals, though opposite, find the Westphalian Nation State its extreme limit. While the first group accepts and considers this limit as positive and necessary, the second sees it as the real reason why immigration remains an issue today. All of this highlights the complexity of dealing with this phenomenon, which isn't clearly simply a political matter, but mainly a cultural dilemma.

The day that rights will become person-based and not nation-based we will begin to be able to resolve this theoretical paradox. One of the most interesting aspects of the debate regards the conception of the right to free movement. While for one group this right is only considerable a human right when circumscribed to national boundaries, to the other this is a natural consequence of individual liberty and should be conceived with no limitation and most of all internationally applicable. While one group connects the right to a nation state, the other connects it to a person; while one's group starting point is the nation state, the other's is the person. One could say that that the first group better describes the reality of today's world, and therefore when attempting to solve the problem of immigration a policy maker should adopt their philosophy, rather than put on the unrealistic cosmopolitan viewing lenses of the second group. From a practical and realistic point of view it makes no sense to deal with a problem by taking in consideration a world that does not exist, it would be like planning to win a marathon by training with a motorcycle. At this point, it becomes necessary to once again quote Kukuthas:

“One important consideration is that many feasibility problems have their roots not in the nature of things but in our way of thinking about them”

A more open conception of immigration, as suggested by Kukuthas, does not seem to be impossible, rather not wanted. By reconsidering our conception of the modern state and its welfare system, one could begin the process towards the

formation of a cosmopolitan world. We have analyzed throughout the paper Christiano's response to this argument, based on the idea that though cosmopolitan institutions are the desirable goal, the democratic order as we know it today is the only way to get there. Society's unity and stability, a priority for both Christiano and Miller, need to be maintained to carry on a smooth transition towards the establishment of accepted and legitimate cosmopolitan institution regulating the phenomenon of immigration. Though this might be the case, the author does not believe that this journey will end desired way. Cross-border political integration will no doubt increase in the years to come, but the creation of cosmopolitan institution with the authority of regulating and justifying in a legitimate way the right to free international movement is highly unlikely. Once again, though politically these institutions might be conceivable, the real obstacle remains the cultural acceptance of these entities. The feasibility of this solution, to use Kukathas' words, is mainly in the way we conceive it.

The way we live, and the way society works leaves no breathing space to a possible attempt to form a supra-national cosmopolitan institution. This work will not enter into a psychological and sociological analysis attempting to understand if world citizens are ready to take on this journey towards accepting a new vision of society, but it does seem the answer is negative. A world where citizens accept open borders seems very unlikely and, to some extents, rightly so. In fact, it is not a matter of moral selfishness but simply of human nature. If human first organized in communities and later in nation states there is a reason, at the core of every person the necessity of feeling a belonging towards some sort of institutions they feel represented by.

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