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 people[1].

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-

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[1] *Italian Ministry of Interior,* August 2013

Parliamentary" forces in the development and productions of immigration norms in Italy.

These three points will be proven in the follower 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 globalize world. 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

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 programing, 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-sighed 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.

CHAPTER 2 - IMMIGRATION CONTROL: FROM POLITICAL PHILOSOPHY TO COSMOPOLITANISM

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.

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 community[2]. 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 families[3]. "Neighborhoods have no formal legal admission policies; people move into neighborhoods for reasons of their own, constrained only by market contingencies. While residents my choose not to welcome newcomers, the state does not prevent individuals from settling in[4]" . Basically neighborhoods are "open border" entities in which pretty much anybody "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

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

perceived as "national or ethnic relatives"[5]. 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 household[6]. 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 nationals[7]. 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 legally[8].

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 equality"[9]. 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 power[10]. 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

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[5] M. WALZER. *Spheres of Justice: A Defense of Pluralism and Equality.* Basic Books. New York, 1984. p. 41
[6] S.WILCOX, *op. cit.,* p. 2
[7] *Ibidem*
[8] *Ivi,* p. 3
[9] M. BLAKE "Immigration" *A Comparison to Applied Ethics.* Eds. R.G. Frey and Christopher Heath Wellmann, Blackwell, USA, 2005, p. 228
[10] S.WILCOX, *op. cit.,* p. 5

nation stated[11]. 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 anything[12].

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 citizens[13]. 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 names[14]", 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 required[15]. State Institutions act in the name of their citizens, 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 policies[16]." The only duties that States owe to foreign institutions and individuals is of no interference and no harm[17]. The

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[11] T. CHRISTIANO. *Immigration, Political Community and Cosmopolitanism,* p. 5
[12] S.WILCOX, *op. cit.,* p. 5
[13] T. CHRISTIANO, *op. cit.,* p.8
[14] *Ibidem*
[15] *Ibidem*
[16] T. NAGEL,*"*The Problem of Global Justice", *Philosophy and Public Affairs* 33(2), 2005, pp. 129-130
[17] T. CHRISTIANO, *op. cit.,* p. 9

role and responsibilities of Nation States is quite clear: countries are supposed to be an impartial arbiter for those who fall under its jurisdiction[18]. Inequalities among the people of the world are of no concern, similar inequalities among fellow citizens are, on the other hand, of great importance[19].

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 name[20].

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 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 beliefs that whoever accepts democratic theory of popular sovereignty should reject the idea of unilateral domestic control over borders[21]. Abizadeh wants to prove 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 members[22]. 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

[18] T. CHRISTIANO, *op. cit.*, p. 11
[19] *Ivi,* p. 10
[20] *Ivi,* p. 11
[21] A. ABIZADEH, "Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Borders" *Political Theory,* 2008; 36; 37, p.38
[22] *Ivi,* p. 44

coercion are involved in the 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 boarders 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 sense[23].

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"[24].

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 process[25]. 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 process[26].

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. Having pinpointed the reasons why most politicians are in favor of limited immigrations, Kukathas goes on to defend his case in favor of open

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[23] A. ABIZADEH, *op. cit.,* p. 46
[24] *Ivi,* p 48
[25] D. MILLER, *Why Immigration Controls are not Coercive: a reply to Arash* Abizadeh*,* p.1
[26] *Ivi,* p. 13

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 all. 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. 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.

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.

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.

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.

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 matter[27]. Bonifazi does not have a 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 colleagues[28].

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 prospectives, 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 prospective 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

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[27] C.BONIFAZI, *op. cit.,* p.193
[28] *Ivi,* p.194

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 in 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 todays 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 firs 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 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 Chrisitano 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 sovra-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, t 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.