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Annalisa Mangiaracina  
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# In and Out: Rights of Migrants in the European Space



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# Rights of Migrants in European Space: Notes for an Introduction



Francesco Lo Piccolo, Annalisa Mangiaracina, Giuseppe Paternostro,  
and Vincenzo Todaro

**Abstract** This introductory chapter reflects on the nature of contemporary migratory movements, focusing on transversally relevant themes, such as the spatial dimension of reception, with particular reference to the “right to the city” and the right to housing; the sphere of human rights, with particular attention to the right to mobility, citizenship and social security; the sphere of multilingualism and linguistic rights, with particular regard to migrants’ narratives and education. Starting from these key themes, the volume’s editors provide a synthesis of the experiences gained at the national and international level by the authors of the individual chapters, comparing them with the current international scientific debate on migration. The interdisciplinary approach and the different and innovative ways of deepening the thematic content of the migration phenomenon have allowed us to identify some key research questions. Their answers find their place in the articulated and complex system of contributions that develops within the book, through three main parts that correspond to the three aforementioned themes.

**Keywords** Right to the city · Human rights · Migrants representation · Spatial dimension

## 1 Introduction

The phenomenon of migration is not only the outcome of a contemporary process linked to specific economic or geo-political dynamics. It appears to be a constant phenomenon of human history that, according to alternate events, affects different

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historical phases and territorial contexts with outcomes that are sometimes not too dissimilar. For these reasons, international migrations cannot be considered the sum of many simple individual actions. They constitute, on the contrary, an authentic collective action, which produces significant social changes and consequent spatial shifts in the places of new settlement. These phenomena bring to our attention social and spatial issues of primary importance.

With respect to these general considerations, this book brings together the contributions of an international multidisciplinary research group (sociologists, jurists, theologians, educators, historians, linguists, urban planners, communication experts)<sup>1</sup> that has been discussing the migration phenomenon for some years now, mainly in the European context, but not only, from different disciplinary points of view.

Contemporary migratory movements are analysed through a research orientation that takes a resource-based stance on the political choices of the various national, regional and local institutions, also confronting the increasingly central role played by public/private networks at the local level (migrant groups, voluntary associations and NGOs) in coping with conditions of greater emergency, and not only.

With respect to the multiplicity of issues affecting the current migration phenomenon, this book focuses transversally on three aspects, in particular: the spatial dimension of reception, with particular reference to “the right to the city” and the right to housing; the sphere of human rights, with particular attention to the right to mobility, citizenship and social security; the sphere of multilingualism and language rights, with particular regard to migrants’ narratives and education.

Starting from these key topics, the research group articulated and further developed its reflections through its own experiences at the national and international level, taking root within the current scientific debate on migration. The interdisciplinary approach and the different and innovative ways of analysing in depth the thematic contents of the migration phenomenon have made it possible to identify some key research questions. The relative answers find space in the articulated and complex system of contributions that is developed within this book, through three main parts, whose specific contents are summarised below.

## ***1.1 “Right to the City” and Right to Housing***

Globalisation phenomena, socio-economic transformations and changes in the labour market, as well as the COVID-19 pandemic and the Russia-Ukraine war, have profoundly redefined the interdependent relationships between the countries of origin and destination of migration flows. Eurostat’s annual reports (2022) clearly record

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<sup>1</sup> The international research team comes from the following European universities: Johannes Gutenberg-Universität Mainz (Germany), Universitat de València (Spain), Uniwersytet Opolski (Poland), Jyväskylä yliopisto (Finland), and University of Palermo (Italy).

this change in migration flows to and from Europe, recently affected by the COVID-19 restrictions on the movement of people (Istat 2021; ASCS 2022). The “mobility turn” has contributed also to accelerating forms of mobility and its effects on societal transformation (Cresswell 2006; Urry 2007).

With respect to international migration flows, the spatial dimension of the phenomenon remains an aspect that is only partly studied, but is, on the contrary, one of the most significant elements, both in the collective perception of migration phenomena and in the management of their outcomes. This awareness translates first of all into the need for spatially regulated immigration policies, taking the space of cities and regions as the primary sphere of intervention.

These phenomena are associated with complex social processes that naturally imply the redistribution of material and immaterial assets, rights and privileges; from citizenship rights to employment, from housing to access to social and environmental resources. For “newcomers”, claiming the “right to the city” (Lo Piccolo 2013) in creating “spaces of survival”, after claiming the “right to mobility”, often coincides with claiming and protecting human rights (Sheller 2018).

In the field of urban studies, various authors (Lefebvre 1968; Mitchell 2003; Harvey 2008; Marcuse 2009; Mayer 2012) have shown, in particular, how “right to the city” is also to be defended as a manifestation of citizenship rights, as a fundamental expression/manifestation of the ideals of liberal democracy that include those of citizenship.

In fact, the “appropriation” of spaces and urban spaces in particular contributes decisively to the formation of a community: the “use” of space by different social groups implies different forms of recognition, belonging, coexistence.

Some of the most interesting outcomes of these processes can be found, for example, in central-southern Italy, with the urban revitalisation and redevelopment of abandoned historic centres, which have nothing to do with speculative actions or actions strongly conditioned by particular economic interests.

Alongside the issue of public space, a fundamental part of the considerations developed on the spatial front concerns the housing issue. In the field of immigration, the right to housing is one of the main problems that has to deal on the one hand with the challenge of a public housing stock that is often inadequate and difficult to access and on the other hand with a private housing market that is not regulated and, as a result, has extremely high costs for “newcomers”.

Their weak legal status, their marginality in the labour market and their “social invisibility” make immigrants extremely weak subjects, also in terms of access to housing. With reference mainly to the Italian context, recent research shows how the housing issue for migrants is settling on strongly differentiated positions (ISMU 2021; Action Aid Openpolis 2021; Intersos 2021). On the one hand, there is an improvement in housing conditions for “historical” immigrants (even with the purchase of housing) and on the other hand, there is a worsening of the conditions of hardship for the weaker members and those at the beginning of their migration path.

However, both the issue of the right to the city and the more specific right to housing must necessarily confront a condition that has long been considered secondary in urban migration studies: the asymmetric and differentiated condition

of immigrants living in extra-urban contexts, compared to those living in large cities. Traditionally, urban studies addressing issues related to immigrant integration/exclusion phenomena have not adequately addressed the issue of housing in extra-urban contexts.

In these contexts, the difficulty of accessing housing and sharing public spaces almost always determines the impossibility of forming a community and, at the same time, the impossibility of claiming even the most basic rights (Lo Piccolo Todaro 2015, 2019, 2022; Todaro 2016). According to Fischer (1975), only the high density of urban spaces makes it possible to reach the critical mass to give space to new identities.

Nevertheless, the research also shows how, despite the fact that social marginality and structural violence are an integral part of these realities, the informal settlements of migrants in suburban contexts represent “radical forms of dwelling” (Dadusc et al. 2019; Lancione 2019), thanks to which it is possible not only to claim the right to housing, but also to bring to light the limits of the institutional system of reception.

## ***1.2 Human Rights and Migration***

The “hotspot approach”, as presented by the European Commission in the European Agenda on Migration on April 2015, is ultimately a measure of operational support put in place to help frontline member countries such as Italy and Greece to deal with disproportionate migratory pressures, providing for the registration, identification, fingerprinting and debriefing of asylum seekers, as well as return operations.

According to statistical data, the majority of the hotspots suffer from overcrowding, especially in certain periods, and concerns have been raised by several International associations with regard to living conditions, in particular for vulnerable migrants (such as minors, accompanied or otherwise, the elderly, pregnant women, single parents with minor children, persons with disabilities, serious illnesses or mental disorders, in addition to survivors of torture, rape or other serious forms of violence, including human trafficking) and asylum seekers. Several fundamental rights—including the right to access to justice, to health, to education, to an interpreter—risk being infringed. Moreover, a specific issue discussed amongst scholars (Masera 2017; Pugiotto 2014) is the existence of a legal basis for the “administrative” detention of migrants within the hotspots.

Italian laws on migration, mainly regulated by Italian Legislative Decree no. 286 of 25 July 1998, the so-called “Consolidated text of provisions concerning immigration regulations and rules on the status of aliens”, has gone through several significant changes over recent years. A constant characteristic of the legislation is the recourse to administrative detention (Daniele 2018) for undocumented migrants as well as for asylum seekers. By contrast, detention should be a measure of last resort, to be ordered only if other less coercive alternative measures cannot be applied effectively (Mangiaracina 2016).

Regarding detention conditions, the ruling made by the European Court of Human rights in the case of *Khlaifia and Others v Italy* is relevant. In this case, the Court stated that the applicants were deprived of their liberty by Italy without a clear and accessible legal basis and they were also unable to enjoy the fundamental safeguards of habeas corpus, as laid down in Article 13 of the Italian Constitution.

The Court also found a violation of Article 5 § 4 of the ECHR, which entitles detained persons to initiate proceedings for a review of compliance with the procedural and substantive conditions that are essential for the “lawfulness”—in terms of the Convention—of their deprivation of liberty.

To implement this judgement, several changes have been introduced in Italian legislation, but most of these reforms have demonstrated their ineffectiveness.

Regarding the future of hotspots, it is to mention the Proposal for a regulation introducing a screening of third country national at external borders (Proposal COM 2020, 612 final) aimed at the immediate identification of migrants arriving irregularly in the EU.

According to art. 6 § 3, the pre-entry screening—to be conducted at locations situated at or in proximity to the external borders—must be completed in 5 days from either their apprehension in the external border area or disembarkation in the territory of the Member state or their presentation at a border crossing point. During this process and where relevant, national authorities shall conduct a preliminary health and vulnerability assessment to evaluate whether a migrant is “in a vulnerable situation” (art. 9 § 2). After their identification, persons who are either vulnerable or in need of special procedural needs shall receive “adequate support” regarding their physical and mental health.

As underlined by scholars (Gazi 2021) the proposed Regulation “replicates the ‘hotspot’ approach”. So, it is important to consider the deficiencies of this approach during the last years. On the one hand, this require a special attention by all the actors, in the application of the monitoring mechanisms to avoid the violation of fundamental rights that—as reported—are still occurring in the hotspots (Tas 2022). And on the other hand, to increase alternatives to detention, measures that have proven being “more cost-effective than detention, while also satisfying the states’ objective of preventing absconding and ensuring compliance with immigration proceedings” (Niederberger Martinez 2021). In the same line is the new Pact on Migration and Asylum adopted by the European Commission in 2020, where it provides a new compulsory pre-entry screening of migrants to establish swiftly on arrival: identification, health check, security checks, fingerprinting and registration in Eurodac database. This procedure is intended to identify the asylum seekers and to launch an accelerated validation procedure for them, thus reducing to a minimum the steps provided for in European legislation in terms of appeals and return orders (towards a third country or towards the country of origin). Carried out in holding centres (authorised by European law within certain duration limits and by exempting vulnerable persons), this procedure would be conducted under the responsibility of the country of entry but with the major support of FRONTEX and the new European asylum agency.

### 1.3 *The Linguistic Representation of the Urban Space*

The sociolinguistics of globalisation and the superdiversity orientation have had a profound influence on the way sociolinguists analyse linguistic and communication practices in the last two decades. Superdiversity scholars (Blommaert and Rampton 2011; Arnault et al. 2015; De Fina et al. 2017; Creese and Blackledge 2018) have underlined how the increasing cohabitation, particularly in urban spaces and in virtual ones, between people with very different origins and backgrounds continuously generates new patterns and modes of communication and its analysis therefore necessitates of new instruments.

These views have also revolutionised approaches to multilingualism since conceptions of languages based on the idea of assemblages underlie recent theorization about multilingual practices. An example is the construct of translanguaging proposed by various authors (Zhu Hua et al. 2017; Li 2018), according to which multilingual people do not simply code-switch from one linguistic system to another but rather use a mix of resources from different named languages and different sociocultural and semiotic systems to communicate. These theorizations are particularly useful in the study of communication amongst migrants and mobile people in general.

Recent literature on migration suggests the idea that many migrants nowadays should be seen as mobile individuals who construct transnational ties and build knowledge and affective links through a plurality of networks as they move along their trajectories (De Fina and Mazzaferro 2021).

The recognition of the centrality of mobility in linguistic theorization has also led to a greater appreciation of the importance of investigating digital environments, which of course do not presuppose the need for face-to-face communication. Sociolinguistic studies in this field have contributed to highlight the important role of digital communication in the life of young and adult migrants. These studies also reveal existing gaps and the need to widen both the scope of this kind of research to different contexts than the ones studied until now and to get a better sense of the nature of the networks that migrants create or become part of in their communication. One problem, for example, is the stress on the idea of “diasporic communities”. Diaspora is already an ambiguous and contested term. According to Banerjee and German (2010: 18): «The original meaning of diaspora is “to sow” or “to scatter” from the Greek term *diasperein* and refers to the dispersal of a population from its original territory to other territories. Today, while contested as to its appropriateness for use for all migrant groups, the term continues to carry with it the connotation of displacement from the homeland».

However, there is in the literature an implicit assumption that diasporas form communities of some kind and that have in common some attachment to an original “land”. This is in sharp contrast with the reality of many new migrants, amongst them unaccompanied minors for example, whose experience is defined by passage through many countries and experience with others coming from very diverse background, and who eventually land in a place where they do not enter an “ethnic community”

but rather mixed communities (such as the government facilities in which they are hosted) or groups of friends that they acquire in their educational trajectory.

Research on digital diaspora has to some extent converged with research on social media more in general, as studying communication within networks presents similar issues across different populations or groups. However, recent work from a sociolinguistic perspective in this area is scarce, particularly when it comes to multilinguals in social media environments. Amongst the few exceptions are two studies, one by Androutsopoulos (2014), who analysed multilingual usage amongst youngsters of Greek and Vietnamese origins in Germany and the other one by Tagg and Sergeant (2014), who analysed language choice by multilinguals involved in translocal communities. Both studies deal with the role of languages, particularly language choice, within such communications and they both underscore the impact of the indeterminacy of audiences in social media communication (Marwick and Boyd 2010) and the consequent phenomenon of context collapse on the way social media users approach digital communication.

The construct of “context collapse” introduced by Vitak, who defined it as «the flattening out of multiple distinct audiences in one’s social network, such that people from different contexts become part of a singular group of message recipients» (2012: 541), is particularly relevant in the case of migrant youth. Indeed, their digital practices are addressed and become available to audiences that have not only different origins but also speak different languages.

However, communication patterns and choices are not merely determined by individuals but are the result of the interaction between individuals and dynamics within networks. It is now amply recognised that there are many different kinds of communities which are formed online and that they often involve online/offline interactions (d’Hollosy 2019). Definitions of online communities are often shaped by the kind of platforms being investigated. So, for example, scholars have talked about online communities as “communities of practice” as defined by Wenger (1998), formed around regular interaction about specific tasks and interests (Wong et al. 2011), “light communities”, i.e. groupings that often share only certain limited interests (Blommaert and Varis 2015), and so forth. In the case of Facebook, Tagg, Sergeant and Brown have talked about “intradiversity” as a defining element of these networks to describe «the way in which the audience that people are writing for on Facebook is shaped by complexes of personal networks, individual experiences and mutual friendships, rather than being organised along traditionally defined community lines» (2017: 53).

## **2 Articulation of the Book’s Parts and Content of Chapters**

In relation to the general research topics outlined in the previous sections, the book develops specific contents and issues according to the aforementioned three main focuses, while maintaining a multidisciplinary approach in the articulation of the

three parts. These topics feed deep questions that, in a structural way, concern migration phenomena and are naturally rooted in the authors' different experiences.

In particular, Part I addresses the issue of the right to housing as a specific application of the principle of the "right to the city". The possibility for migrants to have access to housing (in particular, public housing) becomes a significant indicator in order to measure/evaluate the recognition of the right to the city; moreover, it is also an indicator of their "social visibility". By extension, this line of research addresses the theme of the transformation of spaces, places, cities with a focus on the structure and deficiencies of those districts where migrants and weaker social strata live. At the same time, this issue can be extended to those problems related to migrants' dispersion in extra-urban—and especially rural—contexts.

In Chap. 1.1 (*Making Home, Building Citizenship: Migrations, Rights and Housing Policies in Sicily, Italy*, by Francesco Lo Piccolo) the author explores how the housing issue in Southern Europe changes under the pressure of the arrival of foreign "new citizens" through two Sicilian case studies that share the need to provide some initial answers to the aforementioned issue. The complexity of the issue brings with it a further question, which highlights how the mutation underway is an open question that centrally concerns urban and territorial policies: How can territorial and urban planning address this issue, going beyond the emergency responses that have been implemented to date? The first case study illustrates the issue of the presence of migrant workers in rural areas, problematising the issue in terms of two aspects: the preponderance of foreign workers in areas of agricultural excellence and the emergency measures taken so far to address the problem of temporary accommodation for agricultural workers. The second case study focuses on the city as a historically privileged physical and relational space for social interaction with others (foreigners).

In Chap. 1.2 (*Ungoverned Living: Exploring Migrant Residency Practices in Poland*, by Clara Kleininger-Wanik and Michał Wanke) the authors investigate Poland's transformation from a sending into a host society for migrants using housing issue as an indicator of migration policy implementation. Authors argue that Poland neither opposes, nor governs migration, encouraging substantial numbers of people in, yet not devoting critical attention to their accommodation or well-being in that matter. The article demonstrates how the lack of institutional support, migrants face precarious living conditions, experience prejudice while searching for accommodation.

In Chap. 1.3 (*Urban Versus Rural: Migrants and Housing Issue in Euro-Mediterranean Contexts*, by Vincenzo Todaro) the author rereads the phenomena of the territorial and spatial distribution of migrants in Italy, attempting to reason about the settlement dynamics that characterise them (particularly with reference to the main Italian Metropolitan Cities). A specific focus concerns the case of Sicily, where quantitative distributional issues are confronted in particular with the qualitative housing dimension in urban and rural areas, and where aspects of the ethical responsibilities of planning instruments are explored.

In Chap. 1.4 (*Housing First: A System for Combatting Marginality*, by Giuseppina Tumminelli), the author offers a reflection on the migrants' condition as "victims of



collateral damage” due to the risks of urban marginalisation. In order to counter this condition, stability of accommodation is one of the conditions for guiding people towards self-sufficiency, according to the principle of “housing first”, as a basic human right. Today Housing First is used not only as a strategy to combat extreme marginalisation, especially for the homeless, but as prevention from potential marginalisation situations. The article focuses on analysis of the housing-led and housing-first approach and analysis of experiences of HF as a possible strategy to reduce the risk of social marginality.

In Chap. 1.5 (*Re-homing Processes Through Art and Culture*, by Stefania Crobe) the author, investigating on the concept of homing, used in ethology to describe the ability of migrant birds to remember and return to a familiar place, aims to critically reflect on how art and culture can contribute to open up a space for intercultural dialogue between migrants, local inhabitants and space, to increase the sense of belonging within the city. In particular, in the framework of institutional and cultural grassroots initiatives, some practices of homing performed in the historical city center of Palermo are explored, where a multitude of actions aimed at strengthening social cohesion and togetherness through art and culture and improving the lives of marginalised urban communities.

In Chap. 1.6 (*De Luca's Urban Populism: Migrations, Securitization and Post-Raciality in Messina, Italy*, by Chiara Giubilaro and Marco Picone), by building on the existing scientific literature on populism, and through the use of a qualitative methodology based on critical discourse analysis, the authors aim to outline the links between migration and urban populism, describing the specific case of Messina mayor's narratives about the Gasparro reception center. The focus is on so called of “urban populism”, a form of populism in contemporary societies that interests medium or large cities. One of the major arguments that urban populism exploits to ensure its impressive growth is the presence of migrants in cities, especially when the latter are already on the verge of economic crises caused by health emergencies and international wars.

In Chap. 1.7 (“*Institutional Policies*” for Migrant Settlements: *Between Formality and Informality*, by Salvatore Siringo) the author offers a reflection on informal migrant settlements in the rural contexts of Southern Italy. Beginning with an analysis of the anti-immigration policy initiated by former Italian Interior Minister Matteo Salvini, the chapter reflects on the ways in which Italian governments address the challenges of welcoming migrants with inadequate instruments that facilitate forms of exclusion and marginality. The analysis focuses on the housing dimension of migrants in suburban contexts, instrumentally using the case of Cassibile (SR) as an experience to “measure” the effectiveness of these actions, but at the same time the critical issues that have arisen from the regulatory and social aspect.

In Part II chapters, attention is focused on the supranational legal framework on the migratory phenomenon within the European Union territory. Contributions thoroughly explore not only how EU policies regulating migration flows and the life at the borders are designed—revealing a highly political-driven stand of the EU legislator—but also address the several serious implications these choices mean for

the protection of human rights of the people involved, both in the expression of their socio-economic dimension and in judicial settings.

In Chap. 2.1 (*EU Migrant Policies and Human Rights: A General Overview*, by Annalisa Mangiaracina) the author introduces the crucial topic of the interaction between EU policies on migration phenomena on one hand and the respect for human rights on the other, casting doubts on the legitimacy of the “hotspot approach” adopted by the EU legislator and reposed once again by the European Commission in the new Pact on Migration and Asylum. Frontline Member States shall be the object of particularly scrupulous attention to evaluate whether their reforms will comply with human rights’ protection.

In Chap. 2.2 (*Refugees’ Human Rights and the Duties of the EU*, by Hanna-Mari Kivistö, Gerhard Kruij and Edith Wittenbrink) the authors, after offering an overview of the EU policies on regular and irregular migration and the current trends on migration flows, focus on the concepts of “human family” and “right to have rights” in order to lay the foundations of the responsibility that the EU holds towards every person regardless of their status of citizens or refugees. Transposing the ideas on refugees’ protection expressed by Hannah Arendt in the aftermath of World War II to present days, the authors hold that the EU should build on its solidarity principles and broaden the scope of its duties towards protection seekers.

In Chap. 2.3 (*I Don’t Have a Plan B: Changing Family Relationships in Forced Migration*, by Lotta Kokkonen and Sari Pöyhönen) the authors investigate how forced migration affects household dynamics and personal relationships between those experiencing the trauma of fleeing and displacement. In order to obtain the data, they focus their attention on one individual in particular—who is given the name of Fatema for the purpose of the study—who has been living in Finland since 2015 after fleeing from her country devastated by the war.

In Chap. 2.4 (*Ius Migrandi and Citizenship: An Historical Perspective from the Roman History*, by Michele Napoli) the author offers an insight into the meaning historically attributed to the concept of citizenship in Roman history and sheds light on the underlying reasons of the Roman model on foreigners’ inclusion within the social community. The author contends that, however open and permeable to integration with other cultures the Roman people were—attested by the grant of Roman citizenship to those who proved worthy—nonetheless this mostly happened for utilitarian reasons. A cautious stand on *ius migrandi* seems thus necessary.

In Chap. 2.5 (*Crimmigration and Procedural Guarantees: A Dual Perspective*, by Paola Maggio) the focus shifts to the procedural safeguards that are or are supposed to be granted to migrant persons. The author explores the relationship between what is unanimously now defined as *crimmigration* and the protection of the rights of the victim and the accused in light of the fair trial principle, how developed by the case law of the European Court of Justice and the European Court of Human Rights. It is contended that the concept of vulnerability, implemented into the very structure of the crime of human trafficking and able to influence the stage of investigations, cannot be extended as to restrict the rights of the suspect but should rather guide the prosecuting authority on a case-by-case basis.

In Chap. 2.6 (*Trafficking in Human Beings: the ECHR and States' Positive Obligations*, by Lucia Parlato) the author examines a recent decision issued by the ECtHR in 2021 in order to reflect on the positive obligation burdening on Member States to not prosecute victims of trafficking in human beings for minor crimes when elements of constraint or duress emerge. Such procedural obligation stemming from Art. 4 ECHR is thoroughly explored in the context of the Italian system in comparison with the German one.

In Chap. 2.7 (*The Rights of Unaccompanied Migrants from Their Arrival to the Adulthood*, by Iolanda Roberta Sollima) the author goes through the supranational and Italian legislative framework on unaccompanied migrants, minors experiencing the dramatic situation of facing the journey alone and alone arriving in another country. All the stages of the reception system are examined in light of the two paramount principles of the “best interest of the child” and that of non-discrimination, which should enlighten the whole procedure but often fail to do so as also highlighted by some important ECtHR case law. The author contends that despite the good normative basis on the matter, a harmonised implementation of their legal frameworks is to be pursued by Member States.

In Chap. 2.8 (*Issues at Stake in Plural Societies: The Case of Muslim Migrant Women's Religious Freedom*, by Barbara Giovanna Bello) the author investigates what role the religious factor plays in the process of social inclusion that migrants undergo when they arrive to their country of destination. Specifically, the case of Muslim women wearing headscarves and full-face veils is addressed and a new perspective suggesting overcoming the racialization of others for a more inclusive approach is offered.

In Chap. 2.9 (*The Right of Migrant Women to a Life Free from Gender-based Violence in Europe*, by María Teresa Alemany Jordán) the focus is again on the condition of migrant women. This time, the author analyses the EU legal framework on the protection of women from gender-based violence and calls for an integrated approach of hard law and soft law instruments in order to improve solidarity and awareness mechanisms to prevent and address violence against migrant women stuck in the reception and asylum system.

The Part III chapters concern some of the main topics that have been developed in the last decades about the relation between language(s) and migration. In particular, chapters discuss three of these topics: reflections on the role of narrative and other tools of expression of self as a way for constructing migrant identities' in the host communities and fostering the cohabitation of diversity; the importance of social media in order both to keep in contact with friends and relatives in the place of origin and to foster ties with the communities of practice migrants are involved in the place of arrival; the presence of migrants in the educational system of the host countries.

In Chap. 3.1 (*Ex-British Europeans and Their Stories*, by Katarzyna Molek-Kozakowska) the author makes a qualitative analysis of a set of selected narratives regarding the motivations either to remain or to leave UK after the Brexit as reported by EU citizens, particularly Poles. The data of the study come from three different types of discourse: official discourses of Polish government in support of the returnees; semi-public discourses extracted by users' comments to articles about the

so-called “Brexodus” in online media outlets; private discourses, that is individual stories and personal advices, related to various resettlement issues, told in Facebook support groups. In her work, Molek-Kozakowska finds that British Poles have not yielded to the media panic or the government’s propaganda and have examined economic, social and cultural rationales for staying or returning.

In Chap. 3.2 (*Representing Places of Coexistence*, by Vincenza Garofalo) the author explores the role of the spaces of coexistence in some community centers in Palermo in which many projects of social inclusion of young migrants take place, such as urban arts’ workshops, the creation of multi-ethnic music bands and so forth. In particular, she reports the testimonies of some of the protagonists of these experiences that testify to the importance of sharing art and culture for developing the sense of belonging to the city.

In Chap. 3.3 (*Communicative Practices and Online Communities on Social Media in Migration Context*, by Anna De Fina and Giuseppe Paternostro) the authors investigate the digital communication practices amongst transnational migrant youth living in Palermo. In particular their focus is on the kinds of connections that youth establish once they settle in a host country and the way they handle their networked relations. Further, they investigate the role of both the multilingual resources mobile migrant youth use in order to communicate and the reciprocity in exchanges involving members of superdiverse networks. The authors note that migrant youth signal and negotiate multiple belongings to these different communities through semiotic strategies, showing also the intersectional nature of the identities they construct online.

In Chap. 3.4 (*The Invisible Voices of Migrants in Higher Education*, by Carmen Carmona and Gerhard Kruip) the authors compare the ways in which the UE countries approach the theme of the inclusion of migrants in the context of Higher Education. In particular, they note that Germany has the most comprehensive policy approach amongst all the EU countries in order to facilitate the path into higher education for asylum seekers and refugees, including a linguistic policy. Instead, other countries tend to include education in the more general policy on migration. In conclusion, the authors argue that access to higher education should be widened and facilitated both from the perspective of the human right to education and from the recipient states’ own interest in promoting the integration of migrant as a person.

In Chap. 3.5 (*Reflections on Literature, Translation and Border with the Undergraduate Students at the Universitat de València, Spain*, by Julia Haba Osa) the author reports about a project developed at the University of València devoted to gather data regarding the concept of “border”, considered through the lens of the illustrated literature (children’s picture-books, graphic novels, comics, photo-textual world). From this point of view, the author argues, reflecting about frontiers could allow students (coming from a great part of Brazil) to understand the partial discourses that shape the society in which they live and enable transformation through critical-emancipatory education.

## References

- ActionAid, Openpolis (2021) Una mappa dell'accoglienza Centri d'Italia 2021. [https://www.actionaid.it/app/uploads/2021/03/Centri\\_Italia\\_una-mappa\\_accoglienza.pdf](https://www.actionaid.it/app/uploads/2021/03/Centri_Italia_una-mappa_accoglienza.pdf)
- Androutopoulos J (2014) Linguaging when contexts collapse: audience design in social networking. *Disc Cont Media* 4–5:62–73
- Arnault K, Blommaert J, Rampton B, Spotti M (eds) (2015) *Language and superdiversity*. Routledge, London
- ASCS (2022) #UnaSolaCasa, L'umanità alla prova del Covid-19, (edited by Lorenzo Prencipe and Matteo Sanfilippo), International Migration Report of the Scalabrini Migration Study Centers, in Europe-Africa Region. <https://www.cser.it/wp-content/uploads/2022/02/Una-sola-casa-17X24-riv-def-1-1.pdf>
- Banerjee P, German M (2010) A conceptual overview: global migration and transculturation in the digital age. In Banerjee P, German M (eds) *Migration, technology and transculturation: a global perspective*, Lindenwood University Press, St. Charles
- Blommaert J, Rampton B (2011) Language and superdiversity, *diversities* 13(3). <http://www.unesco.org/shs/diversities/vol13/issue2/art1>
- Blommaert J, Varis P (2015) Enoughness, accent and light communities: Essays on contemporary identities, *Tilburg Papers in Culture Studies*, vol. 139. [https://www.tilburguniversity.edu/upload/5c7b6e63-e661-4147-a1e9-ca881ca41664\\_TPCS\\_139\\_Blommaert-Varis.pdf](https://www.tilburguniversity.edu/upload/5c7b6e63-e661-4147-a1e9-ca881ca41664_TPCS_139_Blommaert-Varis.pdf)
- Creese A, Blackledge A (2018) *The Routledge handbook of language and superdiversity*. Routledge, New York
- Creswell JW, Shope R, Plano Clark VL, Green DO (2006) How interpretive qualitative research extends mixed methods research. *Res Sch* 13(1):1–11
- d'Hollosy F (2019) Doxing and online communities. *Diggit magazine* 05/02/2019. <https://www.diggitmagazine.com/articles/doxing-and-online-communities>
- Dadusc D, Grazioli M, Martinez MA (2019) Introduction: citizenship as inhabitation? *Migrant Housing Squats versus Inst Accom Citiz Stud N* 23(6):521–539
- Daniele M (2018) La detenzione come deterrente dell'immigrazione nel decreto sicurezza 2018. *Diritto Penale Contemporaneo* 11:95–103
- De Fina A, Ikizoglu D, Wegner J (eds) (2017) *Diversity and superdiversity*. Georgetown University Press, Washington DC, Sociocultural linguistic perspectives
- De Fina A, Mazzaferro G (Eds) (2021) *Exploring (Im)mobilities: language practices, discourses and imaginaries, multilingual matters*, Bristol
- Eurostat (2022) Annual report on Migration and Asylum 2022, Statistical Annex. <https://ec.europa.eu/eurostat/documents/7870049/17096110/KS-09-23-223-EN-N.pdf/b4b0c640-556d-a271-ab16-0613af8924a8?version=2.0&t=1688567385923>
- Fischer CS (1975) Toward a subcultural theory of urbanism. *Am J Sociol* 80(6):1319–1341
- Gazi T (2021) The new Pact on Migration and Asylum: supporting or constraining rights of vulnerable groups? *European Forum* 6(1):167–175
- Harvey D (2008) The right to the city. *City Read* 6(1):23–40
- Heyd T, Honkanen M (2015) From Naija to Chitown: the new African diaspora and digital representations of place. *Disc Cont Media* 9:14–23
- Intersos (2021) Rapporto 2021 – Regione Europa. <https://www.intersos.org/wp-content/uploads/2022/05/Report-Annuale-2021.pdf>
- ISMU (2021) The twenty-seventh Italian report on migrations 2021. <https://www.ismu.org/the-twenty-seventh-italian-report-on-migrations-2021/>
- Istat (2021) Report cittadini non comunitari in Italia, 2020–2021. [https://www.istat.it/it/files/2021/10/Cittadini-non-comunitari\\_2020\\_2021.pdf](https://www.istat.it/it/files/2021/10/Cittadini-non-comunitari_2020_2021.pdf)
- Lancione M (2019) The politics of embodied urban precarity: Roma people and the fight for housing in Bucharest. *Romania, Geoforum* 101:182–191
- Lefebvre H (1968) *Le droit à la ville*. Éditions Anthropos, Paris, Paris

- Leontidou L (2010) Urban social movements in ‘weak’ civil societies: the right to the city and cosmopolitan activism in Southern Europe. *Urban Studies* 47(6):1179–1203
- Li W (2018) Translanguaging as practical theory of language. *Appl Linguis* 39(1):9–30
- Lo Piccolo F (Ed.) (2013) *Nuovi abitanti e diritto alla città: un viaggio in Italia*, Altralinea, Firenze
- Lo Piccolo F, Todaro V (2015) Latent conflicts and planning ethical challenges in the South-Eastern Sicily ‘landscape of exception’, in *Book of AESOP Annual Congress 2015 “Definite space – fuzzy responsibility”*, 13–16 July, Prague, pp 2534–2544
- Lo PF, Todaro V (2019) *Flujos migratorios y territorios europeos: entre permanencia y cambio*. Una Mirada Desde Italia, Ciudad y Territorio 51:393–402
- Lo PF, Todaro V (2022) ‘Landscape of exception’: power inequalities and ethical planning challenges in the landscape transformation of south-eastern Sicily. *Plan Theory* 21(1):8–34
- Mangiaracina A (2016) The long route towards a widespread European culture of alternatives to immigration detention. *Eur J Migr Law* 18:177–200
- Marcuse P (2009) From critical urban theory to the right to the city. *City* 13(2–3):185–197
- Marwick AE, Boyd D (2010) I tweet honestly, I tweet passionately: twitter users, context collapse, and the imagined audience. *New Media Soc* 13(1):114–133
- Masera L (2017) I centri di detenzione amministrativa cambiano nome ed aumentano di numero, e gli hotspot rimangono privi di base legale: le sconcertanti novità del decreto Minniti, *Diritto penale contemporaneo* 3:278–283
- Mayer M (2012) The “right to the city” in urban social movements. In Brenner N, Mayer M, Marcuse P (eds), *Cities for people, not for profit*, Routledge, New-York, pp 63–85
- Mitchell D (2003) *The right to the city: social justice and the fight for public space*. Guilford Press, New York-London
- Niederberger Martinez R (2021) Covid-19: a reckoning of the immigration detention system and a call for alternatives to detention programs, New York University. *J Intern Law Polit* 2 June, pp. 136–143. <https://www.nyujilp.org/covid-19-a-reckoning-of-the-immigration-detention-system-and-a-call-for-alternatives-to-detention-programs/>
- Pugiotto A (2014) La “galera amministrativa” degli stranieri e le sue incostituzionali metamorfosi. *Quaderni Costituzionali* 3:573–604
- Sheller M (2018) *Mobility justice: the politics of movement in an age of extremes*. Verso Books, London
- Tagg C, Sargeant P (2014) Audience design and language choice in the construction and maintenance of translocal communities on social network sites. In Sargeant P, Tagg C (eds), *The language of social media: Identity and community on the internet*, Palgrave Macmillan, Basingstoke, pp 161–185
- Tagg C, Sargeant P, Brown A (2017) *Taking offence on social mediaconviviality and communication on Facebook*. Palgrave/Macmillan, Cham
- Tas S (2022) Fundamental rights violations in the hotspots: who is watching over them? *Eur Papers* 7(1):215–237
- Todaro V (2016) *Transizioni post-metropolitane ai margini: la Sicilia dei migranti, oltre l’invisibile*. Territorio, n. 76:72–77
- Urry J (2007) *Mobilities*. Polity Press, Cambridge
- Vitak J (2012) The impact of context collapse and privacy on social network site disclosures. *J Broadcast Electron Media* 56(4):451–470
- Wenger E (1998) *Communities of practice. Meaning and Identity*, Cambridge University Press, Cambridge, Learning
- Wong K, Kwan R, Leung K (2011) An exploration of using Facebook to build a virtual community of practice, *Hybrid Learning: 4th International Conference, ICHL 2011, Hong Kong, China, 10–12 August 2011*. Springer, Berlin, pp 316–324
- Zhou H, Li W, Lyons A (2017) Polish shop(ping) as Translanguaging space. *Soc Semiot* 27(4):411–433

# **“Right to the City” and Right to Housing**

# Making Home, Building Citizenship: Migrations, Rights and Housing Policies in Sicily (Italy)



Francesco Lo Piccolo

**Abstract** How is the housing issue in Southern Europe changing under the pressure of the arrival of foreign “new citizens”? This chapter explores this question through two Sicilian case studies that share the need to provide some initial answers to the aforementioned issue. The complexity of the issue brings with it a further question, which highlights how the mutation underway is an open question that centrally concerns urban and territorial policies: How can territorial and urban planning address this issue, going beyond the emergency responses that have been implemented to date? The first case study illustrates the issue of the presence of migrant workers in rural areas, problematising the issue in terms of two aspects: the preponderance of foreign workers in areas of agricultural excellence and the emergency measures taken so far to address the problem of temporary accommodation for agricultural workers. The second case study focuses on the city as a historically privileged physical and relational space for social interaction with others (foreigners). The recognition of different forms of citizenship (inclusive or exclusive) of social groups is reflected not only in the use of urban space, places to live, work and trade, or in the provision of services, but also in planning techniques that design new expressions of citizenship by distributing resources (material or immaterial). In both cases, the study of migrations succeeds in highlighting the contradictions that the territory expresses. It denounces the inadequacy of territorial and urban policies and the general lack of will to manage and regulate the phenomenon of the modification of the social framework in both agricultural and urban contexts.

## 1 Introduction

The profound change in Italian society is a fact, today, that has been ascertained and investigated with ample treatment and references in scientific literature. The annual Caritas dossiers that, in the years following their publication, constituted one of the main, and not numerous, points of reference for a description and monitoring

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of the phenomenon of immigration in Italy, today represent only one of the many research reports that constitute a very broad and detailed field of investigation. The spatial dimension of this phenomenon continues to be, however, an aspect that is only partially addressed, and constitutes—on the contrary—one of the most significant elements, both in the collective perception and in the very structuring of migration outcomes. If in general the political debate is still substantially static and backward as a whole, an awareness of the complex dimension of the multicultural and multi-ethnic plurality of the Italian social structure (also in its spatial articulation) has matured in civil society, in the realities of associationism, but also in some local institutional spheres. A “plural” society necessarily implies overcoming the emergency and welfare vision of the very principle of reception, despite the persistence of certain stereotypes, mass media slogans and political positions. This overcoming is operationally translated into spatially localised actions, which have space (urban, but not only) as a priority sphere of intervention. In cities and territories that are less and less represented by a univocal administrative domain, even the issue of rights, and specifically the right to the city, is influenced by a “more polymorphic and fragmented social geometry” (Soja 2011), requiring a clarification or, at least, a positioning with respect to the relationship between spatial justice and the right to the city. In contemporary urban territories, as highlighted in previous research (Lo Piccolo et al. 2021), inequalities and broader citizenship rights affect different groups of the urban population: from the rights denied to immigrants in post-rural territories to the difficulties of access to housing for increasingly significant portions of inhabitants of both urban centres and suburbs. If the notion of the city as a spatial and social fact is profoundly changing through new settlement principles, not only the investigation of “new forms of the city” but also that one of new “demands for the city” is necessary, as Marcuse (2012) suggests, in order to recalibrate the debate on the right to the city, starting from three questions: To whom does the right to the city belong? What rights are we talking about? And with respect to which city?

If we accept the Lefebvrian working hypothesis that the urban is “society in its spatial declination ... the projection of society on the territory” and that the right to the city is configured as “a superior form of rights, as a right to freedom, to individualisation in socialisation, to habitat and living”, the theme of housing exclusion offers itself as one of the most relevant and stimulating problems to be reasoned upon. The aim is to orient urban and inclusion policies towards the real exercise of fundamental rights and the acquisition of new relevant subjective situations. For migrants, in particular, “making a home” concerns not only a physical space but also the surrounding human, socio-cultural and natural environment, and it is also a gradual but, in some cases, reversible experience. The extensive literature on migrant housing distress shows well-established trends of correlation between deterioration of buildings, poor services, high housing crowding ratios and the presence of migrants. From the classic comparative analyses carried out in the 1970s (Castles and Kosack 1973) to the most up-to-date studies, in the now long history of immigration in Europe, numerous authors point out how the housing dimension in social policies, even considering the different territorial areas and the relative legal systems, is marginal compared to other spheres such as work, health and language

training, which appear more conveniently analysed and financed (Alietti 2010; Tosi 2010; Ponzio 2010). Yet, the migrants' housing issue and the specific measures implemented on the matter by their destination countries, with their degree of openness/closure and the consequent production/reproduction of potential inequalities, delimit one of the fundamental spheres on which the social rights of the "new citizens" take place. In this way, it is possible to make their co-participation in the process of social and political construction of new citizenship practices, understood as a space of expression of being "fellow citizens". Today, in Italy, immigrants constitute the largest quota of housing exclusion, which implies that these people have greater difficulties in finding housing than others.

The ISTAT (2022) figures state that foreigners living in Italy, as of 1 January 2021, number 5,030,716 and represent 8.7% of the resident population; on the other hand, migrants registered by the reception system as asylum seekers or refugees, those most insistently mentioned in the news, number just under 80,000—of whom 423 are housed in hotspots; 50,714 in temporary reception facilities (Emergency Accommodation Centre-CAS and first governmental centres) and 25,938 housed in the facilities of the System of Accommodation and Integration-SAI (former Siproimi) (Ministero dell'Interno 2022). Recent studies show that there are as many as 4 million foreign workers living in rented accommodation, among whom as many as 80% live in cohabitation and overcrowded conditions (ISTAT 2022), just as 60% of the homeless in our country are migrants (ISTAT-Caritas 2015). These numbers highlight not only the difficulties in accessing housing but also make evident the process of marginalisation that is severely undermining equality and the exercise of fundamental rights of an increasingly large segment of the migrant population. However, the issue cannot be summarily reduced to a quantitative problem but must be tackled in its multidimensionality, with an awareness of the limits of current policies that are essentially oriented towards providing beds rather than activating enabling housing processes. Therefore, the majority of migrants do not live in reception facilities, and for this reason, it is important to understand what their experiences of living have been and what critical steps and junctures have shaped their housing paths. These considerations lead us to reflect on the difference between "integration" (understood as assimilation) of minority groups and "interaction" between different social groups, opening up to the concept of cosmopolitanism and linking up with what has been said above about the necessary interaction between housing policies, urban policies and claims for social justice and equity.

## 2 Spaces and Rights: Rethinking Concepts and Intervention Categories for Migrants' Housing Policies

As Tosi argues, the issue of migrants' housing is in many ways pervaded by notions and concepts that risk posing this question in inadequate terms (Tosi 1998, 7). A "plural" society necessarily implies overcoming the emergency vision of the very principle of reception, despite the persistence of certain stereotypes, mass media slogans and political positions related to welfare policies. The category of emergency reveals several critical issues from this point of view, which are related to: (a) a consideration of immigrants' housing discomfort as a need to be solved immediately rather than a problem to be tackled preventively; (b) the involvement of migrants in the local context of arrival and the disassociation of immigrants from other subjects involved in the housing problem. In particular, the latter criticality fuels the assumptions of competition between the weaker groups, legitimising the concern to control social alarm factors, connected to fears of invasion and abuse by the "other" (Tosi 1993, 31). The "fear of the other", which fuels cultural stereotypes and is often superimposed on the problems of housing discomfort and the (lack of) rights of access to citizenship experienced by migrants (Lo Piccolo and Leone, 2008), appears functional to the stubborn maintenance of economic, political and cultural visions, even though they are in clear decline.

Consequent to this attitude are also those kinds of interventions that, in order to avoid further social conflicts, tend to conceal what may be considered excessive disturbing elements. In this way they act, for example, on the category of the "visible" with practices of territorial control (such as the dislocation of reception centres in peripheral areas), thus rendering the possibility of realising experiences of coexistence in shared spaces futile (Blanc and Garnier 1984). These policies do affect and influence the sphere of rights, which is consequently much more diverse and fragment in comparison with the past.

As Bobbio (1990) points out, describing the processes of "multiplication" of the spheres of rights, today more than ever the ownership of rights is ascribable not so much to an abstract and undifferentiated category—the generic man—but rather to different and particular categories—the specific man—based on the characteristics and prerogatives of different social statuses. All this leads to a rethinking on the subject of citizenship: a notion in which the characteristic of status seems to prevail again today, almost by a paradox of history, and with a process of "involution", or backwards. Just as the historical meaning of status (be it family, citizenship, legitimate child, etc.), similarly, citizenship today seems to exercise, in relation to certain subjects, the function of an instrument of differentiation, and therefore of separation, within the social organisation (Alpa 1993): citizenship status acquires in some ways the characteristics of privilege. In this respect, citizenship can be assumed not only as a sort of "interface" between the individual and collective dimensions but also between the centres and peripheries of rights-holders, fuelling a permanent conflict that may be sometimes overt, sometimes latent.

Neglecting the conflictual nature of the plural cohabitation or appropriation of spaces is a mistake, both political and disciplinary. The majorities feel threatened by those same minority groups of migrants that nurture the conditions of development in the host countries, and migrants, on the other hand, engage in defensive behaviour in relation to dominant patterns of life with the risk of both groups relegating themselves to closed communities. Migrants, like other groups on the margins, rather than destabilisers of culture, economy and institutions, represent an uncomfortable otherness because they rather highlight contradictions and risks of the host countries' founding ethical value system and the widening gap between rich and poor. With their presence, migrants raise issues of social justice and equity for access to resources, whether they are economic, spatial or forms of rights such as access to citizenship. In reference to the housing problem, the previously mentioned aspects cannot be underestimated, on pain of misrecognizing the "variety of paths, the role of community processes, the transactional character of relationships, etc." (Tosi 1998, 8). The arguments so far make it urgent and necessary to rethink the concepts and categories of intervention in the field of migrants' housing policies.

### **3 Migrants' Housing: Learning from Practices**

As Harvey (2012, 8) explains, the right to the city is "much more than a right to access, individually or as a group, to the resources that the city possesses; it is the right to change and reinvent the city in a way that is more in keeping with our needs". With respect to the political and scientific debate that struggles to recognise the plurality of situations pertaining to the migrants' right to live, it seems opportune to report some case studies that highlight the different dimensions, critical issues and elements of action that permeate the migrants' housing issue, using the Sicilian context as a geographical focus of reference. What emerges is a variegated scenario in which migrations reshape the territory beyond simple rhetoric that crushes the figure of foreigners into stereotypes. At the same time, the presented cases, despite their conciseness, redraw different geographies of suffering, restoring the complexity of the phenomenon both in time (with reference to the migrant's length of stay in the places of arrival) and in space (with reference to the territorialisation of the recounted experiences). I have deliberately not taken into consideration here the first and second reception systems nor the cases related to extraordinary reception.

#### ***3.1 Migrants' Housing in Rural Territories***

This section highlights some examples of the ways in which the housing problem connected to the presence of foreign workers in Sicilian territories has been tackled in recent years. The discussion does not claim to be exhaustive but begins by tracing an initial geography of the responses given to the problem of housing, particularly

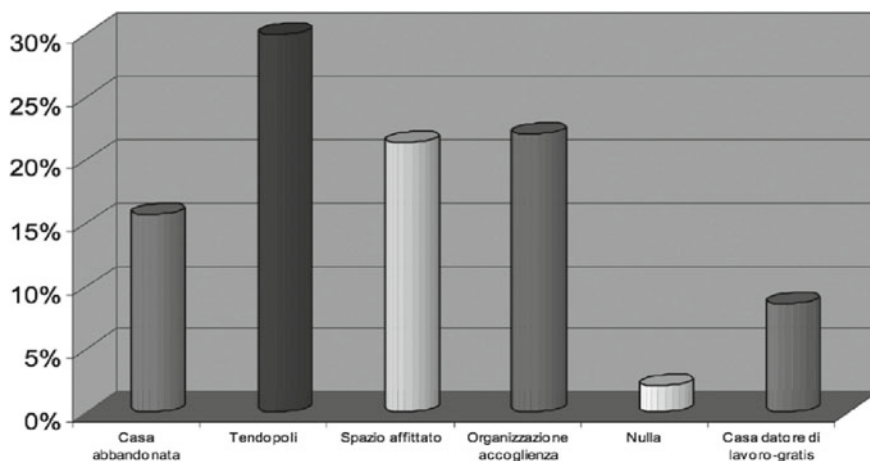


Fig. 1 Types of accommodation for foreign workers. *Source* Medici senza Frontiere 2005

for seasonal workers. For an initial idea of the extent of the housing problem for immigrant workers, it is useful to reproduce below the graph contained in the 2005 report by Médecins Sans Frontières (Fig. 1) on the housing possibilities “offered” to foreign workers.

The database is the result of interviews with immigrant workers that Médecins Sans Frontières conducted in 2004. The graph provides a picture of the different types of housing and indicates the high degree of precariousness of the accommodation solutions that are available to foreign workers. The issue of finding accommodation remains unresolved and is dealt with in different ways and forms (or not at all). Sicily is the first region in terms of the number of people employed in the agricultural sector and is home to about 11% of the entire national workforce: in this sense, the propensity of immigrants to agricultural work and consequently their dispersion across the territory is not surprising. On the other hand, some data highlight blatant contradictions, for example: the huge growth trends in quality agricultural production are attributable not only to appropriate new marketing, communication and sales strategies, but also to the employment of immigrant labour, both regular and non-regular, since, in the last decade, the data on both phenomena show constant increases, denouncing a clear correlation of the phenomena. The particular nature of Sicilian agriculture, which is characterised by a strong specialisation in seasonal crops, generates phenomena with specific characteristics, compared to other regions, regarding the possibility of integration and the construction of structured demand for housing: “The extensive presence of crops, both in greenhouses and in open fields, have also made Sicily a privileged destination for seasonal workers tout court, i.e. for that large group of foreigners who spend six to nine months in the area every year, regularly returning to their country of origin. These are purely economic migrants” (Médecins Sans Frontières 2005). Emblematic in this sense are the provisional interventions invoked and promoted by associations such as Médecins Sans Frontières

and implemented by organisations such as the Italian Red Cross, which, in collaboration with Caritas, has been setting up two reception camps for immigrants for less than 10 years.

The first experience of this kind is in Cassibile (hamlet of Syracuse) where, in 2003, on an initiative promoted by Médecins Sans Frontières, the first temporary reception camp was set up for immigrants, who move en masse annually to the hamlet to work in local farms. The tent city set up in this way turned out from the start not to be sufficient to meet the demand for accommodation, so much so that in 2004 Médecins sans Frontières reported the existence of three different camps: the first is the “official” one, set up by the Civil Defence at the municipal stadium; the second, accommodating approximately 70 people and consisting of 6 tents set up in a side street at the entrance to the village, was created to resolve the tensions that arose among immigrants in the municipal camp: it lacks water, electricity and toilets; the third camp is self-built by the immigrants themselves, in dramatic living conditions.

On the other side of the island, in Alcamo, since 2004 (Médecins Sans Frontières 2005) a reception camp has been set up at the S. Ippolito stadium, in agreement with the municipality, managed by the Local Committee of the Red Cross, Caritas and UniTre (the “Father Nino Aparo” Counselling Centre for Migrants) called “Matthew 25.35”. Here, too, the need is for hundreds of workers who move to the Trapani area in September for the grape harvest, generating heavy problems of coexistence and integration and exasperating living conditions: “around 1,500 foreigners are concentrated in my area during this period to work in the vineyards, explains Giacomo Scala, mayor of Alcamo. They make up 70% of all the labour involved. And it is a percentage that, in the province of Trapani, remains unchanged even in the case of the tomato and olive harvest. For the harvest, from August to October, together with Caritas and the Red Cross, we set up a reception camp with 170 beds and about 400 hot meals a day. There are two tents for prayer and a clinic for medical examinations. Hospitality, however, is reserved for legal foreigners” (Giorgi 2009). The reception camp was visited by the organisation Médecins Sans Frontières (2005), which reports as follows:

At the time of the visit made by MSF, in September 2004, about 250 people, all men, mainly from Maghreb and sub-Saharan Africa, were sleeping at the reception camp. Only people with a regular residence permit were allowed access for overnight accommodation. Another 200 foreigners—the irregular ones—only had access to toilet facilities, canteen service and health care. At the end of each day (after the gate was closed), the list of registered workers, i.e. the regular ones at the camp, was handed over to the local police headquarters. The centre was open from 9 a.m. to 1 p.m., for the use of toilets, and from 5 p.m. to 10 p.m. for soup kitchen and medical examinations. From 10 p.m. to 5 a.m. it functioned as a dormitory: at 10 p.m. the gate was closed, at 5 a.m. all the guests were invited to leave ‘to look for work’. MSF in Alcamo conducted the examinations at the outpatient clinic, set up in a warehouse in the camp with a local ASL doctor. In all, 45 patients were examined, being almost all of them camp guests and therefore in possession of regular residence permits.

An interview conducted as part of a previous research<sup>1</sup> with Davide Bambina, President of the local Red Cross Committee of Alcamo, shows how the camp is equipped to host 115/120 people each year, who receive accommodation, medical care and hot meals on a daily basis. A similar number (around 120 people) are the irregular migrants who, although they do not benefit from accommodation in the tent city, receive medical care and hot meals. Camp guests are asked for a daily contribution of 2 euro. The massive presence of irregular migrants, and the response given by local authorities, limited to regulars only, confirms the fact that, not only in Alcamo, irregular migrants are forced to find makeshift housing solutions.

The case of the Alcamo tent city, with all the limitations it presents, allows us to frame what is a response given by a public body to a problem that began as a social and labour issue and led to a real urban problem: the presence of available public properties that could be to be reconverted and the planning of areas and uses designed for the activation of reception and integration services. Bambina himself, during the interview, confirms the Médecins Sans Frontières report on the seasonal migration of foreign workers, recounting the workers who, from the Cassibile tent city, used in June/July during local agricultural activities, move to Alcamo to begin the grape harvest in September. According to the Alcamo Red Cross President's observation, these are migrants who would tend to "institutionalise" such territorial movements, and move over a wide territory, including other regions, such as Calabria. At the same time, the aspects highlighted in the discussion of the phenomenon of rural migration clearly show a trend: communities of foreigners offer themselves as passive elements in the management of space, which is entrusted either to a paternalistic management, as in the case of the tent camps organised by Caritas in Cassibile and Alcamo, or to a business-criminal management. There is no doubt that the temporary solutions of tent camps are preferable to criminal systems, but it is necessary to look for solutions that allow new citizens not only to live with dignity in the transitory and precarious condition to which they are subjected but also to succeed in generating phenomena of appropriation and recognition of spaces.

Confronting with traditional models of intervention, it is possible to detect new self-help forms proposed by housing movements in urban areas, where the occupants/tenants adapt the empty public properties (or social private properties) to a new residential use, also through micro-projects of renovation which fill the lack of formal housing policies and intend to be an innovative alternative to the current model. These practices appear as a successful model for cutting housing production costs, providing an affordable and accessible form of housing, enhancing user empowerment (Teasdale et al. 2010) and producing social capital in the process (Garcia and Haddock 2015). If we applied such a model in rural areas, the stock of abandoned rural properties could be self-recovered and put to new uses: both housing and services. In contrast with other forms of divestment of empty properties, self-restoration practices are an opportunity to use the empty rural properties (defined

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<sup>1</sup> Between 2008 and 2012, research was conducted—in collaboration with Davide Leone and Giuseppe Lo Bocchiaro—on the housing condition of migrants in the rural territories and historical centres of south-eastern Sicily. Outcomes of the research were published in Lo Piccolo et al. (2012).



as available material facilities) for individual, as well as collective, functionings to improve the quality of life of migrants.

### ***3.2 Migrant Living in Urban Areas: The Case of Mazara del Vallo***

Mazara del Vallo is one of the southern cities with historically high numbers of migrants. Approximately half of the migrant population in the province of Trapani, and four times the number of migrants in the provincial capital, are concentrated in Mazara del Vallo and work in the fishing sector, with an incidence of about 2,500 units (Alisei-coop 2008a, 47). Migrants, mostly of Maghreb origin, are concentrated in specific districts of the historic centre, although they are now distributed in other expansion areas of the city. In particular, and with reference to census areas, in the historic centre of Mazara del Vallo foreigners make up 22% of residents, while in external areas such as Mokara, Cappuccini and Casa Santa, the incidence of foreigners fluctuates between 8 and 9%. A much lower foreign population density of 3% is found in the peripheral areas, and a very low percentage of foreign residents (1%) is recorded in the Trasmazara area. Compared to an initial migratory flow of a few hundred migrants from Tunisia, which was recorded at the end of the 1960s in connection with the expansion of Mazara del Vallo's fishing fleet, the current population of foreign origin amounts to 5% of the total (2007 data), although unofficial sources estimate the number of Tunisians to be at least twice as high as that actually recorded. According to official data, the number of foreigners of Tunisian origin amounts to about 90% of the total foreign population, while 4% are Serbs and Montenegrins, 2% Moroccans, 1% Chinese and the remaining 4% are people of other nationalities. From the very first flows, immigrants settled in the historical Arab quarters of San Francesco and Giudecca, collectively known as the Casbah, and after 1968, following the Belice Valley earthquake, which also caused considerable damage to the houses in the historic centre of Mazara del Vallo, they began to distribute themselves in the neighbouring districts, abandoned by the citizens of Mazara, through a process of filtering down.

Although some research reports (Augustoni and Alietti 2010; Alisei-coop 2008a) mention the case of Mazara del Vallo as a "virtuous" example with respect to the migrants' housing discomfort in other areas of Southern Italy and Sicily (and especially in the rural areas of Ragusa or in the metropolitan areas of Palermo and Catania), many issues remain very similar. In particular, comparative analyses conducted in the historic centre of Mazara del Vallo (Gatto et al. 2011) show that poor states of preservation of buildings for residential uses correspond to high levels of foreign residents, who are concentrated mainly in the San Francesco and Giudecca districts (Fig. 2). Good and fair states of preservation, on the other hand, are recorded overall in the building fabric of the San Giovanni district, which is home to the City Hall, the





**Fig. 2** The deterioration of the part of the historic centre that is inhabited by the Maghrebian community (Photo by Vinci I)

Cathedral and monumental complexes housing important cultural and social solidarity facilities; these building and functional typologies in the district are matched by a low percentage of migrant residences. Similar considerations apply to the Xitta district where, against a discrete state of preservation of the building fabric, which in this case is predominantly residential, there is a low presence of migrants.

At present, even though there is a lack of up-to-date local surveys (and reliable data related to the informal market) on the housing tenure status in relationship with income levels, building types and their state of preservation, the research reports on migrants' housing discomfort in Sicily (Alisei-coop 2008a, b) describe Mazara del Vallo as an exemplary case of peaceful integration which, if sporadic episodes of conflict are disregarded, has allowed migrants to have access to low housing rents (between 200 and 400 euro). On the basis of surveys of privileged witnesses (Alisei-coop, 2008b), these research reports attribute the reasons for the presumed process of "integration" to conditions of greater familiarisation, due to the Tunisians' consolidated integration into the work market and in particular into the fishing sector (understood as a relational laboratory), to the territorial and cultural contiguity with the countries of origin, to the increasing learning of the Italian language and to the high incidence of minors among immigrants (around 37%). The latter is an index of rootedness and stabilisation, compared to the Sicilian panorama which was characterised, until a few decades ago, by transit migratory flows towards final destinations in northern Italy (Alisei-coop 2008a, b).

A survey (Gatto et al. 2011), carried out in order to explore and assess the incidence of the places of interaction between migrants and native residents in the urban fabric of Mazara del Vallo, took into consideration not only commercial activities, social and cultural facilities but also public and semi-public open spaces. The analyses reveal that the numerous commercial activities distributed along the main roads of the San Giovanni and Xitta districts and along the streets surrounding the historic centre are to be considered as prevalently used by the natives, as opposed to the commercial activities managed by migrants, which in considerably lower numbers are distributed near their homes and which can be considered as exclusive places, except for the refreshment areas which are frequented by both communities. Cultural associations for the exclusive use of natives are distributed in various city districts and concern specific economic sectors (agricultural associations, maritime associations, hunters' associations, etc.), whereas the associations for the exclusive use of migrants are mostly of cultural, recreational and creative nature and are concentrated in the San Francesco district and at the marina. As far as educational facilities are concerned, the two public elementary schools, which are easily distinguishable from the historical fabric because they were built during the fascist period in the heart of the San Giovanni district, are mainly attended by locals, although there is a progressive influx of migrants, while another school, located in the same district and very modest in size, is used exclusively by Tunisians. The public spaces of greatest interaction between migrants and natives, sometimes used in different ways and at different times, are basically:

1. the marina, where migrants and locals have been working together for decades (Fig. 3);
2. Piazza Regina, where there is the presence of associations self-managed by migrants and various commercial activities;
3. the Promenade Mazzini, which is characterised by the presence of numerous commercial activities (permanent and temporary) and restaurants and is frequented especially on holidays (Fig. 3);
4. the Villa Jolanda, which is used as a meeting, resting and walking place;



**Fig. 3** Public spaces in Mazara del Vallo: the “marina” and the “Promenade Mazzini” (Photos by Bonafede G and Picone M)



**Fig. 4** Example of a structure adapted for housing by migrants in the province of Ragusa (Sicily) (Photo by Todaro V)

5. the Tunisian restaurant in the historic centre;
6. the San Vito Onlus foundation, outside the historic centre, a place of interaction especially for younger generations.

With a few exceptions, these are mostly public spaces that characterise the coastal strip of the historic centre of Mazara del Vallo and that at the same time need maintenance and urban redevelopment, as is the case with the historical fabrics mainly used by migrants. The qualitative survey, conducted through interviews administered to the resident migrant population, revealed the difficulty in finding housing. Upon arrival, the newcomers were only able to find acceptable, although often precarious, housing situations, thanks to the help of their fellow citizens already living in Mazara. The migrants understandably complain, however, about the absence of municipal policies facilitating the search for housing, with one important exception being the S. Vito Onlus association and the project, sponsored by this association, aimed at supporting migrants in their search for appropriate housing.

At the same time, a social survey (Bonafede and Picone 2013)—aimed at investigating the relations between old and new inhabitants of Mazara—showed that the degree of interaction between natives and migrants is rather mediocre and only apparent, a façade, often limited to a “peaceful coexistence”, marked simultaneously by tolerance and mutual suspicion. It is interesting that many migrants stated that they felt safe within the districts of Mazara’s historic centre, but at the same time,

they noted that the Mazara inhabitants tend to avoid those same districts, considering them not very peaceful and therefore expressing an even too implicit negative judgement on migrants. Based on this, it is certainly difficult to get real interaction going. In spite of a now achieved “integration” rhetoric revolving around the case of Mazara, qualitative surveys and urban analyses have revealed prejudices, insecurities, conflicts and forms of exclusion that are exacerbated by economic uncertainty. On the other hand, there is a need to undertake shared pathways to citizenship that take into account both cultural differences and the higher-risk conditions faced by economically disadvantaged segments of the population, in order to foster greater social justice and equity. Moreover, if on the one hand, the high percentage of young foreigners can be seen as a symptom of the greater entrenchment of migrants, on the other hand, it is precisely this generation that expresses greater unease with the economic and cultural crisis and is considered particularly threatening by the natives.

## 4 Conclusions

Contemporary society tends to polarise into a system of borders and territories (Kymlicka 1995; Sandercock 2000, 2003): whereas until a certain period, models of coexistence in space presupposed a progressive annulment of (virtual and real) borders, currently a model prevails and accepts the existence of differences through mutual recognition (Foucault 1986; Zanini 1997). These two tendencies manifest themselves in policies aimed at the construction of a homogeneous society, as in the French assimilationist model (Italian Geographical Society 2008), or in the American melting pot (Amendola 1997), or towards a postmodern model that moves in an archipelago of phenomena aimed at determining a series of boundaries and appropriations. However, this interpretative paradigm works very well in the urban sphere, where the “game” of identification and appropriation is possible but is much less valid for describing rural areas, as the cases of Chap. 1.3 testify.

If the right to the city can be considered “a right to belonging to a place, whether in spaces that we call cities or do not” (Aalbers and Gibb 2014, 209), then by forcing the concepts a little, we can say that not having a house is tantamount to being deprived of the very right to urban life and its spaces. “Dwelling”, in fact, relates back to the surrounding social and cultural environment and contributes to the realisation of an autonomous life project. The right to housing—in this perspective—allows each individual, group or family unit to inhabit a place and not only to live in a place; and it is obviously starting from the house that an existential path is realised: from aspirations to life projects, to our way of establishing an intimacy with what is around us. For migrants, in particular, the “housing dimension” concerns not only a physical space but also the surrounding human, socio-cultural and natural environment, and it is also a gradual but, in some cases, reversible experience.

In the case studies of Chap. 1.3, the identification and “appropriation” of spaces by new citizens are absolutely marginal, due to two converging factors. The first relates to the peculiarities of the rural world, which, by distributing inhabitants over

large areas, makes opportunities for exchange and confrontation less possible. Thus, it is precisely these needs and opportunities to identify and appropriate (physical and symbolic) spaces, and to express (at least potentially) emerging or different forms for active citizenship, that are limited. The second aspect, prevalent with respect to the first, concerns the temporary nature of work, which is often offered in agriculture; this clearly does not allow or discourages rootedness, the delimitation of spaces and thus the creation of rooted identities. On the one hand, European and Italian regulations strongly emphasise integrating and rooting new citizens, while on the other, local policies and the division of labour make these objectives particularly difficult to achieve.

In Southern Italy, in particular, the most serious conflicts between old and new inhabitants have taken place in rural areas (as in Rosarno, Calabria, in 2009) and have been directed against criminal organisations rather than the State. This is due to the fact that these criminal structures subsidise the functions of the workers' organisations, especially in certain geographical areas. In this respect, dealing with issues related to the relationship between the rural environment and the new inhabitants is different from those of the urban areas. In the rural context, it is the absolute denial of the use and appropriation of space that is at stake, rather than the conflict over the use of space or the question of boundaries. From this perspective, the issues raised by the rural context are at the same time simpler, but also less clear and circumscribed (Miraftab and Diaz McConnell 2008). They are simpler because they have only a marginal impact on the spatial sphere; they are less clear because they propose issues and problems that change very rapidly and strongly over time, precisely because they are transient. Conflicts in rural areas arise not so much from communities' need to assert particularisms and differences, but from the denial of opportunities to build community groups. From these, premises should derive a greater openness to dialogue, diversity and interaction. On the contrary, unfortunately, we witness daily phenomena of closure, attempts to defend phantom "national identities at risk", denials of the very idea of interaction (Guarrasi 2011). It is strange that even today we prefer to talk about "integration" rather than "interaction", referring, for example, to migrant citizens who arrive in our western nation-states and who must "integrate", i.e. adapt to heteronormed socio-cultural models, rather than simply "interact", i.e. exchange cultures and knowledge.

The suspicion is that behind these anti-cosmopolitan government policies and these regurgitations of nationalism, there is a real "strategy of fear", i.e. a conscious use of the fear of diversity as an instrument of control. If it is true that our societies are among the safest of all times, it is also true that, in contrast to this "objective evidence", the spoilt, pampered "us" feel unsafe, threatened and fearful, more prone to panic, and more interested in anything to do with the quietness and security of the members of most other societies known to us (Bauman 2005, 3). And yet, despite the reluctance and obstacles posed by majorities and power, as the cases of migrant living in urban areas show, our cities are becoming increasingly cosmopolitan. This is also (perhaps especially) true for Mediterranean cities, which are "privileged places of emergence and formation of new cultures and identities" (Guarrasi 2011, 44). Linking the housing issue with new inclusive and intercultural urban and territorial

policies can represent a step forward in the construction of a more cosmopolitan society and of a new, plural and diverse sphere of citizenship rights.

## References

- Aalbers MB, Gibb K (2014) Housing and the right to the city: introduction to the special issue. *Int J Hous Policy* 14(3):207–213. <https://doi.org/10.1080/14616718.2014.936179>
- Alietti A (2010) Migrazioni, politiche urbane e abitative: alcune riflessioni sulle società urbane europee. In: Augustoni A, Alietti A (eds) *Migrazioni, politiche urbane e abitative: dalla dimensione europea alla dimensione locale*, Rapporto 2010. Regione Lombardia in collaborazione con ISMU e Osservatorio per l'integrazione e la multiethnicità, Milano, pp 25–80
- Alisei-coop (2008a) Sotto la soglia. Indagine conoscitiva sul disagio abitativo degli immigrati in Italia Meridionale. Rapporto finale. <http://www.stranieriinitalia.it/briguglio/immigrazione-e-asilo/2008/novembre/rapp-alisei-abitazione.pdf>. Accessed 21 Sep 2022
- Alisei-coop (2008b) Sotto la soglia. Indagine conoscitiva sul disagio abitativo degli immigrati in Italia Meridionale. Sicilia: emergenza abitativa nei distretti rurali e difficoltà nelle aree urbane. <http://www.lavoro.gov.it/NR/rdonlyres/18600B1D-240E-43F8-AE03E542E305B82C/0/out.html>. Accessed 21 Sep 2022
- Alpa G (1993) Status e capacità. La costruzione giuridica delle differenze individuali. Laterza, Roma-Bari
- Amendola G (1997) La città postmoderna. Magie e paure della metropoli contemporanea. Laterza, Roma-Bari
- Augustoni A, Alietti A. (eds) (2010) *Migrazioni, politiche urbane e abitative: dalla dimensione europea alla dimensione locale*, Rapporto 2010. Regione Lombardia in collaborazione con ISMU e Osservatorio per l'integrazione e la multiethnicità, Milano
- Bauman Z (2005) *Trust and fears in the cities*. Polity Press, Cambridge
- Bobbio N (1990) *L'età dei diritti*. Einaudi, Torino
- Bonafede G, Picone M (2012) Dimensione abitativa dei migranti e luoghi d'interazione a Mazara del Vallo. In Lo Piccolo F (ed) *Nuovi Abitanti e diritto alla città. Un viaggio in Italia*. Alinea, Firenze, pp 47–66
- Castles S, Kosack G (1973) *Immigrant workers in western Europe and class structure*. Oxford University Press, London
- Foucault M (1986) Other spaces: the principles of heterotopia. *Lotus Intern* 48(49):9–17
- Garcia M, Haddock SV (2015) Special issue: housing and community needs and social innovation responses in times of crisis. *J Housing Built Environ* 31(3):393–407. <https://doi.org/10.1007/s10901-015-9466-1>
- Gatto G, Mauro S, Pellegrino F (2011) *Spazi interculturali e luoghi identitari nei quartieri di Mazara del Vallo*, Master's Thesis in Pianificazione Territoriale, Urbanistica e Ambientale, Università di Palermo
- Giorgi C (2009) Quando l'immigrato è Dop. *Popoli. Mensile Internazionale Dei Gesuiti* 94(1):30–35
- Guarasi V (2011) *La città cosmopolita. Geografie dell'ascolto*. Palumbo, Palermo
- Harvey D (2012) *Rebel Cities. From the right to the City to the Urban Revolution*. Verso, London
- Kymlicka W (1995) *Multicultural citizenship: a liberal theory of minority rights*. Oxford University Press, Oxford
- ISTAT (2022) *Cittadini non comunitari in Italia | Anni 2021–2022*. Available via ISTAT. <https://www.istat.it/it/files/2022/10/Report-cittadini-non-comunitari-2022.pdf>. Accessed 28 Oct 2022
- ISTAT-Caritas (2014) *Le persone senza dimora*. ISTAT, Roma
- Lo PF, Leone D (2008) New arrivals, old places: demographic changes and new planning challenges in Palermo and Naples. *Int Plan Stud* 13(4):361–389. <https://doi.org/10.1080/13563470802519030>



- Lo Piccolo F, Leone D, Lo Bocchiaro G (2012) La questione abitativa dei nuovi cittadini in Sicilia tra risposte emergenziali, lavori temporanei e nuove attrattività del territorio. In Lo Piccolo F (ed) *Nuovi Abitanti e diritto alla città. Un viaggio in Italia*. Alinea, Firenze, pp 107–134
- Lo Piccolo F, Picone M, Todaro V (eds) (2021) *Urban regionalisation processes governance of post-urban phenomena in Sicily*. Springer, Cham, Switzerland
- Marcuse P (2012) Whose right(s) to what city?. In Brenner N, Marcuse P, Mayer M (eds) *Cities for people, not for profit. Critical Urban Theory and the Right to the City*. Routledge, London and New York, pp 24–41
- Medici Senza Frontiere (2005) *I frutti dell'ipocrisia*. Sinnos Editore, Roma
- Ministero dell'Interno (2022) *Sbarchi e accoglienza dei migranti: cruscotto statistico del 31 dicembre 2022*. Available via Interno.Gov. <https://www.interno.gov.it/stampa-e-comunicazione/dati-e-statistiche/sbarchi-e-accoglienza-dei-migranti-tutti-i-dati>. Accessed 3 Feb 2023
- Mirafab F, Diaz Mcconnell E (2008) Multiculturalizing rural towns: insights for inclusive planning. *Int Plan Stud* 13(4):343–360. <https://doi.org/10.1080/13563470802518982>
- Ponzo I (ed) (2010) *Immigrant Integration Policies and Housing Policies: The Hidden links*. Fieri Research reports. Available via FIERI. [https://www.fieri.it/wp-content/uploads/2013/04/Rapporto-social-housing-ethnic-minorities\\_def\\_125013-16032011\\_ita.pdf](https://www.fieri.it/wp-content/uploads/2013/04/Rapporto-social-housing-ethnic-minorities_def_125013-16032011_ita.pdf). Accessed 10 Oct 2022
- Sandercock L (2000) When strangers become neighbours: managing cities of difference. *Plan Theory Pract* 1(1):13–30. <https://doi.org/10.1080/14649350050135176>
- Sandercock L (2003) *Cosmopolis II: Mongrel cities of the 21st century*. Continuum, London
- Società Geografica Italiana (2008) *Atlante dell'immigrazione in Italia*. Carocci, Roma
- Soja EW (2011) Regional urbanization and the end of the metropolis era. In: Bridge G, Watson S (eds) *New companion to the city*. Wiley-Blackwell, Chichester, pp 679–689
- Teasdale S, Jones PA, Mullins D (2010) *Connecting the dots: the potential for self-help housing to address homelessness*. CRISIS, London
- Tosi A (1993) *Immigrati e senza casa. I problemi, i progetti, le politiche*. Franco Angeli, Milano
- Tosi A (1998) *Una Problematica Urbana Dell'immigrazione*. *Urbanistica* 111:3–13
- Tosi A (2010) *Le condizioni abitative*. In: Fondazione Ismu, Regione Lombardia, Osservatorio Regionale per l'integrazione e la multietnicità, *Dieci anni d'immigrazione in Lombardia. Rapporto 2009*. Fondazione Ismu, Milano, pp 353–364
- Zanini P (1997) *Significati del confine. I limiti naturali, storici, mentali*. Bruno Mondadori, Milano

# Ungoverned Living: Exploring Migrant Residency Practices in Poland



Clara Kleininger-Wanik and Michał Wanke

**Abstract** The chapter investigates Poland's transformation from a sending into a host society for migrants through the lens of housing issues and practices experienced by foreigners. As accommodation constitutes one of the most basic dimensions of migrant living, it was utilised as an indicator of migration policy implementation. We argue that Poland neither opposes nor governs migration, encouraging substantial numbers of people, yet not devoting critical attention to their accommodation or well-being in that matter. Qualitative interviews with foreign nationals (N = 25) were carried out and open-coded as part of an exploratory study. The analysis revealed that amid the lack of institutional support, migrants face precarious living conditions, experience prejudice while searching for accommodation as well as while renting, and—to some extent—respond to these inconveniences by self-organising in a quest to fill the void of housing market and accommodation-related services sector. This paper contributes to the discussion about Polish (effectively non-existent) immigration policy.

## 1 Introduction

Known traditionally as an emigration state (Zubrzycki 1953; Kindler 2018), Poland is currently turning into an immigration country. According to the Eurostat data (2021), Poland issued the highest number of first residence permits to non-EU nationals, among all EU states. They amounted to almost 600 000 out of more than 2 million such permits granted in the EU to third-party nationals. Germany and Spain were next, granting more than 300 thousand permits each. The largest number of these residents came from Ukraine (more than 600 000), with Poland issuing the vast majority of these permits (close to 500 000). With the net migration trends reversing from

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emigration to immigration, Poland can be conceptualised as a migration transition state (Okólski 2021).

Despite having been accepting more and more migrants (Duszczuk and Matuszczyk 2018) and slowly but consistently liberalising the regulations in access to the labour market for foreigners, Poland adopted an actual immigration policy only in late 2021 (Mołęda-Zdziech et al. 2021). There has also been a stark contrast between the actual situation (and demand) in the country expressed in the saturation of the labour market—and the sphere of attitudes and political actions towards foreigners in general. On one hand, Poland absorbed a great quantity of foreign workers but, on the other hand, saw the policy, discourse and public attitudes focusing on securitisation and portraying foreigners in a negative light (Klaus 2020).

International migration is one of the core globalisation processes (De Haas et al. 2019). Nevertheless, there is little globally coordinated response to it. It is rather approached individually by each state and various tacit strategies are applied. Antoine Pécoud (2021) identified different philosophies of migration governance:

- national/sovereign,
- global anti-migrant,
- global rights-based,
- managerial/developmental and
- free/non-governance.

National/sovereign governance assumes that migration should remain subject to state sovereignty, rather than to be a topic of international concern. This approach is based on nineteenth century nation-state ideas, which closely link the state with control over territory and inhabitants. Pécoud notes that over time states have decreased sovereignty concerning trade and markets, but little has changed where the flow of humans is concerned. According to this approach, migration is a potential security threat that needs to be regulated by each state. However, this does not necessarily entail an overall rejection of migration.

Global anti-migrant governance on the contrary posits that states and non-state actors do collaborate on a global level, to either foster global forced immobility—through collaboration of state and private-sector actors to hinder migration across borders—or to produce global labour exploitation. The labour exploitation interpretation suggests that strict control of migration enables a population of either illegal or deportable migrants, vulnerable to state authority and often deprived of stability or of rights, who make up an ideal cheap labour force.

Global rights-based migration governance, which as Pécoud demonstrates is already a century old, has nevertheless found little support in most European host-states, due to the above-mentioned ideas of national governance. This is proven by numerous ongoing human rights abuses on migrants. Global rights-based migration governance constitutes a foundation for the operation of international bodies such as the UNHCR, but the very fact that the planet requires an institution that intervenes to secure the rights of people who migrate, testifies to the lack of actual real-world application of the human-rights-based model.

Managerial/developmental global migration governance on the other hand asserts that “well-managed” migration can lead to development in the home country as well as offer labour market solutions for the host country. It calls for global cooperation to fulfil this promise, in a way that does not challenge the limits of state sovereignty and is championed by international organisations as a compromise between the interests of sending and receiving states and potential middle ground between the first and second approaches.

Finally, free (non-)governance of migration, which asserts freedom of movement across borders, still requires inter-state collaboration for minimum reciprocity and has been applied regionally, such as in the case of the EU. The arguments for such a governance at international level are based on either ethics or utilitarianism, but up to the present, there has been a surprising lack of discussion of them by IOs such as the UN.

The Polish approach could be described as a mix of national/sovereign and managerial/developmental philosophies because, at the level of social cohesion or inclusion, it does not address the needs of incoming people, but on the instrumental and economic level, it encourages or facilitates migration. As the anti-migrant and explicitly anti-refugee rhetoric was weaponised in the parliamentary elections in Poland in 2015 (Drozdzewski and Matusz 2021), the country’s mainstream narratives were drenched with islamophobia, othering and moral panic with some positive counter-narratives of activists and NGOs working with the handful of refugees who actually came to Poland (Jaskulowski 2019).

Amid these harsh circumstances expressed in negative attitudes (Jaskulowski and Pawlak 2020) as well as lack of the active migration policy on the state level (Ślęzak and Bielewska 2021), migrants in Poland may experience precariousness (Filipek and Polkowska 2020), violation of labour rights (Keryk 2018), unfavourable judiciary (Klaus and Szulecka 2021), disconnectedness from the host society (Kindler and Wójcikowska-Baniak 2019) that lead to relying on niche ethnic networks (Bielenin-Lenczowska and Patzer 2022). Also, for many—especially Ukrainian migrants—there is a lot of uncertainty due to the temporary nature of their migration (Górny and Kindler 2016) that in turn is highly linked to the delays in issuing residence permits (Kyliushyk 2019).

Among many dimensions of migrant living, housing is one of the most basic aspects of migration for obvious reasons (Lozanovska 2019). Structural tensions that the immigrants to Poland are subjected to extend to the field of accommodation as well. This paper presents the data from an exploratory qualitative study with Ukrainians and other foreigners residing in Poland. It discusses different themes of migrant housing, including precarity, insecurity, discrimination and the filling in of the institutional void, in order to start the discussion on governance of migration in general and migrant housing issues in particular. It attempts to illuminate the discussion amid the lack of policies towards people who migrate to Poland.

## 2 Migrant Housing

Dwelling, understood as both inhabiting a place physically as well as socially (Lombard 2021) is a central factor of the migrant experience. It is often an area in which migrants are disadvantaged (Diacon et al. 2008), as poor living conditions, a lack of control over the environment and a perceived or actual constant risk of eviction contribute to a precarious situation that is interdependent with other areas of the migrants' lives, such as their position on the labour market and social relationships.

We choose to focus on the themes of prejudice and precarity and the characteristic bottom-up organisation of the migrants themselves, as these are the points highlighted in a majority of interviews as representative of the situation of migrant dwellers in Poland. Applying the concept of precarity to understand migrant housing and home-making is a relatively new approach, whose roots can be traced to discussions on housing insecurity and instability (Lombard 2021). The idea of home, associated with a safe, stable space, stands in contrast to the housing insecurity experienced by migrants, characterised by markers such as “lack of privacy, lack of belonging, lack of physical comfort, housing mobility, housing instability and feeling unsafe” (Lombard 2021, p 4).

Clair et al. (2018) propose precariousness as an extension of the secure/insecure binary, which takes into account overcrowding, frequent moves and poor-quality housing. According to the authors, precariousness offers a scale that can illustrate complexity of housing experiences more accurately. While renting—often the only available option for newly arrived migrants—is generally considered one of the factors that determine housing precarity, Clair et al. (2018) note that, given certain renting policies—like the indeterminate leases frequent in Germany, renting does not have to be inherently precarious. Such policies can form a good model to be employed in Poland in the future.

Numerous authors stress the importance of agency when considering migrant dwelling (Waite 2009; Parutis 2011). Migrants employ diverse strategies to achieve their goals and these differ depending on the perceived timeframe of migration—temporary or settled. In the case of Poland especially, the lack of institutional support further calls upon the migrants themselves for a bottom-up organisation. In a study of social ties of Ukrainians living in Poland, Kindler and Wójcikowska-Baniak (2019) find that the migrants' social circles are made up mainly of fellow Ukrainians, usually in similar occupation and with a similar migration profile to themselves. They identify these ties to be a result of living, work and study conditions that bring the migrants together. An example of this is university dormitories that adhere to a policy of keeping foreign students separate from Polish students and thereby offer little opportunity to form close relationships with the host country population (Deutschmann and Wanke 2020). Bridging ties, defined as ties that allow access to social circles distinct from one's own, can offer important social capital, instrumental and emotional support, but also tend to stay within the migrant circle.

Discrimination on the rental housing market has been demonstrated in numerous research across Europe and the US and is considered one of the main disadvantages migrants face (Auspurg et al. 2019; McKee et al. 2021; Van der Bracht et al. 2015). Based on the qualitative data we have gathered, we focus on ethnic discrimination. In our interviews, the most important aspects appeared to be country of origin and language proficiency. However, the literature shows that race (Jaskulowski and Pawlak 2020) and gender both play important parts in how potential tenants are treated by landlords. For example, field experiments carried out in Ireland and Finland note an intersection of ethnic and gender discrimination, as in the case of male migrants being the least likely to get invited for a house viewing in Ireland (Gusciute et al. 2022) and the least likely to receive a response to an online inquiry in Finland (Öblom and Antfolk 2017).

### 3 Method

This study draws on 25 pilot qualitative interviews with foreign nationals residing in Poland for studies or work. Due to the structure of immigration to Poland, 5 of the interviews were conducted with Ukrainians residing in Poland and the remaining 20 were conducted with a diverse group of different other nationals (Argentinian, Bangladeshi, Cameroonian, Canadian, Chinese, French, Ghanaian, Italian, Kongolese, Mexican, Nigerian, Pakistani, Russian, Spanish, Vietnamese). The former ones were conducted in Ukrainian by a trained investigator and the latter 20 were conducted by the author's international student group—in English. The informants were based in major Polish cities, mostly in the South of Poland, where the authors are based, but also included the capital and rural areas of the Southern regions.

The maximum variation purposive sampling technique was applied in order to achieve high saturation of the explored topics. The interview guidelines included different five thematic sections regarding: the person's identity, the mobility process, the settlement, the living experiences and the role of Polish language. The mean age of the informants is 30.5 years old (min. 21, max. 44) and 7 of them are female. The gender composition and the age structure reflect the migrant community characteristics.

The interviews were later transcribed (and translated into English in case of the Ukrainian respondents). They were then open coded by the authors and subjected to focused coding. The living arrangement-related themes were selected, including “precariousness”, “discrimination” and “bottom-up organisation”.

This exploratory study is limited in scope and is meant to fill the gap in the field of qualitative research among people who migrate to Poland. It also attempts to put the migrants who are not members of the Ukrainian majority in the spotlight. First and foremost, this study opens the scholarly discussion on housing and accommodation of Polish immigrants. However, the generalisability is very limited here, especially due to the lack of referential data about the structure of the immigrant community in Poland and possible systematic exclusion of representatives of specific groups,

e.g. linguistically unavailable to the researchers. However, the unfavourable patterns identified in this study seem to be even more relevant to other people who migrate to Poland and who also occupy less privileged class positions. Nevertheless, the aim of this paper is to identify the themes and start the scholarly discussion on these topics.

## 4 Results: Prejudice, Precariousness and Bottom-Up Responses

The most common experience of migrants looking for accommodation in Poland is an encounter with openly stated discrimination in the private rental market. This discrimination is most apparently tied to not speaking Polish, but even a basic knowledge can be insufficient, as reported by this migrant from Canada, who has experience looking for a rental flat in several European countries, and found the interactions in Poland decidedly more discriminatory.

I looked on OLX,<sup>1</sup> the website, and I didn't get an apartment because I don't speak Polish and they generally do not rent to people who don't speak Polish. I mean, I can go through Polish conversation but I find them to be not understanding of foreigners (Canada-05-male).

Having an accent can already be enough to cross the migrant off the list of candidates for an apartment, as in the account of this Moroccan woman. These instances indicate that the difficulties in securing an apartment are not the result of a communication problem or a lack of common language, but rather an extension of media-induced panic and discriminatory political discourse adopted by some of the Polish majority in the absence of actual experience of previous interactions with foreigners.

(L)ater on when I started to look for (an) apartment on my own, it was very difficult for me to find something because people, whenever they hear some accent in my language or they hear that I'm not from Poland, they don't want to rent the place (Morocco-20-female).

The basis of discriminatory behaviour differs, spanning from attitudes rooted in racism and islamophobia in contact with migrants that have been little present in Poland up to this point, as in the examples above, to those rooted in historical animosity, roused to new intensity by the recent political insistence on revisiting historical blame towards the Polish state and citizens (Jaskulowski and Majewski 2022) and turning this rhetoric into a modern argument in international politics. This quote from a female marketing expert from Russia lightly hints at this dynamic, the interviewee being likely well-acquainted with this reception:

The first owner wasn't very positive about my Russian accent when I spoke Polish to him, but luckily I found a better apartment with a better landlord (Russia-09-female).

Along the same lines, a cameraman and editor from Ukraine, having lived 10 years in Poland, recalls one of his landlords' reaction when said landlord discovered the nationality of his newly signed tenants:

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<sup>1</sup> One of the most popular online marketplaces, used also for rental exchanges in Poland.

The owner of the apartment, when he was renting to us, immediately said: 'Damn, I did not know that you are Ukrainians, I did not understand on the phone.' I asked: 'What's the problem?' and he said, 'I don't have anything specific to say, but I don't like Ukrainians in general, because the UPA,<sup>2</sup> the murders, all the past... blah-blah-blah.' To me, it's like saying I don't like the Germans because they attacked the Ukrainians and the Soviet Union (Ukraine-23-male).

In this case, this was not a critical factor and did not result in declining rent, but the landlord's reaction suggests that if he had realised on the phone that he is dealing with Ukrainians, he might have refused to meet and rent the apartment to them.

Some criteria of discrimination, as reported by our interviewees, seem decidedly more puzzling. In one account, a Cameroonian resident of Poland stated that he is lucky to be a Cameroon national and compared himself to a Nigerian friend who was openly refused rental because of his nationality (and not race):

He presented his passport, so they found out he was from Nigeria and they said: 'No no no.' The issue was not [being] black. Even when he called, they knew already from your voice. They know that you are black, so when he comes to sign the contract with the money, everything... When they saw his passport, they found Nigeria, they said: 'No no no. No no, no no, we don't want any Nigeria in this apartment, no'. He asked a question, he said: 'what is their problem?' They say 'Nigeria no' (Cameroon-03-male).

Beyond noting the participants' expectation that skin colour might be a reason for exclusion by the potential landlord, an awareness shared by most migrant from Africa in Poland, we can only guess at the reason for this peculiar discrimination, possibly due to a higher frequency of news related to Nigeria or Nigerian nationals in Poland or even abroad.

Speaking Polish with an accent or having a foreign name is stigmatising enough to induce negative reactions, already at the moment of setting up a meeting or a house visit, thereby denying the migrants even a starting chance to find suitable accommodation. As possible solutions, interviewees note hiring an intermediary, an agency that, even while increasing costs, bypasses direct contact with the owners. Another widely practised strategy is renting from other foreigners, as mentioned by a few of our interview partners.

The already restricted number of accommodations available for rent, coupled with potentially low and unstable income and a lack of access to benefits result in migrants being forced into precarious and vulnerable relationships with the owners of the apartments. This Ukrainian former student, currently working as a taxi driver, stresses a feeling of lack of control over housing conditions, a situation closely associated with precarious living (Lombard 2021).

Not that I had any choice, it was a more forced measure, because at the beginning I could not rent an apartment, so I had to live in a dormitory. Then the dormitory turned out to be more expensive than renting an apartment for several people, so I had to move to the apartment. Well, due to various circumstances of life, I had to move, that is, I do not really choose myself (Ukraine-24-male).

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<sup>2</sup> UPA: Ukrainian Insurgent Army, II World War nationalist paramilitary and later partisan organisation.

He was brought to Poland as an enrolled student and was assigned to a dormitory. Additionally, the costs of living outside of the student housing are beyond the financial capacity of many students choosing this Central-European country for its affordable education. The following two anecdotes through which the same participant from the Ukraine discuss the relationship with the owners of the apartments he subsequently rented bring out two further defining features of housing insecurity, a lack of privacy:

(H)e could just walk into my room in the middle of the day, no matter what I was doing, whether I was in the room or not (Ukraine-24-male).

As well as a lack of legal resources, institutional support and knowledge that could help him stand up to unfair treatment:

The second owner was a little unbalanced, he sometimes had unfounded outbursts of rage, out of thin air. During one of these fits, we had an argument and I had to leave. And he didn't give me the deposit for the apartment. He made a hundred excuses, said he would bring me to court, for an unknown reason. As a foreigner, I didn't really want to be called to court, so I decided to just move out because this person was a little unbalanced (Ukraine-24-male).

The participant links being a foreigner to being vulnerable, a perceived invisibility in front of the law, or worse, the danger that attracting the attention of lawmakers can only have negative consequences for a foreigner, which circles back to Pecoud's (2021) considerations on an absence of international standards guaranteeing migrants rights.

In precarious living, instability, a lack of privacy and ability to defend one's interests is complemented by overcrowding and at times mouldy, old or dirty quarters. It is interesting to note Filipek and Polkowska's (2020) "latent precariousness" concept, which brings attention to the fact that what migrants perceived as precarious might not fit the frame of the host society, with migrants explaining away bad conditions, as in the case of the Ukrainian cameraman mentioned above, who simultaneously gives the definition of poor housing conditions, and finds a way of playing down the disadvantages:

When I was working on plastic windows, I moved into the house they provided us. The house was so-so, very old and damp. But there were also two lakes, fishing rods, bicycles. So there I felt at home. My physical condition also improved there, because there was a lot of physical work. In that house there was very old furniture, in the winter we heated it with a stove. And during strong frosts in winter it was very cold (Ukraine-23-male).

What feeling at home, as mentioned by the participant above, can mean has been broadly discussed (Al-Ali et al. 2002). The idea of "home" often entails a sense of feeling comfortable and secure.

It can refer directly to homeownership, as the English word entails, and as some of the interviewed migrants confirm. Being owner and not tenant is associated with stability and freedom to arrange and decorate the space according to personal need and taste, as this 25-year-old bartender from Ukraine describes:

In a rented apartment I can arrange something for myself, but again, it's the feeling of a rented apartment... something not mine. (...) Property deeds sound cliché and ugly, but in reality, these property deeds give you the confidence that it's yours. Repairs, modifications(...) in a

rented apartment, how can you do it? At most, you can rearrange the furniture (Ukraine-25-female).

However, the concept of home includes not only a roof over the head but is closely linked to “multiple social processes (such as caring, relations with neighbours, etc.) and results in multiple identities (of gender, race, class, age, etc.)” (Parutis, 2011, p. 271). In consequence, for many, home is only possible in the country of origin, as such relationships are impossible to recreate in Poland:

All my life I have lived in Ukraine, all the time in the same apartment, which I can consider my home. It’s something I have in my heart for the rest of my life. The only such place, a cosy nest and so on... As long as I live, I will never find such an apartment in Poland (Ukraine-25-female).

Nevertheless, as Parutis (2011) goes on to note, in contrast to mainstream literature, domesticity is not the exclusive domain of family life, but can be created by a group of strangers, who come together to support each other.

Commonly rented spaces are often inhabited by several migrant workers, arrangements called households of multiple occupation (HMO) and offer both advantages and disadvantages. Living with strangers in an overcrowded apartment can put strains on privacy and fuel conflicts. As a welding machine operator from Ukraine recounts:

Here, when we arrived, there were 4–6 people in each place. It was like a dormitory. If at least you lived with people (...) with whom you have something to talk about. But it turns out these people worked in completely different professions, in different fields. And there were such conflicts, they simply could not find a common language. But then they somehow adapted to each other and that was normal... I lived with Ukrainians (Ukraine-26-male).

Advantages range from reducing costs to easing feelings of loneliness, by replacing friends and family left back home with a new social circle. Providing help to each other is especially important in the case of the aforementioned prevalence of informal help and bottom-up organisation in a vacuum of official policies or state support. A whole system of knowledge transfer is in place to support newcomers by those who are more experienced. Especially in the case of migration from the Ukraine, with a large community already on site, those who have been present in Poland longer take the responsibility for newly arrived members of their social group:

When I came to apply to [the name of the school] (the second time I came here), I brought a small group with me, from my own city, and I was the leader, because I had already been here and I was directing them, supervising them. I had already looked for an apartment, and the goal was to find an apartment in which we could all fit and we would pay a normal price for. We were students and it was still expensive (Ukraine-23-male).

This is an example of a localised, grass-roots entrepreneurship, that is both meant to be helpful and also beneficial for the initiator. The same person had been previously “mentored” by others when first arriving, and he draws attention to the fact that knowledge of Polish language is of great advantage when navigating the private rental housing market:



In our group of students there were several people who came from western Ukraine and knew the Polish language well. They taught us like teachers, were like elders, organisers, and decided everything. They rented an apartment, made the deal and we moved in (Ukraine-23-male).

In their study on migrants' social networks, Kindler and Wójcikowska-Baniak (2019) explain how migrant students make up for a lack of formal help from the university by replacing it with social ties formed in the dormitory among other foreign students. Even significantly smaller and more recent diasporas are well connected and apparently skilled at navigating the difficulties of migrant housing, as stated by this woman from Cameroon, who lives in Poland with her extended family, and who is a homeowner:

Yes, it was easy for me because as I said, I had people that were already living here so they already knew what to do. So yeah I was not alone. [...] We got the information from one Cameroonian friend that was living in another city. And then it came to our knowledge that as a foreigner you could buy a flat here (Cameroon-08-female).

She belongs to a small diaspora group who actually managed to establish themselves in the Polish labour market as well as enter the housing market. They were advising and referring to each other, getting bank loans and buying estate. With such support, it is possible to make informed decisions and pursue life goals.

## 5 Discussion and Conclusion

We claim that the migration processes to Poland are purposefully encouraged for economical reasons, yet there is almost no institutional responsibility or monitoring on the part of the host country to address different needs or issues of people who migrate to Poland, nor endeavours to govern the induced immigration. It can be even argued that the overlook in “management” of the situation involves Polish security issues (Jaroszewicz and Grzymiski 2021) that should be of the deepest concern of the state functioning. With housing remaining both an absolutely basic and rather neglected domain of migrant living (Lozanovska 2019), it is left for “self-regulation” both from the perspective of people who migrate and the host society and the state. Our analysis unveiled three major themes that concern Polish immigrants: (1) precariousness of living condition, its normalisation and consequences, (2) the prejudice faced predominantly during the search for accommodation, but also in the relationships with landlords and (3) bottom-up “institutionalisation” of the accommodation endeavours, an instant saturation of the field with semi official solutions and networks.

The first theme, precariousness, appears to be connected to different factors. Instability is the main of them, as unexpected loss of place to live or the risk of eviction (possibly caused by a myriad of factors ranging from the conflict with landlord or co-habitants or simply, by a change in financial situation) presents itself as an imminent threat. The lack of privacy is characteristic of precarious living settings. Many people who migrate to Poland live in HMOs and in attempts to decrease the

costs and maximise the profit of their migration endeavours, they sacrifice their privacy and comfort to live with others, who are typically in similar positions. These arrangements result in experiencing insecurity and more broadly not feeling “at home” or even attempting to “domesticate” the lived space. Additionally, experiencing dirt, unhealthy or cramped living conditions, not only takes its toll but is actively normalised as a part of the sacrifice one has to make when migrating for economic reasons.

One of the main factors that pushes migrants into these precarious conditions and petrifies their situation is prejudice directed against them. Prejudice in the rental market is seemingly connected to language as non-Polish speakers are excluded almost entirely from renting from private owners. Nevertheless, speaking the language does not guarantee acceptance as accent and other traits of otherness can complicate one’s position in the renting market.

Grassroots movements are typically praised by social scientists as they institutionalise otherwise socially empty spaces and fill in the lack of institutions. In the case of migrant accommodation, a stark discrepancy in power relations occurs: people who approach the housing market from the outside are vulnerable because of the lack of information, know-how, language barrier and being desperate to find a place to stay. This is why this sphere is prone to misdemeanours or reproduction of inequalities, and a state that would desire to govern the migration process, should consider paying careful attention to these processes. This is not the case in Poland, where the only “institutionalisation” of the rental or real estate market for foreigners happens thanks to efforts of the former ones. There exist already established networks, based on national or ethnic background, that provide self-help, guidance or connections. This segmentation of resources seemingly enforces segregation of migrants further denying them chances to develop any sense of belonging to the hosting society.

All three domains could well be major policies of the host society had the philosophy behind Polish migration policy been based on the managerial/developmental paradigm. With such a motivation, it would be productive and pragmatic to avoid conflicts, discomfort, disturbance or simply to utilise the grassroots potential of self-organisation. Instead, the migrants are left to be subjected to precariousness and prejudice as well as a grey zone of a semi-official “accommodation market”.

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## References

- EUROSTAT (2021) First residence permits visualised. Retrieved February 28, 2022, from <https://ec.europa.eu/eurostat/en/web/products-eurostat-news/-/wdn-20211102-1>
- Al-Ali N, Koser K (2002) *New approaches to migration?: Transnational communities and the transformation of home*. Routledge, London and New York

- Auspurg K, Schneck A, Hinz T (2019) Closed doors everywhere? A Meta-analysis of field experiments on ethnic discrimination in rental housing markets. *J Ethnic Mig Stud* 45(1):95–114. <https://doi.org/10.1080/1369183X.2018.1489223>
- Bielenin-Lenczowska K, Patzer H (2022) Restaurant backyards, food stores, and temples: invisibility, informal labour practices, and migrant networks in the suburbs of Warsaw. *Informality, labour mobility and precariousness*. Palgrave Macmillan, Cham, pp 69–93
- Clair A, Reeves A, McKee M, Stuckler D (2018) Constructing a housing precariousness measure for Europe. *J Eur Soc Policy* 29(1):13–28
- De Haas H, Castles S, Miller MJ (2019) *The age of migration: International population movements in the modern world*. Bloomsbury Publishing
- Deutschmann M, Wanke M (2020). *Risk University: uncertainty of the late modernity coming too early*. *Soc Reg* 4(3)
- Diacon D, Pattison B, Vine J, Yafai S (2008) *Home from home, addressing the issue of migrant workers' housing*. Building and Social Housing Foundation, Coalville
- Drozdowski D, Matusz P (2021) Operationalising memory and identity politics to influence public opinion of refugees: a snapshot from Poland. *Polit Geogr* 86:102366
- Duszczyk M, Matuszczyk K (2018) The employment of foreigners in Poland and the labour market situation. *Cent Eastern Eur Migr Rev* 7(2):53–68. <https://doi.org/10.17467/ceemr.2018.07>
- Filipek K, Polkowska D (2020) The latent precariousness of migrant workers: a study of Ukrainians legally employed in Poland. *J Int Migr Integr* 21:205–220. <https://doi.org/10.1007/s12134-019-00708-6>
- Górny A, Kindler M (2016) *The temporary nature of Ukrainian migration: definitions, determinants and consequences*. *Ukrainian migration to the European Union*. Springer, Cham, pp 91–112
- Gusciute E, Mühlau P, Layte R (2022) Discrimination in the rental housing market: a field experiment in Ireland. *J Ethn Migr Stud* 48(3):613–634. <https://doi.org/10.1080/1369183X.2020.1813017>
- Jaroszewicz M, Grzymski J (2021) Technocracy revisited: The Polish security Dispositif and Ukrainian migration to Poland. *J Contemp Eur Res* 17(2). <https://doi.org/10.30950/jcer.v17i2.1215>
- Jaskulowski K (2019) *The everyday politics of migration crisis in Poland: between nationalism*. Springer International Publishing, Fear and empathy. <https://doi.org/10.1007/978-3-030-10457-3>
- Jaskulowski K, Majewski P (2022) Populist in form, nationalist in content? Law and Justice, nationalism and memory politics. *Eur Politics Soc* 1–16
- Jaskulowski K, Pawlak M (2020) Migration and lived experiences of racism: the case of high-skilled migrants in Wrocław, Poland. *Intern Mig Rev* 54(2):447–470
- Keryk M (2018) *Working in Poland: violations of the labour rights of Ukrainian migrants in the construction and services sectors*. STRONGLAB Project. Fundation Our Choice, Visegrad Fund, Ministry of Foreign Affairs of the Kingdom of the Netherlands, pp 3–44
- Kindler M (2018) Poland's perspective on the Intra-European movement of poles. Implications and Governance Responses. In: Scholten P, van Ostaijen M (eds), *Between mobility and migration*. Springer International Publishing, pp 183–204. [https://doi.org/10.1007/978-3-319-77991-1\\_10](https://doi.org/10.1007/978-3-319-77991-1_10)
- Kindler M, Wójcikowska-Baniak K (2019) (Missing) bridging ties and social capital? The creation and reproduction of migrants' social network advantages: the case of Ukrainian migrants in Poland
- Klaus W (2020) *Between closing borders to refugees and welcoming Ukrainian workers: Polish migration law at the crossroads*. *Europe and the Refugee Response*. Routledge, pp 74–90
- Klaus W, Szulecka M (2021) The judiciary power of discretion in sanctioning the facilitation of unauthorised stay in Poland. *Int J Crime Justice Soc Democr* 10(3):72–86
- Kyliushyk I (2019) Legal conditions for employment of foreigners in Poland in theory and practice. *Zoon Politikon* 10(10):125–144
- Lombard M (2021) *The experience of precarity: low-paid economic migrants' housing in Manchester*. *Hous Stud*. <https://doi.org/10.1080/02673037.2021.1882663>
- Lozanovska M (2019) *Migrant housing: architecture, Dwelling*. Routledge, Migration

- Mckee K, Leahy S, Tokarczyk T, Crawford J (2021) Redrawing the border through the 'right to rent': exclusion, discrimination and hostility in the English housing market. *Crit Soc Policy* 41(1):91–110. <https://doi.org/10.1177/0261018319897043>
- Molęda-Zdziech M, Pachocka M, Wach D (2021) Immigration and Integration policies in Poland: institutional, political and social perspectives. *Local Integration of Migrants Policy*. Palgrave Macmillan, Cham, pp 169–199
- Okólski M (2021) The migration transition in Poland. *Central Eastern Eur Mig Rev* 10(2):151–169. <https://doi.org/10.17467/CEEMR.2021.16>
- Öblom A, Antfolk J (2017) Ethnic and gender discrimination in the private rental housing market in Finland: a field experiment. *PLoS ONE* 12(8):e0183344. <https://doi.org/10.1371/journal.pone.0183344>
- Parutis V (2011) “Home” for Now or “Home” for Good?: East European Migrants’ Experiences of Accommodation in London in Home Cultures, November <https://doi.org/10.2752/175174211X13099693358799>
- Van der Bracht K, Coenen A, Van de Putte B (2015) The not-in-my-property syndrome: the occurrence of ethnic discrimination in the rental housing market in Belgium. *J Ethn Migr Stud* 41(1):158–175. <https://doi.org/10.1080/1369183X.2014.913476>
- Ślęzak E, Bielewska A. (2021) Cities’ migration policies in a country with a deficit of migration policy. The case of Poland. *International Migration*
- Zubrzycki J (1953) Emigration from Poland in the nineteenth and twentieth centuries. *Popul Stud* 6(3):248–272. <https://doi.org/10.1080/00324728.1953.10414889>

# Urban Versus Rural: Migrants and Housing Issue in Euro-Mediterranean Contexts



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**Abstract** This chapter reinterprets the phenomena of the territorial and spatial distribution of migrants in Italy, attempting to reason about the settlement dynamics that characterise them (particularly with reference to the main Italian metropolitan cities). From this point of view, the research highlights how the main forms of immigrant concentration are recorded mainly in strongly monocentric metropolitan cities, such as Turin, Milan and Palermo. On the other hand, the distribution of migrants in small and medium towns close to large cities is mainly recorded in the most articulated and complex metropolitan cities, such as Rome and Naples. Finally, a significant territorial dispersion of the foreign population with respect to large cities corresponds to polycentric metropolitan cities, especially Florence and Venice, traditionally characterised by a strong specialisation of local economies. In these contexts, the foreign population is distributed outside the major centres, being engaged in specialised work activities, variously distributed over the territory. With respect to these conditions, the strictly urban dimension nevertheless shows its limits with respect to a phenomenon, such as migration, that tends to disperse over the territory. In these contexts, the territorial distribution of the foreign population also reveals unprecedented forms of “rootedness” that highlight clear divergences from the traditional urban contexts of analysis. A specific focus concerns the case of Sicily, where quantitative distributional issues are confronted in particular with the qualitative housing dimension in urban and rural areas, and where aspects of the ethical responsibilities of planning instruments are explored.

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## 1 Migration Phenomena in the Euro-Mediterranean Context

Towards the end of the 1970s, a concomitance of factors, largely ascribable to the progressive adoption in Northern European countries of restrictive immigration policies, directed a substantial part of international migratory flows traditionally directed towards Northern countries to move towards Southern ones. This has directly affected countries in the Euro-Mediterranean context (Lo Piccolo et al. 2021).

In these contexts, due to the concomitance of specific conditions among which the regulatory and institutional tolerance of immigration, the high levels of informality in labour market insertion and the presence of an ever constant demand coming from the primary sector and personal services (Caruso 2013), what is commonly referred to as the “Mediterranean model of migration” (Baldwin-Edwards and Arango 1999; King 2000) is consolidated. This model is clearly traceable in systems of intensive agricultural production development, characterised by monofunctional specialisation. In these same contexts, Berlan (2008) re-read the characteristics of the “Californian model” (analogous to what happens in California with the exploitation of Mexican labour in the US agricultural sector), whose success is determined by the migrant labour component, with its characteristics of irregularity, flexibility, surplus and ethnic fragmentation. These conditions, now common to all Euro-Mediterranean countries, and especially Greece (Kasimis et al. 2003; Kasimis and Papadopoulos 2005; Lambrianidis and Sykas 2009; Kasimis 2010), Spain (Hoggart and Mendoza 1999; García Torrente 2002) and Italy (Reyneri 2007), identify territorial contexts in which controversial “both pre-modern and hyper-modern forms of exploitation” (Caruso 2013, 2) are found.

In the light of these considerations, this contribution reinterprets the phenomena of the territorial and spatial distribution of migrants in Italy, attempting to reason about the settlement dynamics that characterise them (particularly with reference to the main Italian metropolitan cities). A specific focus concerns the case of Sicily, where quantitative distributional issues are confronted in particular with the qualitative housing dimension in urban and rural areas, and where aspects of the ethical responsibilities of planning instruments are explored.

## 2 Migrants and Italian Metropolitan Cities

The recent history of incoming migration to Italy records three significantly different periods. The period involving the 1970 and 1980s, with migratory phenomena tending to be modest; the period involving the 1990s and the first 10 years of the 2000s, characterised by an extraordinary growth; and finally the subsequent period up to 2021, when the flow of migrants seeking international protection slowed down significantly. From 2021 to the present, from news data, migration flows appear to have significantly increased due to the political conditions in the countries of origin.

In correspondence with the first migratory flows in the 1970s that affected Italy, the phenomenon was essentially characterised by forms of “border” migration, typical of border movements between neighbouring areas: these flows have always operated on an at least national (if not international) scale; therefore, the areas affected by these flows are configured as areas of entry rather than final destination (Bonifazi 1994).

Indeed, during the 1980s, first settlements were consolidated in southern Italy, but at the same time they became transit areas for the larger labour markets of the northern regions (Lombardy, Piedmont, Sardinia) (Bonifazi 1994).

In the transition to the 1990s, two other areas attracted the main flows of migrants: the Northeast (especially Veneto and Trentino), where foreign workers entered the small business sector and, at the same time, the Centre (especially Tuscany and Marche), where they found work in agriculture and industry (Balduzzi 2016). In the same period, in addition to the overall quantitative growth of foreigners residing in Italy, there was also an evolution in the profile of the migrant component in terms of an increase in the presence of women and young people (from 0 to 4 years and from 10 to 14 years), a clear sign of the process of stabilisation of the presence of the first nuclei and subsequent family reunification.

Since the end of the 1990s, and with the effects of EU enlargement towards the East, the migrant population in Italy has become a structural reality that has contributed to changing the country, both culturally and socio-economically.

Today, the non-EU foreign population legally residing in Italy on 1 January 2022 is 3,561,540. In 2021, it amounted to 3,373,876 and thus increased by about 6% in 1 year (Istat 2021).

In 2021, 241,595 new residence permits were issued in Italy, an increase of 127% over the previous year due to the effect of the post-pandemic. This increase brings the figures back to those recorded in 2018. Most of the non-EU population comes from Morocco, Albania, China and Ukraine, which alone make up 38% of the total. In the last year, the largest growth is recorded for citizens from Ukraine, Bangladesh and Egypt.

In relation to territorial distribution, 61.7% of the presences are concentrated in Northern Italy, approximately 24% in Central Italy, and finally the remaining 14.2% in the South. In the central-northern regions, the Lombardy region, with 26.1%, represents the territory with the highest concentration among regions in Italy (Istat 2021).

In relation to the Italian metropolitan cities, Milan with 12.4% and Rome with 9.4% present the most significant values compared to the national total. These territories are followed by Turin, Naples, Florence and Bologna with values between 2.90% and 2.10%. Among the metropolitan cities of the extreme South, the one with the highest values is Bari with 1.0%, while the three metropolitan cities with the lowest values are Messina, Reggio Calabria and Cagliari with 0.4% (Table 1 and Fig. 1).

In relation to the 2021–2010 variations in the number of legal residents, the national figure is in general decline, with the greatest negative variations recorded in Reggio Calabria with  $-18.10\%$  and Turin with  $-11.50\%$ ; while the least negative

**Table 1** Non-EU citizens legally residing in the Italian metropolitan cities, 1 January 2021

Metropolitan city	Women (%)	Minors (%)	Total (absolute value)	% of national total (%)	Change in regular residents 2021/2010 (%)
Milan	50.00	22.50	418,216	12.40	-5.70
Rome	49.50	15.80	318,443	9.40	-5.60
Turin	50.00	23.60	98,718	2.90	-11.50
Naples	51.20	14.80	86,238	2.60	-6.00
Florence	50.10	21.40	85,119	2.50	-9.50
Bologna	52.70	21.20	72,251	2.10	-7.40
Venice	52.20	22.90	59,124	1.80	-4.50
Genoa	49.90	21.70	57,382	1.70	-7.70
Bari	48.60	22.00	33,951	1.00	-8.40
Palermo	46.90	20.90	22,070	0.70	-7.90
Catania	47.20	22.50	20,691	0.60	-5.90
Messina	49.70	21.20	13,840	0.40	-5.00
Reggio Calabria	47.70	17.50	13,346	0.40	-18.10
Cagliari	49.00	15.60	13,011	0.40	0.70
Other provinces	49.02	23.30	2,061,476	61.10	-6.70
Italy	49.50	22.10	3,373,876	100.00	-6.70

Source Ministero del Lavoro e delle Politiche sociali (2021), based on Istat-Ministry of the Interior data

value is recorded in Venice with  $-4.50\%$ . Cagliari is the only Italian metropolitan city to record a positive variation of  $+0.70\%$  during the period considered (Table 1 and Fig. 2).

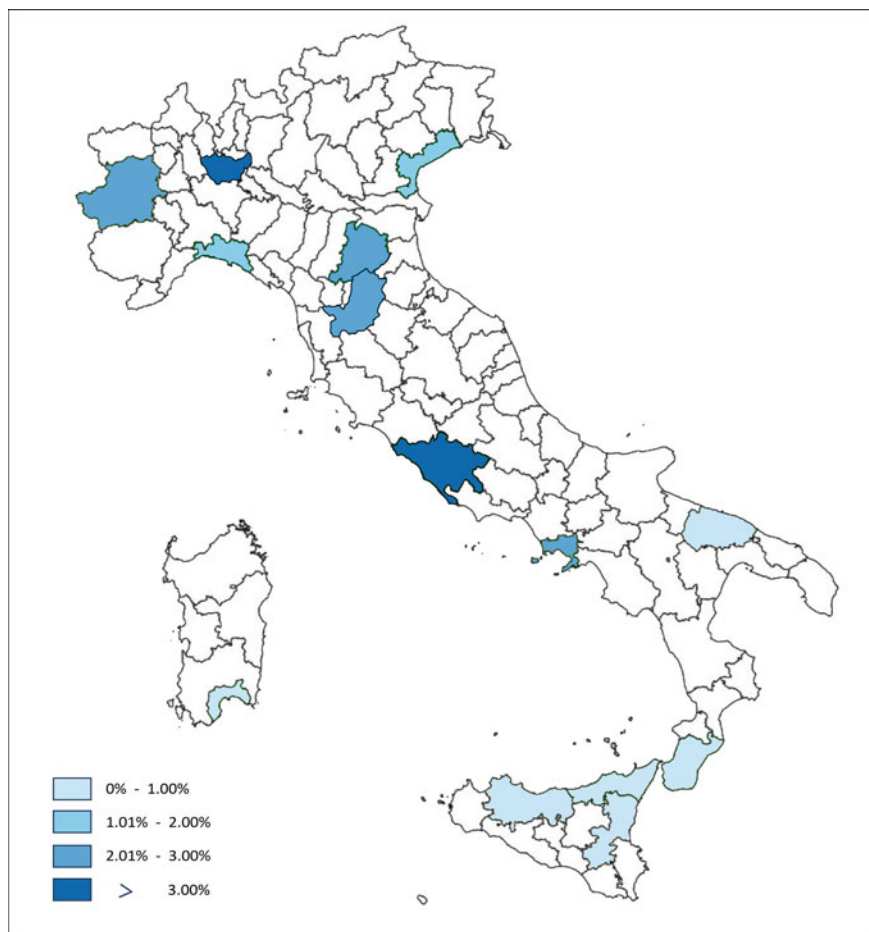
With respect to the gender distribution, in general, there is an almost perfect gender balance; however, in the Southern metropolitan cities (particularly in Palermo, Catania and Reggio Calabria) the male component prevails over the female one.

With regard to minors, the situation appears more balanced between the North, the Centre and the South, with values varying between Turin with  $23.60\%$  and Naples with  $14.80\%$  (Table 1).

Both the presence of women and minors are particularly useful in verifying the level of stabilisation of the migrant population in the territory, as they contribute to the detection of the presence of family units, which are an important indicator of the territorial rootedness of this presence.

While on a macro-territorial scale, the quantitative data partly restore the consistency of the migratory phenomenon, allowing us to have a fairly clear picture of the country, they do not allow us to go into the merits of the reasons behind it.



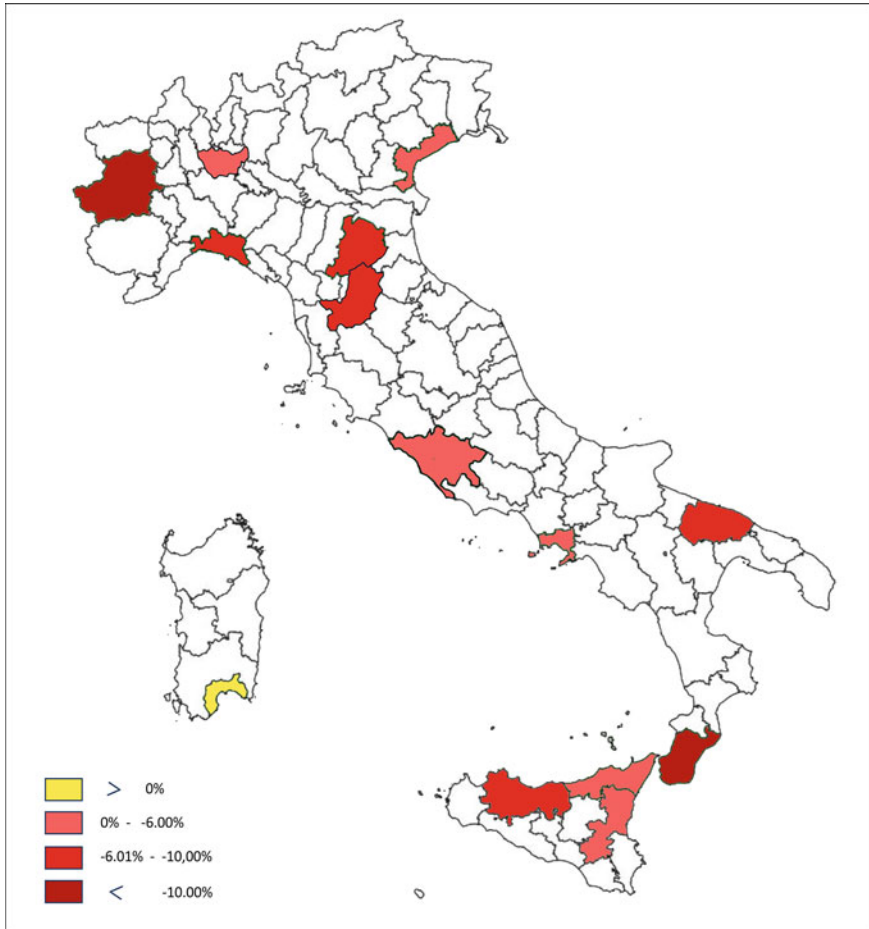


**Fig. 1** Non-EU citizens legally residing in Italian metropolitan cities, 1 January 2021. *Source* Elaborated by the Author from Istat data

In order to enter into the merits of the more specific aspects of the phenomenon, it is necessary to analyse the territorial contexts at a local level, and in particular to analyse the data at the level of individual municipalities.

In fact, at a local level, the concentration/dispersion of the foreign population is affected not only by different local conditions (especially work and residential conditions) but also by the relations established with the native population, with different spatial repercussions.

Some issues, however, seem to emerge more emphatically than others. In particular, it appears interesting to understand whether or not the presence of the foreign population contributes to defining phenomena of spatial and temporal concentration;



**Fig. 2** Change (%) 2021–2010 in Non-EU citizens legally residing in the Italian metropolitan cities, 1 January 2021. *Source* Elaborated by the Author from Istat data

whether or not this contributes to delineating homogeneous, articulated and heterogeneous or even polarised and segregated territorial profiles; whether or not the spatial forms of concentration/dispersion establish relations of territorial continuity or discontinuity with the big cities.

With respect to these questions, which appear to be extremely relevant for planning purposes, Italian metropolitan cities have been analysed by means of indicators relating to the trend of foreign population percentages and the spatial dispersion of the foreign population in relation to larger cities in terms of resident population.

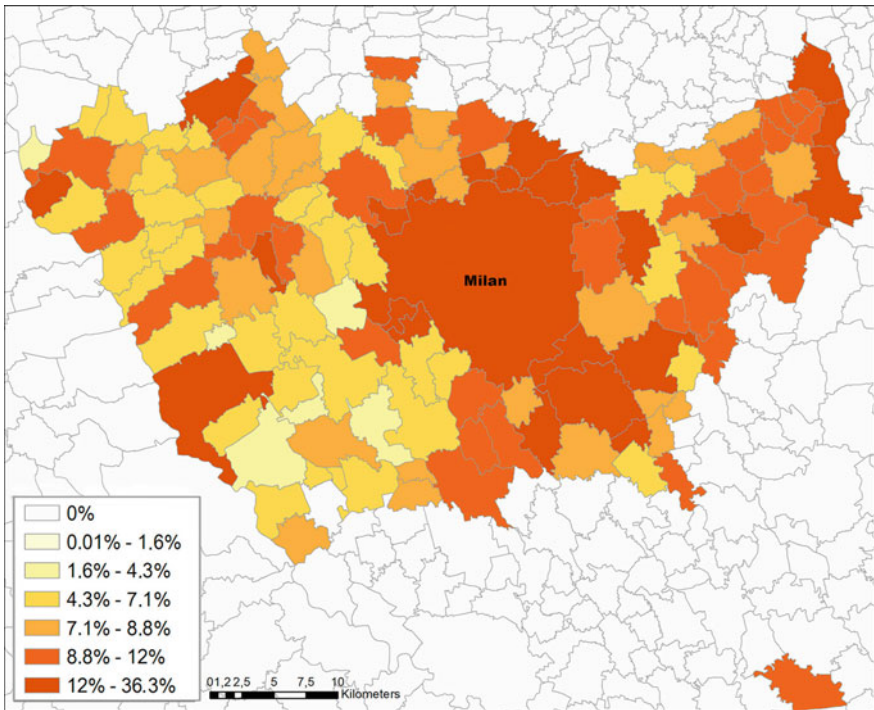
Over the last 30 years, the trend of the foreign population in relation to large urban centres shows a generalised growth in all urban regions with differences, however, sometimes significant (Todaro 2016, 2017).

In relation to the territorial concentration/dispersion of the foreign population, although in the big monocentric cities (Turin, Milan, Palermo) the main phenomena of concentration are recorded, in Milan, Rome and Palermo, there is relative continuity between the smaller municipalities with the most significant presences of migrants and the big cities.

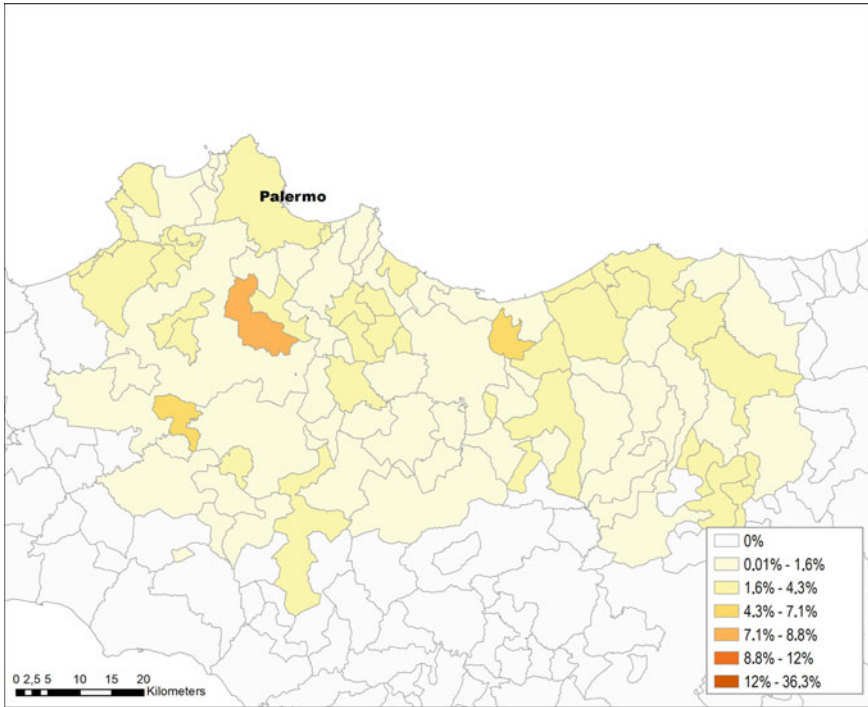
In the case of Milan (Fig. 3) a concentration of the foreign population around the core of big city is evident, with a progressive extension towards the municipalities of the eastern area. In the case of Palermo (Fig. 4) we can see how the concentration in percentage terms is not found in the big city, but in small inland municipalities; while a certain homogeneity of distribution is found in the rest of the municipalities.

The phenomena of greater discontinuity are instead more evident in Turin, Venice, Florence and Naples, where the presence of migrants is territorially distributed around large production districts. In the case of Florence (Fig. 5), although the foreign population is distributed in the municipalities around Florence, a further polarisation is found in the municipalities of the western area.

In the case of Rome, although the foreign population is distributed in the municipalities of the crown, these maintain a strong relationship of spatial continuity with the capital.



**Fig. 3** Non-EU citizens legally residing in the Metropolitan City of Milan, 2021. *Source* Elaborated by the Author from Istat data

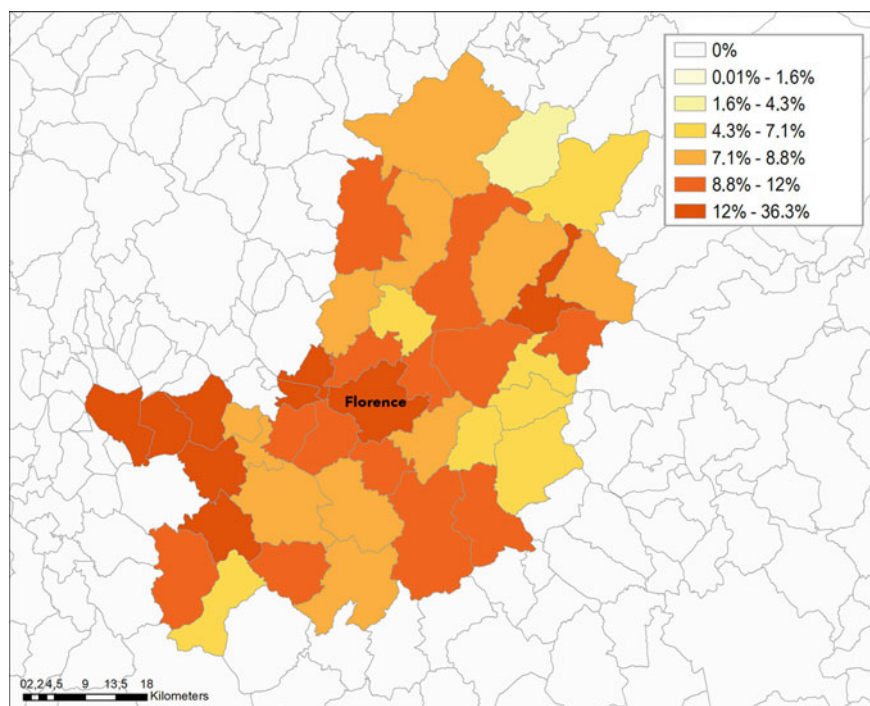


**Fig. 4** Non-EU citizens legally residing in the Metropolitan City of Palermo, 2021. *Source* Elaborated by the Author from Istat data

Moreover, the above-mentioned phenomena on the territorial distribution of migrants have increasingly affected small hinterland centres and rural areas in the last thirty years.

If we look carefully at small urban centres (including, for example, the municipalities of the Castelli Romani area, near Rome), which particularly in recent decades have witnessed intensified phenomena of depopulation and abandonment of their inhabited centres by the native population, we realise that the availability of low-cost housing and their proximity to large urban centres have in fact facilitated a process of population replacement in favour of migrants.

In these contexts, many of which are of great historical value, the presence of migrants has contributed to the revitalisation of the socio-economic fabric and to the recovery and maintenance of the historical-architectural heritage, often in a context of an evident state of decay (Ricci 2010; Todaro 2016, 2017).



**Fig. 5** Non-EU citizens legally residing in the Metropolitan City of Florence, 2021. *Source* Elaborated by the Author from Istat data

### 3 Urban Versus Rural: The Case of Sicily

In relation to Southern contexts traditionally considered marginal, such as Sicily, the presence of migrants increasingly takes on an extra-urban connotation, directly affecting rural territories, which are affected by different development models than the typically urban/metropolitan ones.

In fact, although national data clearly show a concentration of the foreign population around the large metropolitan cities, in Southern Italy the migratory phenomenon is also spatially distributed over rural territories, where in some cases it reaches levels of concentration comparable to those of the large metropolitan centres in Northern Italy (Todaro 2016, 2017).

The extension of the research scope to extra-urban contexts questions not only the analytical-interpretative categories traditionally ascribable to the urban sphere but also the tools and techniques of investigation, posing new challenges for planning. According to this reading, the phenomena of dense social polarisation, typical of the urban spaces of the Fordist city, are now replaced by atypical “de-structured” and “dispersed” social aggregations, where informal practices take over from legal ones



**Fig. 6** Informal shop run by migrants in the Ragusano area in South-eastern Sicily (Photo by Todaro V)

(Cremaschi and Lieto, 2020; Chiodelli et al. 2020; Lo Piccolo and Todaro 2022) (Fig. 6).

It is therefore clear that the extra-urban dimension of the migration phenomenon is not adequately investigated in relation to the different socio-spatial issues that it raises compared to the urban one. And equally clear is the need to reformulate the interpretative frameworks of the phenomenon in a context that is not urban.

Thanks to high levels of labour flexibility, the agricultural sector has taken in much of the demand for migrant workers in the Euro-Mediterranean regions, representing an important employment reservoir and also giving rise to considerable labour and territorial mobility.

However, this great availability of labour is not matched by adequate working conditions, with the denial of citizenship rights, including a regular contract, fair pay and adequate housing.

Within the development model of agricultural production, common to all Euro-Mediterranean countries, the presence of migrants assumes a structural role with the characteristics of social weakness that characterise them (Corrado 2012).

In relation to this context, the inequalities and differences that characterise the territorial distribution of migrants outside urban contexts present some specificities (Reyneri 2007).





**Fig. 7** Boat used by migrants to reach Sicily (Pozzallo, in South-eastern Sicily) from Africa (Photo by Todaro V)

Among the most pressing issues is undoubtedly that of housing demand (Chiodelli et al. 2020), which, compared to “traditional” forms of hardship (such as those related to access to services), tends increasingly to take on the characteristics of a real emergency, in addition to that more directly related to the problem of landings (Fig. 7).

With reference to this aspect, housing demand has become profoundly diversified and more complex, no longer involving only the qualitative dimension relating to the state of preservation of housing (physical deterioration) but also the quantitative dimension (number and type of housing), no longer limited to the mere question of “bed space” or the problem of housing overcrowding.

The numerous researches (Caritas Migrantes, Centro Astalli, ISMU, IDOS etc.) carried out in the last 30 years in Italy on this issue show the tendency to differentiate the phenomenon on two fronts.

On the one hand, the improvement of the housing condition by the “historical” immigrants (which in some cases also takes the form of the purchase of a house) and on the other hand the worsening of the conditions of hardship for the weaker members and those who are at the beginning of the migratory path (Chiodelli et al. 2020).

In reality, there are many critical aspects that relate to this issue, whose margins sometimes appear uncertain and blurred (even in terms of legal status), contemplating conditions and specificities that certainly need to be studied in depth.

With respect to the aforementioned field of analysis, if we had to outline the problematic areas that contribute to defining migrants' housing discomfort in reference to the territorial context analysed, we could undoubtedly identify them on the one hand around the existential fragility of migrants, and on the other hand around the structural weakness of welfare policies related to housing and services.

With regard to the specific issues of housing, the direct survey conducted over the last few years (2015–2019) on a sample of migrants, selected on the basis of a reasoned choice sampling, has made it possible to outline a precise typology of housing conditions with respect to two different territorial areas of analysis, that of the metropolitan city of Palermo and that of the province of Ragusa, in South-eastern Sicily.<sup>1</sup>

The outcome of the critical reading of the information that has emerged can be offered by the analysis of the various forms of distress and their evolution into real forms of emergency, which is shown below and synthetically represented in Fig. 8.

The interpretative framework is defined by four quadrants constituted by the intersection of as many variables: the conditions of regular or irregular occupation of building<sup>2</sup> and the territorial location (main or smaller municipalities)<sup>3</sup> referred to the areas of analysis.

The information that emerged was enucleated through keywords, appropriately placed within the individual quadrants in relation to the correlation principle that links them to the different variables. In the light of the above considerations, a profile of the following four prevailing conditions (types) that relate migrants to forms of housing hardship/emergency was outlined.

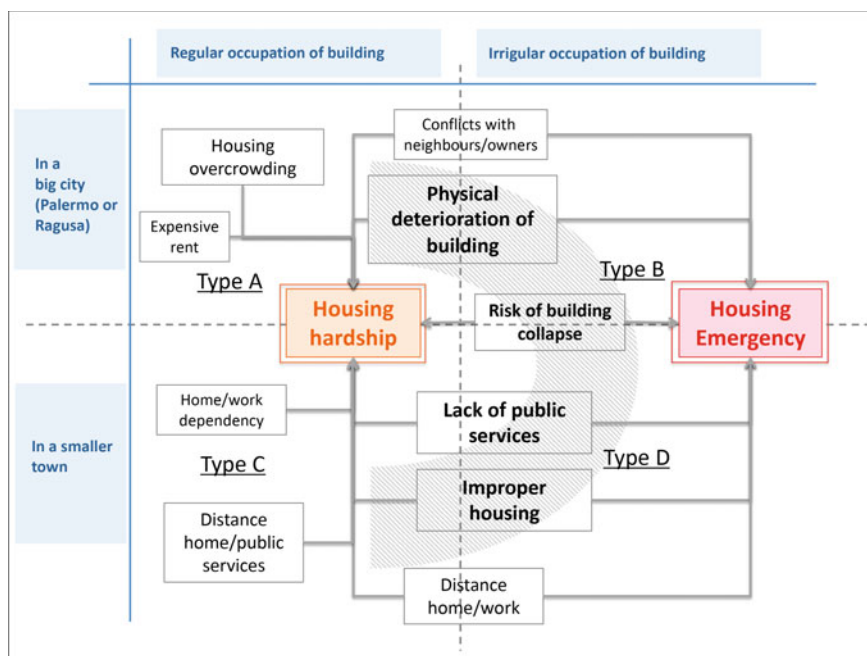
The category “housing hardship” includes all those conditions that make living conditions inadequate, such that the health and safety conditions of individuals are not called into question. In this sense, forms of discomfort include all those conditions of qualitative-quantitative deficit that mainly concern the partial lack of requisites that make a dwelling habitable for any individual (physical degradation, lack of services, inadequate network services, insufficient number of rooms, poor state of preservation, etc.). On the other hand, forms of “housing emergency” include all those conditions that call into question the health and safety of individuals (from homelessness to the occupation of shacks, ruins or unsafe structures, etc.).

<sup>1</sup> The choice of these two areas responds to the need to compare a context that is “traditionally” considered metropolitan (Metropolitan City of Palermo), with an area that is not and which, on the contrary, shows a strong rural connotation (province of Ragusa, in South-eastern Sicily), albeit characterised by advanced levels of innovation in agricultural production.

<sup>2</sup> In the model depicted in Fig. 1, the variable “regular” occupation of the dwelling refers to those conditions in which the lawful owner of a dwelling is willing to rent it out with or without a regular contract (black rent). Conversely, the variable “illegal” occupation refers to those conditions in which there is no such willingness on the part of the owner.

<sup>3</sup> By “big city” is meant the cities of Palermo and Ragusa; by “smaller town” is meant any other municipality in the relevant provinces.





**Fig. 8** Interpretative framework of migrants' housing hardship/emergency conditions in the contexts analysed. *Source* Elaborated by the Author

**Type A—Migrant habitually living in a regularly occupied building in the city of Palermo or Ragusa.** The two elements that support this condition are the presence of permanent family/friendly networks and “stable” working conditions, mostly in the field of domestic work, personal care and. In this case, forms of co-housing are widespread to such an extent that they constitute, especially for some communities, one of the most widespread forms of hardship (housing overcrowding). With regard to housing, the poor state of preservation of dwellings (almost always not renovated precisely because they are intended to accommodate the housing demand of migrants) is associated with high rents. The poor state of preservation and overcrowding of housing constitutes the main area of discomfort that characterises this type.

**Type B—Migrant habitually living in a squatted building in the city of Palermo or Ragusa.** The condition of hardship, which often turns into a housing emergency, also affects those who live in a squatted accommodation in an urban context. These are migrants who have generally lost their jobs and, as they can no longer afford a regular rent, are forced to occupy makeshift accommodation; or those who, moving to the big city in search of work, are not supported by family/friendly networks that can accommodate them even temporarily. In the case of employment, workplaces are usually very distant from the accommodation and this leads to significant travel inconveniences. In relation to accommodation, these are often warehouses, schools

or other abandoned and severely deteriorated public buildings, mainly located within historical centres, improperly adapted for residential use (Fig. 9).

**Type C—Migrant living in regularly occupied building in a smaller town in the Metropolitan City of Palermo or in the province of Ragusa.** Migrants living in “regularly” occupied building in smaller urban contexts constitute the type with the highest level of heterogeneity, since it includes forms of co-housing, single households, workers employed in agriculture and workers in other productive sectors. Their “stable” employment status, almost always accompanied by a regular work contract, allows them to access the rental market, albeit in marginal areas. The places of work are generally not very distant from the accommodation and fall, in any case, within the municipality to which they belong; this does not entail a serious inconvenience in travelling. In relation to the condition of the dwellings, these are small houses (often



**Fig. 9** Public school in Palermo squatted by migrants (Photo by Todaro V)

with only a ground floor) with the character of a dwelling, equipped with the essential services (bathroom and kitchen), rented at low cost due to their state of preservation; in some cases, they are facilities made available by the employer himself (even in the absence of a regular contract), at a sometimes excessive rent, deducted directly from the weekly/monthly pay.

**Type D—Migrant who habitually lives in a squatted building in a smaller town in the Metropolitan Area of Palermo or in the province of Ragusa.** This type corresponds to the worst housing conditions generally detected. These concern those who live in small municipalities, often outside built-up areas, squatting. They are almost always seasonal workers, employed in agriculture, who work in the absence of a duly registered contract. They make use of family/friendly networks, which, however, do not provide them with accommodation, but merely work contact. In these cases, for migrants, the housing issue appears secondary or to be dealt with at a later stage, compared to the priority given to employment opportunities. Accommodation is found in highly precarious structures, often available close to the workplace, which can usually be reached on foot or by bike (Fig. 10).



**Fig. 10** Rural house in Vittoria (province of Ragusa, South-eastern Sicily) squatted by migrants (Photo by Todaro V)

## 4 Conclusions

International migratory flows increasingly play a decisive role in the socio-spatial restructuring of the contemporary western city, which has profoundly changed both in image and structure.

The phenomena of dispersion of the foreign population in open metropolitan contexts, often linked to local specialised productions, traceable to relatively recent economies that are increasingly specialised and oriented towards quality productions and that base their production on the use of migrant labour, draw attention to stratified polycentric territorial realities, where it is often possible to trace the most dynamic representations of the processes of regionalisation of the urban.

Although, in fact, official statistics and studies on the evolution of urban systems tend simplistically to trace the “natural” forms of urban transition in large monocentric urban cores, it is increasingly often the dispersed polycentric realities that make explicit the most significant evolutionary variations of the urban. And this is also the case with social change.

With respect to these conditions, the strictly urban dimension shows its limits with respect to a phenomenon, such as migration that tends to disperse over the territory. The territorial distribution of migrants also reveals unprecedented forms of “rootedness” that underline clear divergences from the traditional urban contexts of analysis.

In relation to the analyses conducted, the conditions of greater concentration of migrants in large cities are mainly recorded in strongly monocentric metropolitan cities, such as Turin, Milan and Palermo. On the other hand, the distribution of the foreign population in small and medium-sized municipalities close to large cities is recorded mainly in the more articulated and complex metropolitan cities, such as Rome and Naples. Finally, a significant territorial dispersion of the foreign population with respect to large cities corresponds to polycentric metropolitan cities, especially Florence and Venice, traditionally characterised by a strong specialisation of local economies. In these contexts, the foreign population is distributed outside the major centres, being engaged in specialised work activities, variously distributed over the territory.

The results of the territorial analyses described show phenomena of territorial dispersion of presences that also affect suburban areas to varying degrees, with particular reference to rural contexts. Although large cities are natural catalysts for migrant flows in relation to the greater availability of work and better wages, in polycentric territorial realities with productive specialisation there are significant phenomena of attraction that produce different spatial effects.

This condition is characteristic of contexts with recent, dynamic and successful economies (often active in international markets), in which very high levels of social control are exercised over the migrant population.

In the rural contexts of Southern Italy, in particular, the phenomenon’s profound pervasiveness appears even more evident in relation to the spatial repercussions of the settlement/housing sphere, in which the prevalence of an “assimilationist” settlement

model, which tends towards the reuse of abandoned building heritage rather than the more traditional polarisation/segregation models of the suburban enclaves of the metropolises of the Centre-North, contributes to the diffusion and pulverisation of foreign presences.

The proposed reading key refers, therefore, to a “condition other” than the consolidated settlement models, which relates the condition of marginality in Southern Italy and the fractal and liquid characterisation of the social phenomena of immigration in the rural space.

These are hybrid spatial configurations in which the traditional forms of socio-spatial segregation are not traceable, and where more fluid and evanescent “geographies of differences” (Lieto 2013) tend to thicken, often appearing fragile and transitory, but actually persisting over time.

In the rural contexts of Southern Italy, the living and working conditions of migrants, together with the distance from population centres and the non-availability of a means of transport that would make them “autonomous”, constitute the tangible limits of their individual and group freedom.

With respect to these conditions, the structural difference between migrants’ housing conditions in metropolitan contexts compared to those in rural contexts appear in all their glory. In fact, if the claim of the “right to the city” (Lefebvre 1996) for migrants often coincides with the claim, and safeguarding, of human rights (Bonafede and Lo Piccolo 2010), the difficulty of “access” to it, becomes a limitation or the very denial of such rights (Mitchell 2003; Harvey 2012).

In such fragile and marginal socio-spatial contexts as rural Southern Italy, the already difficult existential condition of migrants finds in the housing emergency a further level of precariousness, confirming the structural weakness of public intervention. From this point of view, this condition directly calls into question the ethical responsibilities of planning in the domain of the public sphere, both in reference to the housing issue, as well as in relation to the endowment of specialised services at the territorial level.

In none of the cases examined is the housing issue of migrants taken into account by urban and territorial planning instruments, nor adequately addressed by housing public policies.

## References

- Balduzzi G (2016) Gli immigrati nei sistemi locali del lavoro italiani: caratteristiche e prospettive di un modello di insediamento”, Paper Ismu. [https://www.researchgate.net/publication/305724689\\_Gli\\_immigrati\\_nei\\_sistemi\\_lo-cali\\_del\\_lavoro\\_italiani\\_caratteristiche\\_e\\_prospettive\\_di\\_un\\_modello\\_di\\_insediamento](https://www.researchgate.net/publication/305724689_Gli_immigrati_nei_sistemi_lo-cali_del_lavoro_italiani_caratteristiche_e_prospettive_di_un_modello_di_insediamento)
- Baldwin-Edwards M, Arango J (1999) Immigrants and the informal economy in Southern Europe. Frank Cass Pub, London
- Berlan JP (2008) L’immigré agricole comme modèle sociétale? in *Études rurales*, no.182, pp. 219–226

- Bonafede G, Lo Piccolo F (2010) Spazi di 'soglia' e diritto alla cittadinanza: esperienze e riflessioni per la riconquista dello spazio pubblico, in D. Moccia (a cura di), *Abitare il Futuro...dopo Copenaghen*. Atti delle giornate di studio, CLEAN Edizioni, Napoli, pp. 1671–1685
- Bonifazi C (1994) Size and characteristics of foreign immigration in Italy. *Labour* 8(1):173–190
- Caruso FS (2013) I migranti nei contesti rurali meridionali tra conflitto e inclusione differenziale: cause ed effetti delle rivolte di Rosarno e Castel Volturno. Contributo a VI conferenza annuale Espanet (Network for European Social Policy Analysis), Cosenza, 19–21 settembre 2013. <http://www.espanet-italia.ne>
- Chiodelli F, Coppola A, Belotti E, Berruti G, Clough Marinaro I, Curci F, Zanfi F (2020) The production of informal space: A critical atlas of housing informalities in Italy between public institutions and political strategies, in *Progress in Planning*, online first
- Corrado A (2012) Ruralità differenziate e migrazioni nel Sud Italia. *Agriregionieuropa* 28:72–75
- Cremaschi M, Lieto L (2020) Writing Southern theory from the Global North. *Notes Inform Regul*, in *Equilibri*, 24:261–280
- García Torrente R (2002), La inmigración y el modelo de desarrollo almeriense II: Análisis de las necesidades de mano de obra en la economía almeriense, in Pimentel M (Ed), *Mediterráneo Económico: Procesos migratorios. Economía y personas*, Instituto de Estudios de Cajamar, Almería
- Harvey D (2008) The right to the city. *New Left Rev* 53:23–40
- Hoggart K, Mendoza C (1999) African in migrants workers in Spanish agriculture. *Sociologia Ruralis* 37(4):538–562
- Istat (2021) Rapporto annuale 2021, disponibile online, [https://www.istat.it/storage/rapporto-annuale/2021/Rapporto\\_Annuale\\_2021.pdf](https://www.istat.it/storage/rapporto-annuale/2021/Rapporto_Annuale_2021.pdf)
- Kasimis C (2010) Demographic trends in rural Europe and international migration to rural areas. *Agriregionieuropa* 21(6):1–6
- Kasimis C, Papadopoulou AG (2005) The multifunctional role of migrants in Greek countryside: implications for rural economy and society. *J Ethnic Migrat Stud* 31(1):99–127
- Kasimis C, Papadopoulou AG, Zacopoulou E (2003) Migrants in rural Greece. *Sociologia Ruralis* 43(2):167–184
- King R (2000) Southern Europe in the changing global map of migration, in King R, Lazaridis G, Tsardanidis C (Ed) *Eldorado or Fortress? Migration in Southern Europe*, Macmillan, Basingstoke, pp 1–26
- Lambrianidis L, Sykas T (2009) Migrants, economic mobility and socioeconomic change in rural areas: the case of Greece. *Eur Urban Reg Stud* 16(3):237–256
- Lefebvre H (1996) The right to the city, in Kofman, Eleonore; Lebas, Elizabeth (eds.), *Writings on cities*, Cambridge, Massachusetts: Wiley-Blackwell, p 158
- Lieto L (2013) Disuguaglianze e differenze nello spazio della post-metropoli: temi per un'agenda di ricerca, in Atti della XVI Conferenza Nazionale Siu, Urbanistica per una diversa crescita, 9–10 maggio 2013. Napoli, *Planum* 2(27):1–9
- Lo Piccolo F, Picone M, Todaro V (eds) (2021) *Urban regionalisation processes governance of post-urban phenomena in sicily*. Springer, Cham, Switzerland
- Lo Piccolo F, Todaro V (2022) Landscape of exception': Power inequalities and ethical planning challenges in the landscape transformation of south-eastern Sicily, in *Planning Theory*, non21, pp 8–34
- Ministero del Lavoro e delle Politiche sociali (2021) *La presenza dei migranti nelle città metropolitane 2021*, Roma
- Mitchell D (2003) *The right to the city*. Guilford Press, New York
- Reyneri E (2007) La vulnerabilità degli immigrati, in Saraceno C and Brandolini A (Eds), *Disuguaglianze economiche e vulnerabilità in Italia*, Il Mulino, Bologna
- Ricci M (2010) Una casa per i migranti nei centri storici minori, in Caritas, Camera di Commercio e Provincia di Roma, *Osservatorio Romano sulle Migrazioni. Sesto Rapporto*, Idos, Roma, pp 56–59

Todaro V (2016) Transizioni post-metropolitane ai margini: la Sicilia dei migranti, oltre l'invisibile, in *Territorio*, no 76, pp 72–77

Todaro V (2017) Mutamenti spaziali come effetto di mutazioni sociali? Questioni Aperte Sui Flussi Migratori Nei Territori Dell'agricoltura Di Qualità in Sicilia, in *Contesti*, No 1–2:72–87

# Housing First: A System for Combatting Marginality



Giuseppina Tumminelli

**Abstract** Migrants are increasingly becoming “victims of collateral damage” due to the risks of urban marginalization (Bauman, *Collateral Damage: Social Inequalities in a Global Age*, Polity Press, Cambridge, 2011). Collateral damage is the result, on the one hand, of inequality and, on the other, of an increase in human suffering. Although discomfort and suffering are connected to the individual, they relate to place, and thus individual fragility becomes an expression of urban fragility. The condition of social fragility is, therefore, dictated by a combination of a series of elements that are not related only to housing but also to the absence of basic resources that might ensure decent material conditions of life (Townsend 1979). Many are the risks that can be identified today that accentuate collateral damage: the economic crisis, a change in values, inequality, the sense of insecurity and uncertainty, the “privatization” of existence, false fears. It is of primary importance to trigger considerations and interventions that may promote effective policies aimed at accompanying people at the risk of extreme marginality, starting from individual projects and taking overall charge of the individual; consideration should be taken of the varieties of autonomy in relation to the needs and desires of the individual, changing the paradigm of reference and focusing on the potential of people and the centrality of a right to housing as the basis for any potential intervention. Stability of accommodation is one of the conditions for guiding people towards self-sufficiency and the response should be geared towards the planning of case management (i.e. taking charge of the person) and the adoption of housing-led and housing-first approaches, based on the principle of swift rehousing, i.e.: housing first, as a basic human right. Housing First was launched as an innovative system to reduce homelessness for people with complex problems; it was initially developed by Dr. Sam Tsemberis in the USA. Today, HF is used not only as a strategy to combat extreme marginalization, especially for the homeless, but as prevention from potential marginalization situations. HF can trigger transformative resilience processes and European experiences of HF demonstrate the importance of the closest and most complementary services (often those of care) and the adoption of a community approach. The paper will focus

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on analysis of the housing-led and housing-first approach and analysis of experiences of HF as a possible strategy to reduce the risk of social marginality, e.g., for unaccompanied foreign minors who have become newly legal adults and consequently are leaving the reception system or for women, victims of trafficking. Housing First projects have also proven to be effective with people who do not have social ties, but receive help from friends or family, and who are not part of a community.

## 1 Introduction

During the 2020s, migrants' conditions of vulnerability have mainly increased due to the spread of the Covid-19 pandemic, which has entailed further problems and brought about a negative impact on the reception system.

Unaccompanied foreign minors (henceforth UAMs) are increasingly becoming "victims of collateral damage" (Bauman 2011). This damage is the result, on the one hand, of social inequalities and, on the other, of the increase in human suffering that has been intensified by the spread of the virus. An explosive scenario is delineated, characterized by the economic crisis, by a sense of insecurity and uncertainty, by the "privatization" of existence, by fears and by social fragility, which, in the case of UAMs and young adults, can be traced back to the absence of fundamental resources to guarantee decent material conditions of life (Townsend 1979). Moreover, the situation is aggravated by the difficulties caused by the interruption of social and employment integration, by the difficulties in pursuing school and training courses, and by all the problems and risks connected to coming of age and leaving the reception system; these might lead to "living on the street" and adopting survival and adaptation dynamics linked to not finding a job, a house and not having an adequate support network.

Prevention becomes the main focus and the only remedy on which to initiate scrupulousness and interventions that not only promote effective policies but also prevent the spread of extreme marginality. The paper will be divided into two parts. In the first part, reference will be made to the problems and risks associated with unaccompanied foreign minors in the transition to adulthood and in the second part Housing First will be presented and described. The aim will be to begin considering how to prevent forms of severe marginality through the HF approach and its experimentation.

## 2 Unaccompanied Foreign Minors: Characteristics and Risks

The attention toward unaccompanied foreign minors and what has been called "*teen immigration*" (Granata and Granata 2019) is, today, a consolidated fact from both an institutional and a social point of view. The arrival of minors on Italian soil over

the last ten years has raised numerous questions and stimulated debate regarding definitions, the protection and reception system, how to ensure the right to education, health care, placement in safe accommodation, protection, and foster care.

In Italy, UAMs, at 31 December 2020, numbered 7,080 and, despite the pandemic, increased when compared to the previous year (6,369 MSNA in 2019). The largest proportion comprises males (6,828; 96.4%). Age, in line with the trend of the previous years, has 67% in the 17-year age-range (4,735), 22% in the 16-year range (1,540), 7% in the 15-year range (467), 4.4% between 7 and 14 years (308), and only 0.4% are 6 years old and under (30).

It is evident that the largest percentage of minors is in the transitional phase towards adulthood.

The main countries of origin are Bangladesh (1,558, 22.0%), Tunisia (1,084, 15.3%), and Albania (972, 13.7%), whilst there are differences in the countries of origin of foreign girls: Albania (17.5%), Ivory Coast (17.1%), and Somalia and Nigeria (both 9.1%). Also, as regards these girls, the majority, 43.3%, are 17 years old (109), 21.4% are 16 years old (54), 9.1% are 15 years old (23), 19.4% are between 7 and 14 years old (49), while 6.7% are 6 years old and under (17).

The figure for untraceable minors is also worrying with regard to 2020. The choice to leave by UAMs could be justified by the desire to reach relatives or friends in other EU countries (Tumminelli 2021). This data is worrying because of the risks that minors might encounter in becoming victims of labour and sexual exploitation.

It is necessary to remember that it is evident that the problems of definition are complex and take into account not only the reasons that determine migration but also the conditions of vulnerability to which the minors are subjected.

As the literature on the topic points out, the reasons for abandoning are diverse and context-dependent. They may depend on economic inequalities in access to basic goods (such as water and food), *landgrabbing* (Mateos 2015), i.e. the increase in the number of environmental disasters caused by climate change, family disintegration, lack of access to basic rights such as education.

An attempt to arrive at a typification of minors must bear in mind the variety of reasons that compel them to migrate, confirming the heterogeneity of the types that can be identified. Giovannetti (Cespi 2020, 135), with regard to Italy, identifies the presence of four types of unaccompanied foreign minors: minors fleeing from violence, conflicts, persecution, such as Afghans, Eritreans and Somalis; minors “sent” in search of better economic conditions by their families, as is the case for Egyptians; minors attracted by new models and lifestyles, prevalent, according to general opinion, among Tunisians and Albanians; minors driven by processes of “social destructuring” due to the absence of family and community reference points and future prospects.

The Cespi report also mentions that one cannot forget the minors who exist within networks of sexual or labour exploitation.

Despite the diversification in the motivations that urge minors to emigrate, as reported by the IOM, migration finds in the condition of being “unsafe, irregular, exploitative” (2020, 231), those elements of sharing and recognition among minors who have actually undergone the journey.

The journey, the duration of which varies, is a “rite of passage”, since, from the ties and relationships that can be traced back to the spheres of family, parents, and friendship, one shifts into a new phase in which to rethink oneself and one’s relationship with others.

Moreover, the condition of being a minor represents in itself an element of fragility due to the difficulties both in managing to take care of oneself and in being in a fragile phase of development that is influenced by cultural elements, but not only (Tumminelli 2020). This entails the anticipation of some of the phases of growth and experiencing adulthood, as can be seen from what emerges from the various accounts of UAMs (Tumminelli 2021). The categories often used, such as “adolescent”, are not necessarily adequate and the paths designed are not suited to the needs and wishes of boys and girls. They are minors who have faced a journey without adults, have experienced situations of violence and trauma during the phases of migration (before, during, and after the journey), and re-traumas (during the journey and after arrival) (*ibid.*).

Their condition, already fragile, due to the path they have embarked on, can oscillate between feelings of failure, existential instability, and vulnerability. The latter is linked to experiencing situations of uncertainty about the future and the risks, for example, of falling into the hands of labour and sexual exploitation. As Save the Children has repeatedly pointed out, in Italy, reception centres are often used by traffickers as recruitment centres for prostitution and labour recruitment.

The conditions that emerge from the stories are polarised between minors who tell of violence and trauma suffered before and during migration and of the absence of reference points such as adult figures in a phase of development in which they are needed. In these young people, stress, depression, anxiety, loss, and fear of death are manifest and limit the process of social integration. The violence suffered is often of a physical, sexual, and psychological nature and exploitation is also often the common thread in the experiences undergone in the family. Witnessing the death of other migrants during the journey, experiencing malnutrition, torture and violence are images transformed into ghosts, dreams, nightmares, and deep psychological disorders (Casadei and Monti 2020).

The migratory choice leads to a passage for which the price to pay is very high, since it involves breaking the ties created in the country of origin, cultural uprooting, resocialisation in the new country in adapting to norms, codes, symbols that are totally new when compared to those internalised. In the idea of the “double absence”, formulated by Sayad, there is also the intrinsic idea of loneliness that the person experiences in the new condition of “migrant” when, having left the country of origin with the vision of a new life project and with the fostering of expectations by the family network, minors find themselves without reference points, as well as having to bear the weight of a traumatic experience the memory of which will last for a long time, creating limitations, a sense of abandonment and communication difficulties.

The spread of the Covid-19 pandemic has undoubtedly affected everyone, but it is undeniable that it has aggravated the conditions of those who were already in a precarious situation.

The suspension of employment placement, the difficulties in finding work, the uncertainty caused by possible transfers to secondary reception facilities, the delays in the recognition of refugee status, and the issue of documents are elements that affect and condition the lives, in general, of migrants, regardless of age, gender, and origin. These situations are often aggravated by the difficulty that actual institutions encounter in managing these issues promptly and delegating the containment of the emergency to the Third Sector.

### 3 The Transition to Adulthood

The transition to adulthood of unaccompanied foreign minors may present a further risk and a moment of profound criticality due to all the identifiable obstacles. The processes of integration and insertion demand time, which is rather short if one considers that the largest percentage of minors, as previously mentioned, falls in the range between 16 and 17 years of age. To this must be added the difficulties linked to the reception system that does not always prepare the individual for withdrawal from the reception experience, not to mention the regularisation procedures and the difficulties in housing and socio-occupational integration.

The trajectories of young people, as mentioned above, are complex and need to be taken into account in order to facilitate the guided transition to adulthood and the fulfilment of legal obligations. As pointed out by the Union of Assessors of the Municipality of Palermo (2019), Sicily, little attention is paid to *care leavers*; these professional figures, specialised in dealing with issues such as autonomy in housing, work, and social integration, are lacking.

A propos of this, the literature on the subject underlines the urgency of adopting policies and stable measures to support the road to autonomy; job placement or the continuation of one's studies; financial support during the completion of one's studies or the search for a job; participation and active involvement in the planning of one's own life project; development of knowledge, experience, and transversal skills to deal with life outside the reception system; the acquisition of skills and practical abilities to manage daily life; the ability to elaborate one's own history and the possibility of building up self-esteem and experiencing self-sufficiency; support from a network of social and emotional relationships and, in particular, the sensitive support of a tutor (Cascio 2021). Crucial consideration is needed on how to facilitate relationships outside the structures, not only with operators but also with native peers.

ISMU, with the support of the three United Nations agencies, UNHCR, UNICEF and IOM, has highlighted the importance of the process known as the "triple transition", i.e. the passage from adolescence to adulthood with changes from a biological-physical, socio-emotional and cognitive point of view, including the transition linked to migration (resulting in detachment from the country of origin and the construction of a new life in a different cultural and social context), and finally the transition in overcoming the traumas experienced before, during or after completion of the journey (Ismu 2019, 14; Bichi and Bonini 2021).

The transition to adulthood has a processual character that should take into account not only the rites of passage, but also the conclusion of the study path, finding a job, building a family.

In this transition, there are numerous risks and factors that fuel marginality (Borderline 2020). The risks referred to above in the transition to adulthood are augmented when young people have not been guided in their creation of social networks that may facilitate social inclusion, job placement, housing autonomy, access to local, social, and health services. Often, the presence of UAMs and young adults has been dealt with by adopting an emergency-based and institutionalising approach, which has not taken into account the impact that their presence would have on the social assistance circuit and the community. There is no doubt that leaving care, without the preparation of a life project, may cause disorientation in young people; “living on the street” or in inadequate housing conditions may become the only possible alternative. Within this framework, HF could be introduced as an experimental approach to try to prevent the risks of serious marginalization of under-18s.

## 4 Housing First

The paper does not aim to be all-embracing regarding topics that are being widely tested, but it aims to provide relevant food for thought and to broach the need for planned interventions aimed at accompanying people on their path to independent living, through individualised projects, whilst taking into account the individual’s overall wishes and needs.

Housing-first was introduced in the early 1990s by Dr. Sam Tsemberis as an innovative way of reducing homelessness for people with complex mental health problems. Over time, the target audience has been broadened to include young people in North America, people with long-term hostel experiences, people at risk of homelessness, people discharged from psychiatric hospitals or released from prison, and also homeless families. Housing was made available immediately and not, as in the *staircase model*, as a last step. The innovative elements represented a change of approach, perspective, and vision. Access to housing took place in a community context in connection with the activation of accompanying home services and social mediation. The step-by-step approach is arranged in a succession of preparatory interventions, each of which envisages the achievement of levels: from initial reception to social reintegration. The path is incremental and leads the person in one’s care, ultimately, step by step, towards housing.

The innovative elements of HF can be traced back to a change in approach, perspective, and vision. In the case of alcohol and drug addiction, the person is not asked to stop or join a mental health programme in exchange for housing; the house is not considered a bargaining chip or an object of blackmail.

In HF, individuals are supported in maintaining their home and promoting their health, wellbeing, and social integration, while respecting what they themselves

choose to do. HF soon became a strategy and good practice in the USA in reducing the risk of social marginalisation and containing the high costs of hospitalisation and incarceration in cases of long-term homelessness.

HF is based on eight principles: housing as a human right; self-determination regarding choice on the part of beneficiaries; separation of housing from therapeutic services (in the Housing First paradigm, the right to housing is established without any pre-condition, no change is demanded, nor adherence to therapeutic treatment, in exchange for access to housing); recuperation guidance; damage reduction (the choice of this approach in the event of substance abuse is indispensable in light of the previous points); active but unforced commitment; person-oriented planning and flexible support for as long as necessary.

There are two approaches, which we shall call HF: housing-led and housing-first. The first refers to low-intensity and long-term services that are aimed at non-chronic individuals, with whom to work in order to increase income through the activation of training or reintegration into the labour market. The second refers to services based on swift rehousing, housing-first as a basic human right, and case management, i.e. taking care of the person.

There are numerous European experiments on HF, which are based on a continuum between fidelity to the original American model and the need to adapt the intervention to local contexts. These experiments have shown that the transformation of the closest and most complementary services (often care services), and the adoption of a community approach, can initiate processes of transformative resilience. Housing-first projects have also proved effective with people who have no social ties, e.g. help from friends or family, and those who are not part of a community.

In Italy, in 2015, a group of organisations joined the Italian Federation of Homelessness Organisations (fio.PSD), constituting the Housing First Italia Network (<http://www.housingfirst.fi>).

In the context of preventing the risk of extreme marginality, the initiatives that have been launched in Italy are heterogeneous and in line with local specificities. Housing First is one of these, a possible device to accompany the transition to adulthood of UAMs and to combat situations of marginality.

In spite of this, comparisons among experts and stakeholders involved in Housing First projects in Sicily, aimed at unaccompanied foreign minors coming out of the reception system, underline the fact that housing insertion and accompaniment, for various reasons, remain difficult issues to tackle. The spread of Covid-19 has slowed down all the processes of accompaniment towards housing started in Italy, such as those related to the intervention “Le rotte del gusto”, within the project “Never Alone, per un domani possibile”, financed by the Cariplo Foundation and other foundations (<https://minoristranieri-neveralone.it/progetto/le-rotte-del-gusto>), promoted by a network of organisations, led by the Società Cooperativa sociale Progetto Tenda. The aim of the project, which started in April 2019, is to help unaccompanied foreign minors and young adults to become independent by creating integrated care packages which, starting from the wishes and needs of the beneficiaries, foster economic, housing, linguistic, and socio-relational autonomy.

In order to achieve housing autonomy, on-going housing-first is being experimented, on the basis of which, as anticipated, the house will be a starting point and not the final objective of a process.

In the case of the on-going project “Le rotte del gusto”, HF was proposed as a preventive approach tackling the risk of extreme marginality of young adults coming out of the reception system.

Implemented in three Italian cities, Turin, Naples, and Palermo, it envisages a multidisciplinary team taking charge and accompanying 34 beneficiaries towards housing autonomy and job placement through training courses.

Even though the spread of Covid19, as mentioned above, has slowed down the implementation of these actions and causing delays, the multidimensional approach has been the guiding thread of the entire process; this was not structured through a succession of preparatory interventions, but through the definition of an individualised project: from the motivational interview to reception, to insertion in language laboratories, to accompaniment to accommodation through training courses in property management, to activation of training courses.

Housing is a right and a central node in social inclusion processes. The practice of HF is based, as indicated in the guidelines for combating extreme adult marginalisation in Italy (Ministry of Labour and Social Policies 2015), on access to stable, safe, and comfortable accommodation, which may generate widespread and intrinsic well-being in people who have experienced long-term homelessness. For the homeless, housing is the access point, the first step, the primary intervention from which to propose courses of social integration. The well-being derived from an improved state of health, care, health, and psychological support provided by the team to the user directly at home can, as studies have shown, be vectors of housing stability (Ministry of Labour and Social Policies 2015, 27).

As underlined by the United Nations Committee on Economic, Social, and Cultural Rights, the right to housing should ensure living in security, peace, and dignity. In line with the research on migrants’ housing discomfort, insiders have highlighted aspects related to the specificities of the Italian socio-economic, institutional, and political system that are far from what is understood by the concept of a right to housing.

The “legal security of tenure”, based on legal protection from forced evictions, landlord harassment and other forms of threats to the right to a fixed abode, in the experience of the operators, is in direct contrast to the “legal insecurity of tenure” determined, for example, by the difficulties of not having adequate knowledge of the relevant legislation or not knowing about defence or mediation bodies. “Affordability”, which would imply that housing costs are not so high as to make food, education, and access to health services unaffordable, is contrasted with “non-habitability and affordability”. The search for housing remains problematic, the high costs of housing and its maintenance being the source of significant economic stress for the actors involved. The amortisation of rental costs often takes place in the most run-down and least secure districts of the city. Moreover, it is difficult to find landlords willing to rent houses to foreigners, because of the absence of guarantees, and because they

are often considered unreliable, due to the precarious economic conditions in which they find themselves.

All this, therefore, has to take account of a housing system that often gives rise to forms of discrimination against migrants as well as speculation, offering low-cost housing that is not in good condition. The anxiety resulting from the state of job insecurity has a significant impact on the housing situation, resulting, for example, in the adoption of temporary forms of accommodation in buildings not intended for residential use or situated in abandoned industrial areas.

From the project experience referred to, it emerges that the taking on of responsibility by a multidisciplinary team is undoubtedly a strong point in that it supports the young person in the construction of his or her own individualised project and supports and helps him or her on the road to autonomy, whilst reducing the risks of marginality.

So far, in spite of the difficulties linked to the pandemic and the limitations reported in literature, the Housing First experiment represents a model of good practice, also from the point of view of preventing distress. The local dimension certainly constitutes another strong aspect, as does involving different Italian cities and regions in the experimentation allied to a constant comparison of the difficulties that the implementation of HF might entail.

Housing First is not just about “living” but, as we said, it is an accompaniment designed to meet the needs of the individual. Housing is central and is the starting point, together with other services, that must be activated to ensure support for the person in creating the conditions for housing autonomy and eliminating the risk of homelessness.

As indicated in the “Housing First Guide Europe” (2016) ([www.housingfirstguide.eu](http://www.housingfirstguide.eu)), produced by the European Federation of National Organisations Working with the Homeless, with the support of the Stavros Niarchos Foundation, activities that can fulfil the support function are:

- regular monitoring of each Housing First service user’s housing situation;
- ensuring relationships with neighbours are as good as possible;
- practical advice and assistance in ensuring that a home is suitable;
- help with budgeting;
- advice and support for independent living;
- Housing First may effectively provide full, or partial, housing management services for private or social rent-based landlords;
- all other types of support should be provided as needed.

The challenge of HF is to become the catalyst of social integration, since, being a multidimensional intervention, it aims to help the individual live in an independent way, in a “normal” home, initiating relationships with the neighbours, in the hope that integration in the neighbourhood will be the result.



- An integrated homelessness strategy might have the following kind of structure:
- **Preventative services**, offering housing advice, support and practical help with accessing housing and support services for people with higher needs who are at risk of homelessness.
  - **Emergency accommodation for people who suddenly become homeless**, working in close coordination with preventative services to try to avoid any experience of homelessness becoming prolonged or repeated.
  - **Lower-intensity support services for people who require some support to leave homelessness**, but whose needs can be met by rapidly providing them with housing and low-level contact with a case-management service offering limited support.
  - **Housing First services for homeless people with high support needs, rapidly providing housing and intensive support**. The evidence is that Housing First will be effective in ending homelessness for most of the homeless people in this group (see Chapter 1).
  - **Supported housing models offering congregate or communal housing with support staff on-site**, which can be used to provide medium and long-term support to homeless people with high support needs, whose needs or preferences are not met by Housing First.

**Fig. 1** An integrated homelessness strategy (Housing First Guide Europe 2016, p 76)

## 5 Conclusions

Housing First was conceived with the aim of putting an end to homelessness for people with complex problems and needs, through accommodation and social support in accordance with the specificities and characteristics of the target group. The Housing First experience, in this specific case, will help in understanding the need to rethink reception from a different perspective and housing in an innovative way, working towards the implementation of an integrated strategic model and preventing risk, as suggested in the Housing First Guide Europe (Fig. 1).

In order to prevent and reduce the risks of homelessness, it is necessary to rethink policies and initiate projects that include actions such as increasing access to housing, creating new affordable housing, whilst providing prevention services and a range of other support services.

In this way, the activation and/or intensification of this strategy at the local level might overcome the dichotomy: ease and discomfort in the creation of shared “pieces of the community”.

## References

- Bauman Z (2011) *Collateral damage: social inequalities in a global age*. Polity Press, Cambridge
- Bichi R, Bonini E (2021) La transizione all’età adulta dei minori stranieri non accompagnati in Italia. *Studi di Sociologia* 2021(X):1–18
- Borderline (2020) Vite ai margini. I MSNA in Sicilia, tra esigenze di tutela e miraggi di protezione. <http://www.borderlinesicilia.org>
- Casadei F, Monti MC (2020) Le adolescenze traumatiche dei giovani erranti. In: Greco S, Tumminelli G (eds) *Migrazioni in Sicilia 2019*. Mimesis, Milano, pp 205–211

- CESPI (2020) Primo Rapporto. Osservatorio Nazionale sui Minori Stranieri non accompagnati in Italia. [https://www.cespi.it/sites/default/files/osservatori/allegati/rapportomsna\\_in\\_italia\\_2020\\_def.pdf](https://www.cespi.it/sites/default/files/osservatori/allegati/rapportomsna_in_italia_2020_def.pdf)
- Granata A, Granata E (2019) Teen immigration. La grande migrazione dei ragazzini. Vita e Pensiero, Milano
- Ismu (2019) A un bivio. La transizione all'età adulta dei minori stranieri non accompagnati in Italia. [https://www.ismu.org/wp-content/uploads/2019/12/191204\\_Report\\_LONG\\_ITA1.pdf](https://www.ismu.org/wp-content/uploads/2019/12/191204_Report_LONG_ITA1.pdf)
- Mateos O (2015) Africa subsahariana nel mondo multipolare. *Aggiornamenti Sociali* 10:687–697
- Ministry of Labour and Social Policies (2015) Linee di Indirizzo per il contrasto alla grave emarginazione adulta in Italia. <http://poninclusionelavoro.gov.it/Documents/Linee-di-indirizzo-per-il-contrasto-alla-grave-emarginazione-adulta.pdf>
- Tumminelli G (2021) Unaccompanied Foreign Minors: a reflection about their condition and the significance of their age. In: Said-Hung E, Durán Ruiz FJ (eds), *Menores, Migrantes en Tiempos de Pandemia*. Editorial Comares, Albolote (Granada), pp 197–204
- Tumminelli G (2020) Minori stranieri non accompagnati. In: Greco S, Tumminelli G (eds) *Migrazioni in Sicilia 2019*. Mimesis, Milano, pp 184–189

# Re-homing Processes Through Art and Culture



Stefania Crobe

**Abstract** By resignifying the concept of homing, used in ethology to describe the ability of migrant birds to remember and return to a familiar place, this contribution aims to critically reflect on how art and culture can contribute to open up a space for intercultural dialogue between migrants, local inhabitants and space, to enact processes of homing able to increase the sense of belonging within the city. Given these premises, in the framework of institutional policies and cultural grassroots initiatives, I will explore some practices of homing performed in the historical city center of Palermo that, aside from the political and media narratives of migration and hospitality, reveals itself as the ground of a multitude of actions aimed at strengthening social cohesion and togetherness through art and culture at the neighbourhood scale and improving the lives of marginalized urban communities.

## 1 Introduction

In the current global context, and especially in the Mediterranean area, contemporary migration flows are ceaselessly transforming urban spaces and processes culturally, politically, socially, and economically, by creating both opportunities and conflicts in the relationship between newly arrived migrants and local communities.

Within this scenario, the city of Palermo, Italy, with its longstanding cultural and ethnic mixing, has been often represented as a mosaic of multiple identities resulting from long processes of hybridization and contamination between different cultures. This is perfectly shown in the “Charter of Palermo” (2015), which by affirming the universal right of human mobility represents a milestone in the production of the urban brand of “Palermo città dell’ accoglienza” (“Palermo city of welcome”).

Aside from the political narratives of migration and hospitality, Palermo is also the ground of a multitude of grassroots initiatives aimed at strengthening social cohesion and togetherness through art and culture on a small scale and improving the lives of marginalized urban communities.

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By resignifying the concept of homing, used in ethology to describe the ability of migrant birds to remember and return to a familiar place, this contribution aims to reflect on how art and culture can contribute to open up a space for intercultural dialogue and interaction between migrants and local inhabitants and to enact processes of homing able to increase the sense of belonging within the city. Through the study of some practices of homing performed in the historical city center of Palermo and their diverse effects of the related transformations, I will explore how cultural activities and artistic practices in the urban space and social cohesion are related and what effects cultural participation practices may have on social inclusion of migrants and minorities.

## 2 Art, Culture, and the City: From Rebranding to Social Inclusion

### 2.1 *Beyond (Re)branding*

In the last few decades, the relationship between arts, culture, and urban and social transformations and development, in different disciplinary fields, has been largely debated, above all in the area of urban regeneration of post-industrial cities (Bianchini and Parkinson 1993; Landry et al. 1996; Miles and Paddison 2005). From the 1990s onwards, between artistic experiments and design experiences, the role of culture as a device of engagement emerges significantly and its potential is intercepted and used by what will soon become a hegemonic model of urban policy that will look at the «creative city» as an opportunity for (re)branding and for economic and social development (Bianchini and Parkinson 1993; Landry et al. 1996; Evans 2001).

Cities now regularly look to culture in its various manifestations—such as the arts, group identity and heritage, and media and design-based industries—as urban policy tools to address a wide range of urban issues, developing notions such as cultural and/or creative cluster, district, and quarter.

Attracting talent has become a major concern of civic leaders and many of them have found inspiration in theories such as those of Richard Florida, whose popular books of a few years ago, *The Rise of the Creative Class* (Florida 2002) and *Flight of the Creative Class* (Florida 2005), describe ‘creative capital’ as essential to a city’s economic success in the new globalized world. Following these ideas, «creative city» has soon become a key solution for urban revitalization adopting culture as a strategic orthodoxy and looking at ‘art-led’ regeneration as a catalyst for renewing economies and gaining a global position.

In response to this general optimism, Florida’s thesis is harshly criticized, and several theoretical frameworks have been developed to critical reflect and deeply analyze culture-led urban regeneration with the highlight of the instrumental role of culture in urban and social regeneration and its several resulting controversies. The impact of regeneration processes, indeed, is today the subject of heated debate in both

the academic world and public discourse. While it is true that festivals, events, and cultural projects are capable of creating economic opportunities, attracting investment and acting as an engine for territorial development (Stern and Seifert 2010), in recent years several scholars have observed how economic benefits often risk reinforcing pre-existing marginalization processes and distorting forms of urban regeneration, not infrequently accompanied by logics of exclusion, gentrification, commodification, social injustice, and resistance (Miles 1997, 2005; Ponzini and Rossi 2010; Grodach, Foster and Murdoch 2014; Lees 2015; Kavaratzis and Ashworth 2015; Miles 2020).

Moreover, the relationship between art, culture, and urban and social transformations is evolved in a more complex vision that embraces the social dimension of transformations. Culture as a driving force for sustainable urban development processes could be able to improve the inhabitants' quality of life (Grodach 2009; Capous-Desyllas and Morgaine 2018) through community engagement and capacity building processes, fostering processes of inclusion, and social cohesion.

## 2.2 *Towards Social Inclusion*

Both in policies and practices, gradually we are witnessing, if not a paradigm shift, at least at a deeper analysis that looks at the social dimension of culture-based regeneration and artistic and cultural participation as «a device to build connections between people, including people from different backgrounds (Markusen and Gadwa 2010; Stern and Seifert 2010), and a tool for placemaking, resulting in an increase in the number of participatory urban cultural and art projects.

The increasing attention to culture as a factor of sustainable development and social cohesion can be recognized in several guidelines, policies, and strategies that translate the cultural perspective through its inclusion in different disciplinary fields.

The United Cities and Local Governments' Agenda 21 for Culture in 2004 establishes culture as a “fourth pillar” of sustainable development (Hawkes 2001) within cities and local government, as well as the subsequent UN and Agency Declarations on Culture and Development and Diversity; and, most recently, in 2013, the Hangzhou Declaration, which places culture at the heart of sustainable development.<sup>1</sup>

In Europe, growing attention of member states to the role played by culture at the local level includes a series of actions which consider culture a necessity to build cohesive, equal, sustainable, and free societies. The rise of culture as a pillar of sustainable development, actually, has given life to political declarations and documents that, in addition to economic growth, consider culture as a factor in social inclusion, social cohesion, environmental balance, and human development. Culture become an important tool «for forming Union citizens and bridging the gap between

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<sup>1</sup> The Hangzhou Declaration: Placing Culture at the Heart of Sustainable Development Policies. <https://unesdoc.unesco.org/ark:/48223/pf0000221238.locale=en>. Accessed 19/09/2022.

them and the EU, as well as a means of constructing the EU community and legitimizing the EU integration processes. In other words, EU cultural policy aims at advancing the EU's politics of belonging by using culture to promote these objectives. In addition to culture, the notions of identity, participation, and citizenship have a key role in EU's politics of belonging, and all of them are entwined in the rhetoric of EU cultural policy» (Lähdesmäki et al. 2021).

Retracing the most recent stages of this ongoing process, in 2018 the European Commission presented a series of new initiatives to boost the role of youth, education, and culture policies and suggested a 'New European Agenda for Culture' which outlines the importance of culture's potential to foster innovation, economic growth, and jobs, as well as fostering ties between communities and strengthening Europe's external relations: «Europe's rich cultural heritage and dynamic cultural and creative sectors strengthen European identity, creating a sense of belonging. Culture promotes active citizenship, common values, inclusion, and intercultural dialogue within Europe and across the globe. It brings people together, including newly arrived refugees and other migrants, and helps us feel part of communities. Culture and creative industries also have the power to improve lives, transform communities, generate jobs and growth, and create spillover effects in other economic sectors».<sup>2</sup>

In the continuation of these intentions, to build cohesive societies and offer a vision of an attractive European Union, the New European Agenda for Culture (with its recent implementation<sup>3</sup>) aims to harness the full potential of culture to help build a more inclusive and fairer Union, supporting innovation, creativity and sustainable jobs and growth, foreseeing trends and exploring models of social and economic innovation as also emphasized in the Work Plan for Culture 2019–2022 of EU Commission.<sup>4</sup>

### 3 The Art of Belonging. Migrant's Social Inclusion Through Culture

According to this emergent sensibility in EU policy, and to respond to the migratory crisis, several integration, and inclusion actions have been developed to manage a migration and asylum policy also in a cultural turn.

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<sup>2</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, A New European Agenda for Culture (22.05.2018), <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018DC0267&from=EN>. Accessed 19/09/2022.

<sup>3</sup> Implementation of the European agenda for culture and of the EU strategy for international cultural relations (14.12.2022), [https://www.europarl.europa.eu/doceo/document/TA-9-2022-0444\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2022-0444_EN.html). Accessed 19/09/2022.

<sup>4</sup> Council conclusions on the Work Plan for Culture 2019–2022 (21.12.2018), [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018XG1221\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018XG1221(01)). Accessed 12/09/2022.

Among these, the European Action plan on Integration and Inclusion 2021–2027,<sup>5</sup> built on the experience gained from the COVID-19 crisis with the previous action plan from 2016, is based on the principle of inclusion for all, focusing on gender and anti-discrimination, in order to pursue social cohesion through targeted and tailored support that takes into account individual characteristics and to enhance migrants' active participation in society via both short-term and long-term integration plans.

If a successful integration and inclusion depend both on early action and on long-term commitment, the aim of every sustainable development project should be also able to further a long-standing intercultural construction. A goal pursued, as seen, also through Cultural EU policies which underline the potential of culture and cultural participation for of inclusive societies in Europe.

The Council of Europe's thematic report on culture and democracy, in exploring the relation between cultural participation and inclusion, highlights how «the values of tolerance and trust—both considered to be essential to inclusive societies—are found to be strongly linked to cultural participation» (List et al. 2017). The primary role of culture is—as Gielen and Elkhuisen argue—a socializing one: it helps individuals to become integrated in a specific social, political, and economic order. Culture teaches people existing ways of acting and being within a particular society and in doing so it lends meaning to people's lives in that society. This is exactly why culture enhances social integration or social cohesion (Gielen et al. 2015).

And even if the problem of impact evaluation is relevant and far from being linear, the challenge of social inclusion and empowerment through cultural engagement is embraced not only by policies, but first by numerous activities and projects fostered by museums, organizations, small NGOs, and even artists. The aim of their projects is to integrate and support refugees, migrants, and minorities in a process of welcome, integration, and re-homing to pursue a multi-cultural society.

### **3.1 «Le Partage Du Sensible»: Community-Based Creative Spatial Practices**

In this effort, cultural institutions can strengthen the participation of migrant-background and minority communities in art and culture and contribute to more inclusive and cohesive cities. And, if the role of culture as a cross-disciplinary tool for social inclusion is an emergent concept in policy analysis, this is more and deeply explored by practices that use music, dance, theatre, and performative and visual art as a device to transcend geographic and disciplinary boundaries. Culture as a *medium* to foster participation and inclusion in communities affected by migration—refugees and migrants and residents in general—to increase a sense of belonging to places

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<sup>5</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Action plan on Integration and Inclusion 2021-2027 (24.11.2020) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0758&qid=1632299185798>. Accessed 19/09/2022.

and to raise a new intercultural knowledge and to promote integration through social participation.

We particularly find this attitude in community-based creative spatial practices led by practitioners, artists, and researchers. An approach that uses arts as a tool of expression to understand the urban environment and to engage people in place-making co-creation processes through «le partage du sensible», the sharing of what can be perceived by the senses (Rancière 2000). In this approach arts and culture act to trigger forms of participation in which the creation of relationship is more important than outcomes.

Cultural projects for social inclusion and community empowerment usually are educational and capacity- and community- building creative processes that increase relationships between participants, bringing people together in a peer-to-peer exchange that influences, in an open-minded attitude toward others, cohesive behaviour (Nussbaum 1997, 2010) and fosters critical awareness. Furthermore, because of their typology, for their deep relational dimension and cooperative character, and above all for being strongly place-based, we can often find these projects under the umbrella of urban and social regeneration through participatory and community art.

The process of co-creation and the collaborative approach that distinguishes these practices allow people involved to cultivate a sociological imagination (Mills 1959; Greene 2010; Nussbaum 1997, 2010), to challenge the rationality of the real in seeing its potential, critically understand the present and envision the future. And in so doing, in the co-presence of meaning, they facilitate the comprehension of the space «making visible the invisible» (Klee 2013) and contribute to place-making, meant as the space of relationship of different actors generated by the cultural process of common imagination and experimentation.

So, alongside the attention of European policies, in a reciprocal influence between practices and strategic directions, we are observing a proliferation of significant artistic and cultural experiences and projects that use arts and cultural practices to unite people beyond cultural and language barriers, enabling them to communicate and share experiences on equal footing and enrich one another (Fig. 1).

## **4 Palermo and Homing Process Through Culture in the Public Space**

The notion of homing refers to the ability of migrant birds—and animals in general—to remember and return to a familiar place from a distance. However, nowadays we can find the term in a multi-layer meaning in social sciences and in multidisciplinary literature (Yapo and Boccagni 2020).

By resignifying this concept, with reference to the idea of homing as homemaking in the public (Boccagni and Duyvendak 2021), a political tendency to stimulate feelings of home and belonging in public space to improve social cohesion, integration,



**Fig. 1** Wall painting by artist Igor Scalisi Palminteri in the neighborhood of Albergheria, Palermo (Photo by Stefania Crobe)



and liveability (Duyvendak et al. 2016), this contribution aims to explore the potential of art and culture in creating a space for intercultural dialogue and foster social inclusion, in increasing the sense of belonging within the city.

The idea of homing is here meant «as a biographical tendency to ‘settle’: the set of processes through which a given subject, individual, or collective, sees and understands the house according to certain social and cultural criteria, mostly implicit; perceives and ‘cultivates’ it, as a relational and emotional experience; orients its social practices in such a way as to give a certain sense of home to its daily living environments» (Boccagni 2017).

In doing so, starting from these theoretical premises, I will explore some “homing practices” performed in the historical city center of Palermo and the diverse effects of the related transformations.

## 4.1 *Palermo, City of Togetherness*

The city of Palermo, in Italy, with its longstanding cultural and ethnic mixing, has been often represented as a mosaic of multiple identities resulting from long processes of hybridization and contamination between different cultures. This is well shown in the “Charter of Palermo” (2015), which by affirming the universal right of human mobility represents a milestone in the production of the urban brand of “Palermo città dell’*accoglienza*” (“Palermo city of welcome”).

On March 15, 2015, at the end of the three-day conference entitled «*To sono persona*», the Palermo Charter was signed, a cutting-edge declaration of intent on the issues of integration and citizenship, in which the main concept is that of the right to international mobility. The uniqueness of this document lies in giving ideas to address the regulation of the migratory flow in a completely new way, for example by proposing the abolition of residence permits in favour of a radical adoption of citizenship as a tool for inclusion and participation in public life.

The Charter claims that mobility was an inalienable human right, with reference to Articles 2 and 3 of the Italian Constitution, valuing migrants as a resource and not as an additional burden on the countries of destination. Concretely, this involves the implementation of rules and organizational models radically different from the current ones; avoiding considering the migrant a danger, as is done today with emergency logic. In addition, the charter claims the right to political participation and cultural contamination, through the enhancement of self-recovery processes with the direct involvement of immigrants, the cooperative management of disused public spaces, the use of confiscated goods, for the entire community.

But, aside from the political narratives of migration and hospitality, which in some cases uses the migration phenomenon as a brand in the construction of an image of a simplified and pacified multicultural city, Palermo is also the ground of a multitude of grassroot initiatives involved for social cohesion and togetherness through art and culture, at the neighbourhood scale and improving the lives of marginalized urban communities. Particularly, I refer to a set of practices which we can consider relational and that act in a collaborative and participatory way, extremely rooted in the social context whose aim is to emphasize civic engagement and empowerment.

In the urban context of the historical downtown, an important socially—and culturally—oriented work is carried out by a huge network of organizations—many of which gathered in the SOS Ballarò<sup>6</sup> public assembly—that is strongly engaged in the territory and that uses art and culture in a large sense to challenge social issues such as urban regeneration, social inclusion, spatial justice, and community empowerment.

Among the many projects, a plurality of organizations and local institutions animate “*Mediterraneo antirazzista*” (Mediterranean anti-racist), whose first edition dates to 2008. “*Mediterraneo Antirazzista*”, today at the XIV edition, is a sporting, artistic, and cultural event whose main goal is the promotion of intercultural relations between the different components that inhabit the city, trying to question the

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<sup>6</sup> For an in-depth look at the collective mobilization process that took shape in Ballarò starting in 2015, giving birth to the S.O.S Ballarò network, see Gallitano (2018).

dominant narratives about migration as an «invasion» and to foster a multicultural society. Each year football, basketball, volleyball, cricket, and rugby matches are organized in several neighborhoods of the city and involve over 200 teams, together with concerts, debates, and workshops. So, the project aims to promote an intercultural vision of society and to break the barriers of racism, discomfort, and degradation through cultural production, meant as a vehicle for socialization. Culture and sport are used as a «pre-text», on one side to recover abandoned areas and convert them into areas for sports and games, and on the other side to break down borders and build rights in the name of an anti-racist society.

Another experience, in the Albergheria neighborhood named Ballarò for the market it hosts, is C.A.S.A. a Ballarò—Comunità Attiva e Scuola Aperta a Ballarò. It is a project for social inclusion that arises from the impulse of an informal network engaged in the process of regeneration of the neighborhood. A complex process of engagement and participation of minors aged 5–14 years aims to fight educational poverty in order to build an «educating community» in offering welfare services where politics are absent.

Those are two examples, among many, to which we could add the work of Arci Porco Rosso with the listening and support desk «Sans-Papiers» or the actions of the project «In My Art—Inclusive Multicultural societies through Art» by Per Esempio onlus with the non-profit ArteMigrante and many other institutions and projects characterized for being hybrid and strongly rooted in the territories and that act on the microuban scale to regenerate and include through culture and through place-based and community-engaged processes.

In observing these practices, we can see how in Palermo the mobilization of art and culture for social cohesion takes the form of collective action in defense of rights, rethinking the construction of welfare as a function of territorial proximity and empowerment.

These experiences are distinguished by place- and community-based actions in territories connoted by forms of marginalization, with a strongly territorializing character and so falling within that category of grassroots urban and human regeneration. Looking at the concrete actions that these organizations perform in the territory, we can see how they play an agency role. In a general absence of services, they function as territorial «forts» in places characterized by a progressive absence of policies.

If art- and design-related interventions can facilitate or hinder access to a particular area on a physical, psychological, sociocultural, or economic level (Langdon et al. 2018), the experience held by a plural network of actors in Palermo highlights how arts and culture based initiatives are useful to produce situated and affective knowledge which in turn advances more inclusive understandings of place (Horvath and Carpenter 2020) and people, making relationships and starting the capacity-building process. In these experiences, cultural practices (re)design public and social space in promoting forms of re-appropriation for citizens, particularly those whose voices tend to be overlooked by policy makers.

Furthermore, in these projects that claim a public and political function of culture, the various parties are involved—in an informal educational and creative approach—in developing a process and active participation and cooperation to jointly build a community space.

The neighborhood and the public space become a space of learning and exchange within the community. Arts and culture, in their various declinations, sustain these processes in relation to development dynamics because they not only work with artifacts, but they work on social inclusion and equity. The cultural practices, indeed, enable means and encourage languages of expression—either consensus or conflict—that open spaces of negotiation and dialogue.

Within the Palermitan context, the experience of culture in the public space helped to understand the development of the processes of social and emotional appropriation of a space by those who have just arrived in relation to those who have lived there for some time (Boccagni 2017). In this sense, the projects activated in the historic center of Palermo, with migrant and non-migrant populations, work to develop a «homing process», a sense of belonging and integration through a daily cultural interaction (Fig. 2).



**Fig. 2** One of the activist of Arci Porco Rosso, a non profit organization in Albergheria neighborhood, Palermo (Photo by Francesco Giardina)

## 5 Conclusions

In Palermo, with increased attention in recent years, there have been attempts to design and implement public policies and practices related to art and culture. On one side, public policy has worked to use culture as a boost for tourism and economic growth and to push on forward the image of the city as competitive and attractive in a global dimension, such as the event of Manifesta12 or building a «city of welcoming» image. On the other side, contest-specific cultural projects have been launched to promote social improvement and inclusion, as well as community development. These initiatives, these grassroots projects, encourage city vivacity, promoting cultural actions to respond to multicultural society challenges.

Beyond the political and media narrative of «Palermo città dell'accoglienza», who risks perpetuating rhetoric that is not followed by concrete actions, the cultural mobilization of the organizations active in the downtown center of Palermo, using cultural process as a device for community engagement and social cohesion, offers new configurations and arrangements. The case of Palermo and the exercises of innovation in cultural, urban, and social policy held by grassroots organizations and practices have the opportunity to shape, if within a strategic policy design, the global discourses on the role of culture in urban development and social inclusion of migrants and minorities, from a Mediterranean perspective.

Although even the narratives generated by cultural projects are not lacking in unresolved issues and the process of multicultural co-existence and integration is far from being linear (Gallitano 2018; Giubilaro 2019; Crobe 2022), thinking of the mechanisms of strengthening citizenship and place-attachment through cultural actions, in a hopeful coalition between urban and cultural policies and practices, particularly at a neighborhood scale, culture may be strategically used to promote greater access and participation and foster citizen-state policy collaboration for social cohesion.

In a welcoming city that necessarily implies overcoming a welfare and emergency dimension of the very principle of hospitality (Lo Piccolo 2006), culture plays an important role in the homing process and can meaningfully contribute to social change. In the projects launched by several Palermitan nonprofit organizations, culture challenges and shifts debates, changes perspectives, raises awareness, and acts upon visible and invisible mechanisms of inclusion and exclusion, rethinking agency and engaging theoretically or empirically with how cultural process acts in creating an accessible public space for all through relations and creative experimentation (Hannes 2021).

## References

- Bianchini F, Parkinson M (eds) (1993) *Cultural policy and urban regeneration: the West European experience*. Manchester University Press, Manchester

- Boccagni P (2017) Fare casa in migrazione: una chiave di lettura dei processi di integrazione e di riproduzione sociale quotidiana in contesti multietnici. *Tracce Urbane. Riv Ital Transdisciplinare Di Studi Urbani* 1(1)
- Boccagni P, Duyvendak J W (2021) Homemaking in the Public. On the Scales and Stakes of Framing, Feeling, and Claiming Extra-Domestic Space as 'Home. *Sociol Compass* 15(6)
- Capous-Desyllas M, Morgaine K (eds) (2018) *Creating social change through creativity: anti-oppressive arts-based research methodologies*. Springer, pp 189–207
- Crobe S (2022). Pratiche culturali e second welfare. Il ruolo del Terzo Settore nei processi di rigenerazione urbana nella città (post)pandemica. *Urbanistica Informazioni*, 50(306 s.i.), 520-522.
- Duyvendak JW, Reinders L, Wekker F (2016) Homing the Dutch an introduction. *Home Cultures* 13(2):87–100
- Evans G (2001) *Cultural planning: an urban renaissance?* Routledge, London
- Florida R (2002) *The rise of the creative class. And how it's transforming work, leisure, community, and everyday life*. Basic Books, New York
- Florida R (2005) *The flight of the creative class. The New Global Competition for Talent*, New York
- Gallitano G (2018), *Le economie eticamente orientate come dispositivo di mantenimento della risorsa nei processi di commoning: il caso Ballarò a Palermo*. *Scienze del territorio* 6, Firenze University Press, p 196–204
- Gielen P, Elkhuizen S, Lijster T (2015) Culture: The substructure of a European Common. In: Gielen P (eds) *No culture, No Europe. On the foundation of politics*. Amsterdam: Valiz
- Giubilaro C (2019) *Resistenze imperfette. Trasformazioni Socio-Spaziali a Ballarò (Palermo)*. In: Sterchele L, Bertoni L, Biddau F (eds) *Territori e resistenze. Spazi in divenire, forme del conflitto e politiche del quotidiano*, Trento Manifestolibri, p 41–59
- Greene M (2010) Prologue to art, social imagination and action. *J Educ Controv* 5(1)
- Grodach C (2009) Art spaces, public space, and the link to community development. *Community Dev J* 45(4):474–493
- Grodach C, Foster N, Murdoch J (2014) Gentrification and the artistic dividend: the role of the arts in neighborhood change. *J Am Plann Assoc* 80(1):21–35
- Hannes K (2021) What art and design do for social inclusion in the public sphere. *Soc Incl* 9(4):103–105
- Hawkes J (2001) *The fourth pillar of sustainability: culture's essential role in public planning*. Cultural Development Network in association with Common Ground Publishing, Melbourne
- Horvath C, Carpenter J (Eds.) (2020) *Co-creation in theory and practice: Exploring creativity in the global north and south*(1st ed.). Bristol University Press
- Lo Piccolo F (2006) *La Dimensione Urbana Dell'immigrazione*. *Edilizia Popolare* 52(282):22–29
- Kavaratzis M, Ashworth G (2015) Hijacking culture: the disconnection between place culture and place brands. *Town Planning Review* 86(2):155–176
- Klee P (2013) *Creative Confession*. Tate Enterprises Ltd
- Lähdesmäki T, Mäkinen K et al (2021) EU cultural policy: Europe from above. *Europe from Below* pp 45–72
- Landry C, Greene L, Matarasso F, Bianchini F (1996) *The art of regeneration: urban renewal through cultural activity*. Comedia, Stroud, UK
- Langdon P, Lazar J, Heylighen A, Dong H (Eds.) (2018) *Breaking down barriers: Usability, accessibility and inclusive design*. Springer.
- Lees L (2015) Arts-led regeneration in the UK: the rhetoric and the evidence on urban social inclusion. *Eur Urban Regnal Stud* 22(3):242–260
- List RA, Kononykhina O, Leong Cohen J (2017) *Cultural participation and inclusive societies—a thematic report based on the Indicator Framework on Culture and Democracy*, Council of Europe report
- Markusen A, Gadwa A (2010) Arts and culture in urban or regional planning: a review and research agenda. *J Plan Educ Res* 29(3):379–391
- Miles M (1997) *Art, space and the city*. Routledge, London

- Miles M (2005) Interruptions: testing the rhetoric of culturally led urban development. *Urban Stud* 42(5/6):889–911
- Miles S, Paddison R (2005) The rise and rise of culture-led urban regeneration. *Urban Stud* 42(5/6):833–839
- Miles S (2020) Consuming culture-led regeneration: the rise and fall of the democratic urban experience. *Space Polity* 1–15
- Mills CW (1959) *The sociological imagination*. Oxford University Press, New York
- Nussbaum M (1997) *Cultivating humanity. a classical defense of reform in liberal education*. Harvard University Press, Cambridge
- Nussbaum M (2010) *Not for profit. Why democracy needs the humanities*. Princeton University Press, New Jersey
- Ponzini D, Rossi U (2010) Becoming a creative city: the entrepreneurial mayor, network politics and the promise of an urban renaissance. *Urban Stud* 47(5):1037–1057
- Rancière J (2000) *Le partage du sensible. Esthétique et politique*, La Fabrique Éditions
- Stern MJ, Seifert SC (2010) Cultural clusters: the implications of cultural assets agglomeration for neighborhood revitalization. *J Plan Educ Res* 29(3):262–79
- Yapo S, Boccagni P (2020) On the uses, functions and meanings of homing in the literature: an analysis of academic publications over time, HOMInG Working Paper no 7 2020

# De Luca's Urban Populism: Migrations, Securitization and Post-raciality in Messina (Italy)



Chiara Giubilaro and Marco Picone

**Abstract** Despite the traditional narratives on the rise of populism, several scholars have recently underlined what is now called ‘urban populism,’ i.e. the relationships between medium or large cities and the spread of populism in contemporary societies. One of the major arguments that urban populism exploits to ensure its impressive growth is the presence of migrants in cities, especially when the latter are already on the verge of economic crises caused by health emergencies and international wars. Many European states have ambiguously wavered between the rejection of supranational entities and the desire to strengthen European borders, considered culturally homogeneous, against the ‘threat’ of foreigners arriving from Africa and Asia. Likewise, populism has been ambiguous with regard to cities, which are sometimes considered the receptacle for all evil, while at other times they are a political model (with obvious reference to the Greek polis) to be defended, once again, in the clash of civilizations that characterizes our era. If, in fact, there are many studies on the construction of the populist discourse at the national or supranational scale, less attention has been paid to the urban scale, which also plays a key role in the articulation between identity rhetoric, practices of confinement, and spatial imagery. In this turbulent context, Messina has also experienced some episodes, albeit not very well known, of populist anti-migrant rhetoric. Here, Mayor Cateno De Luca achieved regional and then national notoriety for his aggressive campaigns against both internal and external enemies. By building on the existing scientific literature on populism, and through the use of a qualitative methodology based on critical discourse analysis, this contribution aims to outline the links between migration and urban populism, starting from a theoretical framework and then describing the

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Although the article should be considered a result of the common work and reflection of the two authors, Marco Picone took primary responsibility for Sections 1 and 2, while Chiara Giubilaro took primary responsibility for Sections 3 and 4.

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specific case of De Luca's narratives about the Gasparro reception center in Messina and its contested geographies.

## 1 Introduction

This chapter builds upon the most recent scholarly debate on urban populism and its relationships with migrations. By drawing upon existing academic literature on populism, our goal is to show how migrants become a key argument of the populist discourse, along with the defense of 'the people' from foreigners. Several scholars have already unveiled the strategies enforcing how populism describes and exploits migrants for its own goals (Kallis 2018; Brubaker 2020), but in this chapter, we will focus on the urban scale, as we believe the city, especially in a time of pandemics, is willingly chosen as a stage where fear and security are employed and performed to better direct the political choices of the voting population (Smith 2004; Wacquant 2014; Lizotte 2020).

In Sect. 2 we will introduce the theoretical framework which will serve as the basis for the analysis of our case study from Messina, described in Sect. 3. In Messina, local populist politicians have recently enacted their own policies, which strongly oppose an ethical and inclusive point of view of migrants. The case we are presenting in this chapter employs a qualitative methodology based on critical discourse analysis (Chouliaraki and Fairclough 1999; Wodak and Meyer 2009) and aims at unveiling the rhetorical strategies populists employ to discredit migrants and use their precariousness for their own political profit. Section 4 presents the results of our research, by discussing how populisms and migrants become key figures in contemporary regimes of post-raciality, as critical scholars pointed out (Goldberg 2015; Ghebremariam Tesfau' and Picker 2021).

## 2 All the Way Back to Russia

Populism, as we know it today, was born in Russia. Its origins lie within the Russian *narodnism* movement of the late nineteenth century (Nahirny 2018). The term *narod* means 'people, folk', but the relationships between the Russian *intelligentsia* and the *narod* are complicated: it was the 'thinking individuals' (the *intelligentsia*) that defined the role of the 'uncivilized, uneducated crowd'—the *narod*, the true agents of *populism*. Populism was the product of what the elites believed common folk should do and think.

The relationship between the people and the elites has significantly shifted over the latest decades. Whereas Russian elites were patronizing the *narod*, today populism can be defined as "a thin-centred ideology that considers society to be ultimately separated into two homogeneous and antagonistic groups, 'the pure people' and 'the corrupt elite', and which argues that politics should be an expression of the *volonté*

*générale* (general will) of the people” (Mudde 2004, 543). In this form of populism, the reference to corrupt elites “means that populism is a form of *moral* politics, as the distinction between ‘the elite’ and ‘the people’ is first and foremost moral (i.e. pure vs. corrupt), not situational (e.g. position of power), socio-cultural (e.g. ethnicity, religion), or socio-economic (e.g. class)” (Mudde and Kaltwasser 2012, 8).

More recently, a new form of populism began to emerge. This new form is called ‘nationalist populism’ and focuses on nations as well as people (Casaglia and Coletti 2020, 1). Nationalist populism is now spreading all over Europe and the Americas, though “a sharp distinction between populism and nationalism misses the ambiguity and ambivalence that are internal to populist discourse” (Brubaker 2020, 61).

What seems particularly interesting as we write today, almost a year after the start of the war in Ukraine, is that over the last few years populism seems to be back to its cradle. As the war between Russia and Ukraine proceeds, propaganda and populism are key tools for gaining consensus. This holds true for Russia and its president Vladimir Putin,<sup>1</sup> but also for Ukraine and Volodymyr Zelenskyy<sup>2</sup> (Baysha 2022). The hugely influential TV series *Servant of the People*, whose main character is played by Zelenskyy himself, tells the story of a humble college teacher who later unexpectedly becomes the President of Ukraine. This TV series is a powerful example of populist discourses in Ukraine and can be interpreted through the lenses of popular geopolitics (Dittmer and Bos 2019; Makarychev 2022).

There is an intimate relationship between populism, Russia and some right-wing Italian political parties, most notably the *Lega*, which have recently won the national elections in September 2022. Before the beginning of the Ukrainian war, several right-wing leaders, such as Matteo Salvini, expressed their sympathy for Russia and its government (Fig. 1): “admiration of Putin’s regime in Italy can most effectively be conceptualized through the prism of popular geopolitics, as an oversimplified and superficial vision of the world where political reasoning is reduced to illusory and manipulative imageries representing a mix of nostalgia [...], fantasies, conspiracies, and a peculiar postcolonial imagination” (Makarychev and Terry 2020, 26). In a sense, we might argue that Russian populism got back home (or maybe never left its home in Russia), but it certainly visited Italy as well.

Naturally, this Italian version of populism is not the same as its Russian counterpart. For starters, the traditional populist opposition between the elite and the people “hardly works within the Italian polity since Salvini the populist is an inherent part of the elite, not its opposite” (Makarychev and Terry 2020, 25). However, many elements still concur to connect Russian and Italian populisms.

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<sup>1</sup> Scholars are debating Putin’s identification as a populist leader. However, according to Tina Burrett (2020, 196), “Putin may not be a populist in all aspects of his leadership, but this does not mean that certain populist elements are not part of his repertoire”. For what concerns the main argument of this chapter, therefore, we believe that Putin can be considered a populist leader, albeit with some degree of caution.

<sup>2</sup> Throughout this chapter we decided to use the transliteration ‘Zelenskyy’ to address the Ukrainian president, though other sources use ‘Zelensky’ or ‘Zelenskiy’.

**Fig. 1** Caricature representing a kiss between Salvini and Putin, in Modena (Italy). ([https://commons.wikimedia.org/wiki/File:Matteo\\_Salvini\\_-\\_Vladimir\\_Putin\\_\(MO\)\\_\(cropped\).jpg](https://commons.wikimedia.org/wiki/File:Matteo_Salvini_-_Vladimir_Putin_(MO)_(cropped).jpg), accessed 25 November 2022)



## 2.1 The Perfect Populist Leader

One of the most significant above-mentioned elements is how a populist leader is defined and what characteristics should such a leader possess. Building upon Max Weber's (1978) concept of *charisma*, Daniele Albertazzi and Duncan McDonnell state that populist leaders “‘incarnate the people’s culture’, articulate the will of the people, ‘say what people are thinking’, can see through the machinations of the elites and have the vision to provide simple, understandable solutions to the problems portrayed by the elites as complex and intractable. However, while blessed with qualities which are far beyond the norm, these leaders have remained in all other ways ‘one of the people’ and, hence, one ‘with the people’” (Albertazzi and McDonnell 2008, 7).

There are several Italian political leaders whose characteristics match the description above. The most well-known cases are certainly Silvio Berlusconi and his idea of ‘the common man’ and the two leaders of the *Lega*, Umberto Bossi, and, later, Matteo Salvini, along with their ‘identity populism’ (Tarchi 2008). Others, however, are vying for the scepter and perhaps the most interesting case is the rise to power of Giorgia Meloni’s *Fratelli d’Italia*. In the following sections, we will focus on Cateno De Luca, a local Sicilian politician whose astonishingly growing consensus is due to populist rhetoric (Saitta 2020). Italian sociologist Pietro Saitta, as we will discuss below, in his works on Sicilian populism, went so far as to call De Luca a “diabolical” populist (Saitta 2020, 128) because of how he constantly identifies new ‘enemies’ to condemn and new scapegoats to blame.

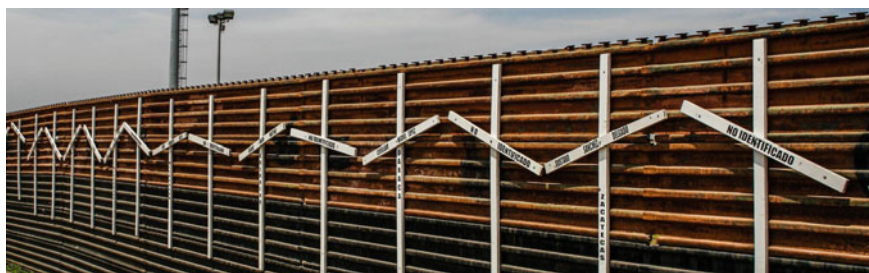
Social scientists (Davis 1999; Agamben 2003; Wacquant 2007) have built on Bauman’s (2006) insight and focused on how fear has been used and spatialized, particularly after 9/11 and the terrorist threats to the United States. We will get back

to this point at the end of this article, after a discussion on what has happened in Messina over the last months. What matters for now is that this approach to fear and security is defining nationalist populism as a movement aiming to defend national communities from the forces of globalization (Gordon 2018).

In this struggle between (good) nations and (evil) globalization lies one of the most striking paradoxes concerning populism: the same political elites whose agendas are inspired by globalizing trends and interests become the leaders of populist parties and movements across the world, as is the case for France (Marine Le Pen's *Rassemblement National*, previously called *Front National*), the United Kingdom (Nigel Farage's *UKIP*, the largest and most vocal nationalist populist party in the European Parliament), Hungary (Viktor Orbán's *Fidesz*) and Italy (Matteo Salvini's *Lega*), amongst other European countries. Moreover, these political leaders often look for international alliances that could help them face the 'European elites' and their "there-is-no-alternative-to-the-EU mindset" (Mamadouh 2020, 6), while at the same time claiming an increasingly stronger role in the very same European Parliament they are trying to dismantle. Instead of dismantling supranational entities, it seems like populist parties are now trying to change those entities from the inside. Whether they will succeed or not remains to be seen.

## 2.2 Walls and Migrants: Populism Comes to Town

Along with slogans such as reclaiming the nation from the corrupt elites and defending national interests from globalization, populisms often employ the concept of walls to counter migration flows and restrict asylum policies. The most relevant example of these policies is perhaps the 'Trump wall' on the US–Mexican border (dell' Agnese 2005; Casey and Watson 2014; Boyce 2016; Becker 2021; Fig. 2). The wall has also recently appeared in the docuseries *Immigration Nation*, which was broadcast on Netflix starting from August 2020 (Guardian 2020).



**Fig. 2** Mexico–United States barrier at the border of Tijuana, Mexico and San Diego, USA. The crosses represent migrants who died in the crossing attempt ([https://commons.wikimedia.org/wiki/File:Border\\_Wall\\_at\\_Tijuana\\_and\\_San\\_Diego\\_Border.jp](https://commons.wikimedia.org/wiki/File:Border_Wall_at_Tijuana_and_San_Diego_Border.jp), accessed 29 November 2022)

The wall—both as border and as barrier—is a *cliché* that right-wing populisms constantly refer to: “The idea of the border is basic to the populist aspiration for remaking space in the image of the people. [...] For far-right populists, the degrading effects of multiculturalism and immigration provide natural fault lines between us and them, the treasured and the expendable, the deprived city and the virtuous countryside. At every turn, far-right populists see the undermining of national pride by the machinations of outsiders and the imminent pollution of European space by non-European invaders” (Lizotte 2020, 3).

Christopher Lizotte also points out another relevant aspect of the ambiguous attitude of populisms: their view of what the city represents. Although the main focus for its discourse is the nation, cities also became crucial in the populist *weltanschauung*. “Nazi, Fascist, and Communist regimes all held the city in ambiguous regard: as a symbol of decadence, national decline or depravity on the one hand, and of potential renewal on the other, where rationality, monumentality, and a modern aesthetic could sweep away the past. Today, [...] the city still serves as a convenient reference point for populist demagogues and partisans” (*ibidem*). Within the framework of this ambiguous positioning, the case study we are discussing here will provide insight into how cities have become the ground for the concrete realization of populist policies and discourses. In the populist point of view, cities must be defended from the migrant threats, just like nations. Being traditionally more progressive than non-urban areas, cities also become an especially important battleground for right-wing populist parties, as they try to point out how left-wing inclusive policies towards migrants can endanger the city and leave it unprepared to deal with all the threats migrants can pose. The example of what happened in Messina will shed light on these dynamics.

### 3 Reframing Postraciality at the Urban Scale. The Case of the “Gasparro” Center in Messina

On 26 August, 2018, 148 people on board the Italian Coast Guard ship *Diciotti* were allowed to disembark in Messina, the third largest city in Sicily (Italy). They had been rescued from an overcrowded boat off the island of Lampedusa on 16 August, but Italian far-right Interior Minister Matteo Salvini had denied the authorization to disembark for several days, leaving the people on board stuck in a state of indefinite detention (Butler 2006, 50–51), amidst voices of dissent and protest campaigns.<sup>3</sup> Once disembarked, people on board the *Diciotti* were transferred to the *Gasparro* hotspot in Messina, former military barracks in the Bisconte neighborhood. When a local journalist approached Messina’s newly elected mayor Cateno De Luca to ask him for feedback on the Italian Interior Ministry decision, he gave an answer that provides a useful starting point for exploring urban populism: “The migrants?

<sup>3</sup> Matteo Salvini was formally prosecuted over abuse of office and illegal detention, but on February 19, 2019, the Italian Senate voted to block the investigation into his accusations of kidnapping.

I will give them the slums,<sup>4</sup> those slums where 10,000 Messina residents currently live amid asbestos, open sewers, and filth. Will someone accuse me of racism? First, they will have to explain to me why an Italian [citizen] can live in those dilapidated buildings, but a migrant cannot [...] I have 10,000 people that have been living in slums for 110 years. Messina was the least suitable city for a hotspot”.<sup>5</sup> Although De Luca was not new to provocations, his comment on the *Diciotti* case sets the stage for exploring how right-wing populism is renegotiated at the urban scale and what is the role of migration and raciality in it.

Research on the so-called *Diciotti crisis* has been mostly restricted to the national (Carbone 2019; Frazzetta and Piazza 2021) and international scale (Filmer 2020). Although some authors have investigated how the *Diciotti crisis* has been framed across different media, languages, and narratives, such approaches have tended to overlook the role of urban practices and discourses in framing this event. As discussed above, scholarship on populism and racism is mostly concerned with the nation-state and, more recently, with international actors and relations. What we would like to argue is that a rescaling of these analyses is needed to understand the key role that urban spaces and actors play nowadays in articulating populist rhetorics. To do so, we want to explicitly adopt a spatial approach to populism, by focusing on a peculiar space and its contested geographies. Due to its location in a highly marginalized neighborhood and its immediate proximity to one of the post-earthquake slums in the city, the former military barracks *Gasparro* were and still are a battleground where different imaginaries coexist, overlap, and conflict. From this vantage point, we analyze some of the discourses and images that have distinguished De Luca's rhetoric on Bisconte from 2018 to 2020. For this purpose, we adopt a mixed methodology that combines visual content and critical discourse analysis (Rose 2001; Wodak and Meyer 2009).

Elected Mayor of Messina in June 2018, De Luca quickly achieved regional and then national notoriety for his aggressive and racist campaigns against “the smart and the uncivilized ones” (“i furbi e gli incivili”). He then created his own political party (Sud Chiama Nord 2022) and ran for President of Sicily at the regional elections of September 2022. Despite his initially relative political strength, De Luca came second with a final result of 23.95% (Regione Siciliana 2022), beating other more structured and well-established parties like the *Partito Democratico* (16.17%) and *Movimento 5 Stelle* (15.22%). In his seminal study of Cateno De Luca's neo-populism, Saitta provides a reconstruction of De Luca's phenomenology through a detailed analysis of his public discourses (Saitta 2020). Bringing together the “Southern question” debate and the Foucaultian reflection on pastoral power, Saitta rereads the urban civilization project enacted by De Luca and carefully examines its discursive strategies and diversified objectives. De Luca's neo-populism feeds on the everyday identification of

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<sup>4</sup> After the 1908 earthquake devastated Messina and resulted in the death of at least 65,000 of its inhabitants, the local authorities decided to build around 7,600 temporary shelters that in spite of a long and complex history of urban development became a “permanent feature of the urban landscape”, raising a still open social question investigated by Saitta and Farinella in their book *The Endless Reconstruction and Social Disasters* (Farinella and Saitta 2018).

<sup>5</sup> Facebook post on Cateno De Luca's page, 27 August 2018, accessed 17 December 2022.



a wide range of enemies, such as uncivilized people, inefficient municipal employees, national and regional politicians, and whoever might threaten the urban community and its social order. What characterizes and differentiates De Luca's populism, in Saitta's view, is that internal enemies play a major role in his narratives than external enemies (Saitta 2020, 146). Although this interpretation of De Luca's urban populism is to a certain extent correct, it risks failing to address how migrants and asylum seekers contribute to forging De Luca's imageries, strategies, and practices.

To fill this gap, in this section we provide some insights into the ways the Mayor of Messina reframes and expands the repertoires of representation used to mark racial difference in right-wing populist discourse. What we would like to argue is that to fully understand De Luca's narratives on migrants we need to inscribe them within a post-racial theoretical framework. Primarily theorized in the United States (Goldberg 2015; St Louis 2015) and then introduced in the European debate by Salman Sayyid (Sayyid 2017), the term post-raciality is used to describe a particular, self-deceptive configuration of racism that, far from dismissing race, "actively erases not only the relevance of race, but the very possibility of naming facts, organizational logics, official discourses and circumstances as racist" (Ghebremariam Tesfau' and Picker 2021, 3). In the post-racist age, racism is rarely mentioned, but it silently operates in ways and places that are formally disconnected from its structures of violence and mostly reported to occasional individual actions. This mechanism is particularly significant when we look at the Italian case, where racial inequalities are often depoliticized and disconnected from structural responsibilities and their socio-cultural matrices (Lombardi-Diop and Romeo 2005). As Mackda Ghebremariam Tesfau' and Giovanni Picker have persuasively argued (Ghebremariam Tesfau' and Picker 2021), empirical analyses on Italian populism and its relationships with racial injustice are key to building up a post-racial archive that shapes and organizes a history and theory of racism in Italy (Ghebremariam Tesfau' and Picker 2021, 14). In support of this argument, we now examine the issues at stake through a critical analysis of De Luca's discourses on what happened in and around the *Gasparro* center between 2018 and 2020.

Converted into First Reception Center (*Centro di Prima Accoglienza*) in 2013 and then into a hotspot in 2017, the former military barracks *Gasparro* in Bisconte were and still are a terrain of political struggle and discursive debate. As we mentioned at the beginning of this section, the transfer of people onboard the *Diciotti* to the newly established hotspot in Bisconte in August 2018 signaled the beginning of a long series of performances that have contributed to constructing De Luca's populist rhetoric. Located a few steps away from the post-earthquake Bisconte barracks (Fig. 3), the center has always been the target of post-racist acts and discourses. Its spatial proximity with one of the most marginalized areas in the city transformed it into a perfect stage for performing acts of bordering, aimed at spatializing difference and thereby tracing a line of demarcation between 'us', the people of Messina, and 'them', the potentially dangerous migrants. This line of demarcation is precisely what sustains De Luca's provocative statement of relocating migrants in the barracks (see above). As in many other occasions, De Luca takes explicitly into account the accusation of racism ("someone will accuse me of racism"), deploying a rhetorical strategy



**Fig. 3** A satellite view of “Gasparro” Center and the post-earthquake slum in Bisconte, Messina (iMaps)

aimed at silencing the racial charge and affirming that racism is a matter of subjective interpretation and judgment. Moreover, the vulnerability experienced by those living in slums becomes a practical resource to be exploited in defining lines of political opposition between “the people” and “the others” (Brubaker 2020).

A similar performance took place six months later when 47 people rescued by German NGO vessel *Sea-Watch 3* were transferred to the Bisconte hotspot after twelve days of loitering at sea. Interviewed by a local blog journalist, Cateno De Luca stated: “Racism has nothing to do with it. Messina is in such a condition that it is the least suitable city to welcome these people. A city in which the dignity of so many Messina residents is mortified and humiliated”.<sup>6</sup> Once again, racism is thoroughly rejected and delinked from the event and its narration. But it was during the summer of 2020 that De Luca’s political battle against the *Gasparro* center reached its peak. After some groups of migrants fled from the center and voices of dissent were raised by slum residents in Bisconte, Cateno De Luca mounted a legal case against the Prefecture of Messina and the Italian Interior Ministry for the damages caused by the facility, aimed at closing both the hotspot and the Extraordinary Reception Center

<sup>6</sup> [http://www.strettoweb.com/foto/2019/01/migranti-sea-watch-messina-de-luca/799455/?fbclid=IwAR2xsw9qj4uJeiyO4QD7XXYKk\\_hu8DAB9vtCdOu\\_Ai6O5Bjbn\\_K-GIGNFBU](http://www.strettoweb.com/foto/2019/01/migranti-sea-watch-messina-de-luca/799455/?fbclid=IwAR2xsw9qj4uJeiyO4QD7XXYKk_hu8DAB9vtCdOu_Ai6O5Bjbn_K-GIGNFBU) (accessed 17 December 2022).



(*Centro di Accoglienza Straordinaria*). On 10 August, 2020, De Luca attended a sit-in protest against the center organized by the residents.<sup>7</sup> After listening to residents' complaints about migrants allegedly breaking into their homes ("Mr. Mayor, I found a Tunisian man inside my house!"), De Luca asked for a microphone and delivered a long and passionate speech: "Gentlemen, I am here with you. [...] We are all on the same side. You are right about taking a stand, I apologize if I get pissed off too, but we all have problems. Now, police have to strengthen their surveillance. I will be here with you on the 23rd. If they don't leave on the 23rd, let's occupy the Prefecture and they must arrest all of us".<sup>8</sup> Mobilizing a classical *topos* of populist rhetorics, De Luca positioned himself within the urban community ("I am here with you", "we are all on the same side"): he was not just *with* the people, he *was* the people. Moreover, to echo Brubaker's argument (2020), both vertical opposition to those on top (the Prefecture) and horizontal opposition to outside groups (the migrants) are at play in his speech, confirming their empirical intertwining in populist discourse. The second issue at stake has to do with the securitization discourse. According to De Luca, the political response to popular discontent is to strengthen police surveillance. This insistence on law enforcement is a recurrent feature of De Luca's narratives, and it is supported by a precise politics of fear: "Migrants break into private homes, scaring people and endangering my community". The community is threatened by an external enemy and its leader must protect and preserve it. Indeed, the alleged need to reinforce police surveillance implicitly constructs a discursive framework where the *Gasparro* center becomes the source of a frightening threat requiring unprecedented drastic measures. The spatial imagery sustaining De Luca's discourse is a kind of inverted fortress. The boundaries of the center need to be militarized to protect not those living inside, but conversely people outside. The threat comes from an internal space, not from a frightening elsewhere. Fear has a key role in the reproduction of this spatial imagery, recalling what Cindi Katz has identified as banal terrorism: "Banal terrorism produces a sense of terror and fear in a drivel and everyday way. [...] The material social practices of banal terrorism work at all scales and their intricate circuitry not only enables them to authorize and reinforce one another but naturalizes their acceptability and seeming common sense" (Katz 2007, 350–351). Everyday populism circulates, reproduces, and strengthens itself through a series of discourses and practices normalizing fear and the responses to it across different geographic scales.

The contested geographies of the Bisconte neighborhood are perfectly staged in a video posted by Cateno De Luca in his Facebook page right after the closure of the Extraordinary Reception Center on 28 August (Fig. 4). During the first few minutes of the video, we watch the closed gate of the center, then the hand-held camera moves slowly, focusing on the decaying shacks across the street, the mud all around, and the cracks in the walls. The Bisconte urban landscape is sharply divided into two separate areas and communities: the slum neighborhood versus the center, us

<sup>7</sup> These urban performances are always accompanied by a wide range of photos and videos posted on De Luca's Facebook profile.

<sup>8</sup> Video posted on Cateno De Luca's Facebook page, 10 August 2020, accessed 17 December 2022.



**Fig. 4** Cateno De Luca in a frame from the “Stop migrants in Bisconte!” video posted on Facebook on 28 August, 2020 (Cateno De Luca’s Facebook page, accessed 17 December 2022)

versus them. After this five-minute urban prologue, De Luca arrives on the scene and tells the story of the center, pinpointing and commenting on its key moments: “The community of Bisconte reacted against this facility not out of racism—and I want to emphasize this because I do not accept that the residents of Bisconte are accused of being racist. The residents of Bisconte were pissed off because their homes were literally invaded by migrants. And I would like to see you in their shoes”. The post-racial regime is operating. According to De Luca, racism has nothing to do with what has been happening in Bisconte (“I do not accept that the residents of Bisconte are accused of being racist”). Still, individuals or small groups escaping the center become, in De Luca’s narrative, a “proper invasion”, thus performing one of the most salient features of right-wing populist discourse on migration. In parallel with this securitarian narrative, the humanitarian logic is also in operation: “How did you ensure COVID regulations inside these facilities? Or you don’t care because they are black?” As it often happens in populist rhetoric, two different but strongly interrelated representations are tightly intertwined: the humanitarian spectacle of protection and the securitarian spectacle of invasion (Cuttitta 2015). In De Luca’s public discourse, migrants are not just a threat to others, but also people exploited for political interests (“stop migrants’ trade”)<sup>9</sup> or victims of shameful national and regional migration policies (“I call for a safe reception system”, “who is in charge of this carnage must resign”).<sup>10</sup> In this sense, the spread of coronavirus opened up new possibilities for re-articulating his populist rhetoric and its spatial imaginations. The ‘invisible enemy’ puts both the individual and the social body in danger, therefore justifying policies of constant control and containment.

<sup>9</sup> Facebook post on Cateno De Luca’s page, 18 July 2020, accessed 17 December 2022.

<sup>10</sup> Facebook post on Cateno De Luca’s page, 24 August 2020, accessed 17 December 2022.

In this section, we have sought to demonstrate that the urban scale also represents a crucial stage for identitarian claims and xenophobic anxieties. As Neil Smith argued: “Cities and states are not supposed to have their own foreign policy, presumably the prerogative of national states. [...] [T]hese events suggest intense ‘scale bending’ in the contemporary political and social economy. Entrenched assumptions about what kinds of social activities fit properly at which scales are being systematically challenged and upset” (Smith 2004, 193). The case of the *Gasparro* reception center signals the downscaling of the populist repertoire: the invocation of ‘the people’ and the need to protect it from a frightening ‘other’, the mobilization of fear and the militarization of everyday life, invasion threats, exclusionary practices, and security obsessions. Events like those we discussed here demonstrate the ability of populist rhetoric to operate within every scenario and at every scale. By reshaping its discursive strategies and adapting its spatial imageries, populism ceaselessly whips up fear and builds up walls, from the microscale of the body to the global scale of the pandemic.

#### 4 Spatializing Urban Fear

In her work on the social and political constructions of emotions, Sarah Ahmed has argued: “[F]ear works to align bodily and social space: it works to enable bodies to inhabit and move in public space through restricting the mobility of other bodies to spaces that are enclosed or contained. [...] It is the regulation of bodies in space through the uneven distribution of fear which allows spaces to become territories, claimed as rights by some bodies and not others” (Ahmed 2004, 76). As with many other emotions like hate, shame, disgust, or love, fear can also work as a political tool for governing bodies and their mobility across space. Mobilizing the fear of being threatened or hurt by the actual or potential proximity of others means determining who can freely move and who must be confined to preserve the imperatives of security and protection. The language of fear establishes a distance between bodies; to secure this distance, it needs to spatialize it through boundaries, walls, and barriers. This spatial politics of fear lies in a perception of shared risk, which is subtly constructed through a routinized set of images, discourses, and practices we intended to reflect on in this contribution.

If this bordering process driven by fear and anxiety operates at every scale, it is within the urban realm that it finds a particularly fertile ground. Here, populism can and does articulate discourses and policies that combine together collective fears, security obsessions, and purified notions of identity. Additionally, the higher concentration of migrants and the major changes taking place in medium- and large-sized cities make them a crucial site for building political consensus. The plans to build a mosque, the presence of religious symbols at school and stigmatized neighborhoods and communities have been increasingly transformed into a battlefield of representations, ideas, and policies. The case of the *Gasparro* center in Bisconte demonstrates how the pandemic may provide a basis for populism to rearticulate its claims

and reframe the role of space in this process. After the decision to transfer people onboard the *Diciotti* there, the center became a discursive site through which De Luca's populist politics was produced and circulated. By critically analyzing some of his declarations about these events, we aimed at highlighting the nexus between populist discourses, post-racial politics, and bordering practices at the urban scale. The imperative of security was reflected in the internal organization of urban space, reshaping its divisions and exclusions.

The present contribution provides insight into the relationship between populism, fear, and urban space. Although many scholars in the fields of geography and social sciences have been inquiring in the spatial dimension of the rise of populisms across Europe and North America, there could be more extensive consideration of the decisive role of urban space in the production of populist discourses and actions. Moreover, future research should not underestimate the immaterial aspects of populist geographies, focusing on how discursive and visual rhetorics contribute to shaping the populist imagination and its spatial dimension. In reifying both the health threat and the us-versus-them divisions, space provides an incredibly influential arena in which contemporary populism can stage its performances of exclusive nationalism and identity politics.

## References

- Agamben G (2003) *Lo stato di eccezione*. Bollati Boringhieri, Turin Eng. transl. *State of Exception*. University of Chicago Press, Chicago, 2005
- Ahmed S (2004) *The cultural politics of emotions*. Routledge, London and New York
- Albertazzi D, McDonnell D (2008) Introduction: The Sceptre and the Spectre. In: Albertazzi D, McDonnell D (eds) *Twenty-first century populism. The Spectre of Western European Democracy*. Palgrave MacMillan, New York, pp 1–11
- Bauman Z (2006) *Liquid fear*. Polity Press, Cambridge
- Baysha O (2022) *Democracy, populism, and neoliberalism in Ukraine. On the fringes of the virtual and the real*. Routledge, New York and London
- Becker J (2021) Speaking to the wall: reconceptualizing the us–mexico border “wall” from the perspective of a realist and constructivist theoretical framework in international relations. *J Bordlands Stud* 36(1):17–29. <https://doi.org/10.1080/08865655.2018.1482775>
- Boyce AG (2016) The rugged border: surveillance, policing and the dynamic materiality of the US/Mexico frontier. *Environ Plan d: Soc Space* 34(2):245–262. <https://doi.org/10.1177/0263775815611423>
- Brubaker R (2020) Populism and nationalism. *Nations Natl* 26(1):44–66. <https://doi.org/10.1111/nana.12522>
- Burrett T (2020) Charting Putin's Shifting Populism in the Russian Media from 2000 to 2020. *Polit Govance* 8(1):193–205. <https://doi.org/10.17645/pag.v8i1.2565>
- Butler J (2006) *Precarious life: the powers of mourning and violence*. Verso, London and New York
- Carbone V (2019) La riarticolazione securitaria del management migratorio: il contrasto dell'immigrazione e la vicenda Riace. *La Rivista Delle Politiche Sociali/ Ital J Soc Policy* 2:135–156
- Casaglia A, Coletti R (2020) Borders, sovereignty, and the revival of territory. *Polit Geogr* 82:1–2. <https://doi.org/10.1016/j.polgeo.2020.102238>

- Casey ES, Watson M (2014) *Up against the wall: re-imagining the U.S.–Mexico border*. University of Texas Press, Austin
- Chouliaraki L, Fairclough N (1999) *Discourse in late modernity*. University of Edinburgh Press, Edinburgh
- Cuttitta P (2015) Humanitarianism and migration in the Mediterranean borderscape. The Italian–North African border between sea patrols and integration measures. In: Brambilla C, Laine J, Bocchi G (eds) *Borderscapes: imaginations and practices of border making*. Ashgate Publishing, London, pp 131–140
- Davis M (1999) *Ecology of fear: Los Angeles and the imagination of disaster*. Vintage Books, New York
- Dell’Agnese E (2005) The US–Mexico border in American movies: a political geography perspective. *Geopolitics* 10(2):204–221. <https://doi.org/10.1080/14650040590946548>
- Dittmer J, Bos D (2019) *Popular culture, geopolitics, and identity*, 2nd edn. Rowman and Littlefield, Lanham
- Farinella D and Saitta P (2018) The endless reconstruction and modern disasters. *The Management of Urban Space through an Earthquake–Messina, 1908–2018*. Palgrave Macmillan, London
- Filmer D (2020) Journalistic translation in migrant news narratives: representations of the Diciotti crisis in British news brands. *Cultus. J Intercult Mediat Commun* 13:169–193
- Frazzetta F, Piazza G (2021) Emotions in shrinking spaces for migrant solidarity. The protest campaign in the “Diciotti Ship Affair” at the port of Catania. In: Della Porta D, Steinhilper E (eds) *Contentious migrant solidarity*. Routledge, London and New York, pp 178–196
- Ghebremariam Tesfau’ M, Picker G (2021) The Italian postracial archive. *Ethn Racial Stud* 44(2):195–214. <https://doi.org/10.1080/01419870.2020.1730924>
- Goldberg DT (2015) *Are we all postracial yet?* Polity Press, Cambridge
- Gordon I (2018) In what sense left behind by globalisation? Looking for a less reductionist geography of the populist surge in Europe. *Camb J Reg Econ Soc* 11(1):95–113. <https://doi.org/10.1093/cjres/rsx028>
- Guardian (2020) <https://www.theguardian.com/tv-and-radio/2020/aug/19/netflix-immigration-nation-ice-true-horror>. Accessed 29 Nov 2022
- Kallis A (2018) Populism, sovereigntism, and the unlikely re-emergence of the territorial Nation-State. *Fudan J HumIties Soc Sci* 11(3):285–302. <https://doi.org/10.1007/s40647-018-0233-z>
- Katz C (2007) Banal Terrorism. Spatial fetishism and everyday insecurity. In: Gregory D, Pred A (eds) *Violent geographies. Fear, terror and political violence*. Routledge, London, pp 347–361
- Lizotte C (2020) Nation, city, region: bordered territorial images in European populism. *Polit Geogr* 82:3–4. <https://doi.org/10.1016/j.polgeo.2020.102238>
- Lombardi-Diop C, Romeo C (eds) (2005) *Postcolonial Italy. Challenging national homogeneity*. Palgrave Macmillan, London
- Makarychev A, Terry GS (2020) An estranged ‘Marriage of Convenience’: Salvini, Putin, and the Intricacies of Italian-Russian Relations. *Contemp Ital Polit* 12(1):23–42. <https://doi.org/10.1080/23248823.2019.1706926>
- Makarychev A (2022) *Popular biopolitics and populism at Europe’s eastern margins*. Brill, Leiden and Boston
- Mamadouh V (2020) Scaling borders and the paradoxical Europeanization of populism. *Polit Geogr* 82:5–6. <https://doi.org/10.1016/j.polgeo.2020.102238>
- Mudde C (2004) The populist zeitgeist. *Gov Oppos* 39(4):542–563. <https://doi.org/10.1111/j.1477-7053.2004.00135.x>
- Mudde C, Kaltwasser CR (eds) (2012) *Populism in Europe and the Americas. Threat or Corrective for Democracy?*. Cambridge University Press, Cambridge
- Nahirny VC (2018) *The Russian intelligentsia: from torment to silence*. Routledge, New York
- Regione Siciliana (2022) [http://www.elezioni.regione.sicilia.it/rep\\_3/votiListeRegionali.html](http://www.elezioni.regione.sicilia.it/rep_3/votiListeRegionali.html). Accessed 27 Nov 2022
- Rose G (2001) *Visual methodologies: an introduction to the interpretation of visual materials*. SAGE Publications, London

- Saitta P (2020) Fenomenologia di un neo-populista. Declinazioni urbane dell'autoritarismo: il caso di Messina. *Argomenti* 15:123–150. <https://doi.org/10.14276/1971-8357.2140>
- Sayyid S (2017) Post-racial paradoxes: rethinking European racism and anti-racism. *Patterns Prejud* 51(1):9–25. <https://doi.org/10.1080/0031322X.2016.1270827>
- Smith N (2004) Scale bending and the fate of the national. In: Sheppard E, McMaster RB (eds) *Scale and geographic inquiry: nature, society, and method*. Blackwell Publishers, Oxford, pp 192–212
- St Louis B (2015) Can race be eradicated? The post-racial problematic. In: Murji K and Solomos J (eds) *Theories of race and ethnicity: contemporary debates and perspectives*. Cambridge University Press, Cambridge
- Sud Chiama Nord (2022) <https://www.sud-chiamanord.it/manifesto-politico-sud-chiama-nord>. Accessed 27 November 2022
- Tarchi M (2008) Italy: A country of many populisms. In: Albertazzi D, McDonnell D (eds) *Twenty-first century populism. The spectre of Western European democracy*. Palgrave MacMillan, New York, pp 84–99
- Wacquant L (2007) *Urban outcasts: a comparative sociology of advanced marginality*. Polity Press, Cambridge
- Wacquant L (2014) Marginality, ethnicity and penalty in the neo-liberal city: an analytic cartography. *Ethn Racial Stud* 37(10):1687–1711. <https://doi.org/10.1080/01419870.2014.931991>
- Weber M (1978) *Economy and society: an outline of interpretive sociology*. University of California Press, Los Angeles
- Wodak R, Meyer M (eds) (2009) *Methods for critical discourse analysis*. SAGE, London

# “Institutional Policies” for Migrant Settlements: Between Formality and Informality



Salvatore Siringo

**Abstract** This chapter reflects on informal migrant settlements in the rural contexts of Southern Italy. In recent years, following the anti-immigration policy initiated by former Interior Minister Matteo Salvini, there has been an increase in anti-migrant sentiment in some areas of the country and many citizens, emotionally overwhelmed by the constant news arriving via the mass media, have expressed concern about the potential impact of immigration on their communities. Considering this issue, this paper analyses the migration phenomenon and the existing or planned institutional responses that should move towards inclusion, integration, and problem-solving. This chapter highlights how, to date, there is a regulatory vacuum around the various forms of reception that in fact facilitate forms of exclusion and marginality. The analysis focuses on the housing dimension of migrants in peripheral contexts, instrumentally using the case of Cassibile (SR) as an experience to “measure” the effectiveness of these actions, but at the same time the limits and criticalities that have emerged from the regulatory and social point of view.

## 1 Migration Flows and Reception Policies

With the process of globalisation, the migratory phenomenon takes on mass dimensions; migratory flows change, are almost unpredictable and consequently, their geography appears to be constantly being redefined. One of the consequences of this process is increased labour mobility, which for migrants represents an escape from situations of underdevelopment, subjugation, and exploitation, by means of integration into the labour market in the country of destination.

Migration is one of the most intricate issues in the current European debate, causing clashes between the European Council and individual EU states, which somehow want to hold strong decision-making power over migrant issues (Ambrosini and Abbatecola 2004; Ambrosini 2018). The migrant ‘category’ comprises a heterogeneous group of people with different rights, which are difficult to monitor on a

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case-by-case basis. Migrants find themselves shrouded in a confusing institutional legal status that varies according to their origin (EU or non-EU) they enjoy different rights, but they also come to terms with the immobility of national policies (Briata 2010).

The goal of implementing a common EU migration policy has not been achieved. It simply focuses on border control and security, but without a real settlement and support plan. In short, EU Member States are not losing control over migration flows but are resorting to initiating new measures to ‘sedate’ and control unwanted immigration.

At the same time, human rights protection has also failed to make progress, facing strong resistance from EU member states. National governments have defended their prerogatives in this matter, causing the EU’s intention to establish EU-wide rules and policies to fail (King 2000; Cremaschi and Lieto 2020).

The migration phenomenon is not new for Italy, which has long been a destination for migrants from various parts of the world. The reasons behind migration are varied and include economic, social, and political factors. For example, many migrants come from conflict-affected or unstable countries, such as Syria, Libya, and Afghanistan, others come from countries with weak economies, such as Nigeria and Ghana, in search of better economic opportunities.

Traditional Italian reception policies that sought to bridge and facilitate the transit of migrants were completely swept away after the denial actions of former Interior Minister Matteo Salvini.

Over the years, we note how, since Matteo Salvini became interior minister, migration rates have decreased. The share compared to landings fell from 5,100,000 to 4,900,000 between 2018 and 2020 (Istat 2021); a considerable decrease resulting from restrictive policies and the Covid-19 epidemic. This decrease is not noticeable in European cross-border countries bordering the Mediterranean, such as Spain and Greece, where, on the contrary, there has been an increase in migrant landings from 2018 to the present (Aversa 2021).

Today, Italy is a country of immigration or a transit area for massive migratory flows. Indeed, Italy is, together with Germany, Great Britain, France, and Spain, one of the five countries with the highest concentration of foreign population. In recent years, the demographic growth in our country has been fuelled mainly by the foreign component, and the Italian population is increasingly multiethnic. According to the 2021 Immigration Statistics Dossier of the IDOS Study and Research Centre, foreign citizens residing in Italy amount to more than 5 million units, or 8.7% of the Italian population (it was 6.5% in 2008).

From 2013 to 2020, foreign residents increased by 8%. Acquisitions of citizenship in 2020 were 132,736. The rate of citizenship acquisition per thousand residents is 26.4. Analysing the distribution by age, it can be seen that the underage foreign population is 20.2% of the total; the over-65 s stop at 5.5%.

There were 58,800 foreign births in 2020, and they account for 14.7% of the 400,000 new births in our country. There are more than 806,000 foreign students in Italian schools. The distribution of foreigners throughout the country is uneven:

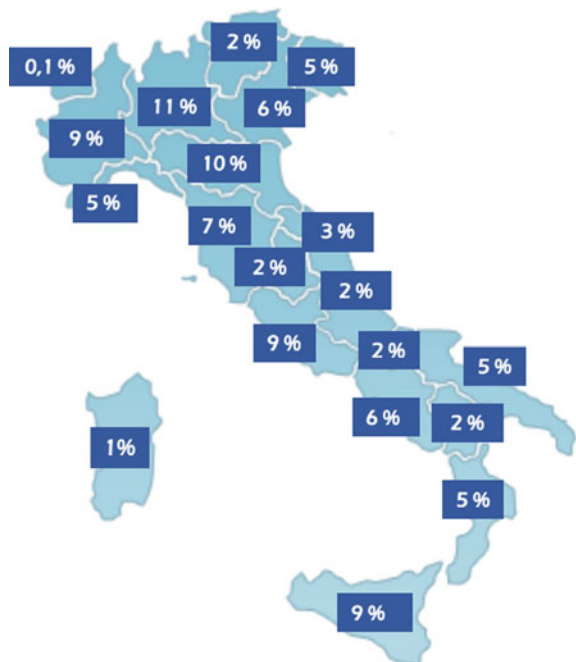


57.5% reside in Northern Italy (33.6% in the North-West and 23.9% in the North-East), 25.4% in the Centre, only 17.1% in the South (12.2% in the South and 4.9% in the Islands). Half of the immigrant residents are of European origin (50.2%; 30.1% EU), just over a fifth are African (21.7%) and Asian (20.8%), and 7.2% are of American origin. The most represented nationality is Romanian (23%, more than 1.2 million), followed by Albanian (8.4%) and Moroccan (8%), fourth by Chinese (5.7%), and fifth by Ukrainian (4.6%). The migrants landed in Italy exceeded 20,000 (2021), 18% of whom are minors. 3,536 are unaccompanied minors landed, 5,229 unaccompanied minors. The presence of migrants in reception centres as of 2021 amounts to 76,952, marking a decrease of 43% compared to 2018, with 68% still living in first reception centres and SACs (Extraordinary Reception Centre) and 38% living in second reception centres SAI (Reception and Integration System).

However, this number will increase in 2022, with the presence of migrants in reception centres amounting to 95,184, thus marking a percentage increase of 23.9% compared to 2021. The regions with the highest migrant presence are Sicily, Latium, Emilia-Romagna, Lombardy, and Piedmont (Fig. 1), with a total of 682 migrants living in Hotspot centres, 63,570 migrants living in reception centres and 30,932 in SAIs.

Applications for international protection amounted to 26,953, 24% of which were accepted, a full 38% less than in 2019/2020, to find such a low number of applications for protection we have to go back to 2013.

**Fig. 1** Percentage of migrants in reception centres in each Italian region. *Source* Ministero dell’Interno (2022) available online: [https://www.interno.gov.it/sites/default/files/2022-08/dossier\\_ferragosto\\_2022.pdf](https://www.interno.gov.it/sites/default/files/2022-08/dossier_ferragosto_2022.pdf)



Of the new residence permits issued in 2021 (241,000), 52.4% are for family, 41.6% for asylum and other humanitarian reasons, and 6% for work. Foreign workers number 2,455,000, 65.9% in services (20.8% in commerce, hotels, restaurants); 27.7% in industry; 6.4% in agriculture, forestry, and fishing. Compared to ten years ago, there has been an increase in the number of immigrants working in the services and agriculture sectors and, on the other hand, a decrease in industry (both construction and industry strictly speaking).

Despite pressure and continuous requests, to date Italy is the only one among the European Union countries that does not have unified legislation that guarantees asylum seekers a functional system of assistance and integration, and that, through a series of simplified procedures, reduces the operational difficulties for local authorities, volunteers, and all operators in the sector.

In addition to legislative gaps, Italy continues to lack organic policies and a national reception, protection, and integration system.

In this climate of hostility and confusion, decision-making powers are delegated to the various municipalities, which deal with each case on a case-by-case basis, since there is no national or regional law regulating the needs of migrants of all kinds (health, access to essential services, housing).

The difficulties encountered tend to slow down the legislative machine, leading to superficial political and planning solutions, which end up creating broader problems and general discontent.

Establishing a humanitarian standard for asylum seekers in Italy would guarantee the support and assistance needed to integrate into Italian society. This would benefit not only the migrants but also the Italian government, as it would ensure a significant contribution to the economy and society (Balbo 2015).

## 2 Informal Settlements in Italy

In recent years, the national reception system for asylum seekers has not been able to cope with the countless requests for places with its ordinary first and second reception facilities. The lack of places is one of the main reasons for the delayed entry of asylum seekers arriving in Italy into the reception system. This issue is made even more critical by the prolonged period of stay in the facilities by migrants and the consequent slowdown in the turnover of accepted beneficiaries.

Despite the massive recourse to extraordinary places, in recent years the paralysis of the reception system has in fact been averted only thanks to the large number of migrants who have arrived in Italy and voluntarily left the governmental first reception centres to escape the identification procedures imposed by the ‘Dublin Regulation’, which requires the submission of an application for protection and the obligation to stay in the EU Member State of arrival, so much so that the European Commission has initiated an infringement procedure against Italy for the failure to identify and register migrants.

Living in informal settlements are asylum seekers waiting for a place in a reception centre or whose reception has been withdrawn; to these are added migrants seeking protection in another European country who are stranded at the border, or who have been denied any assistance immediately after disembarkation because they have been categorised as ‘economic migrants’ in hotspots.

Many studies have been drawn up on informal settlements over the years, among the most comprehensive of which are those of Medici Senza Frontiere (2018) in which informal settlements on the national territory were analysed quantitatively and qualitatively (Fig. 2).

Only in 2020, at least 100,000 people are considered to have left the government reception centres for asylum seekers and refugees. Migrants, in the absence of full inclusion, decide either to settle in large metropolises (e.g. Rome, Turin, Milan), widening what are large pockets of urban marginality, or in the ‘ghettos’ of the

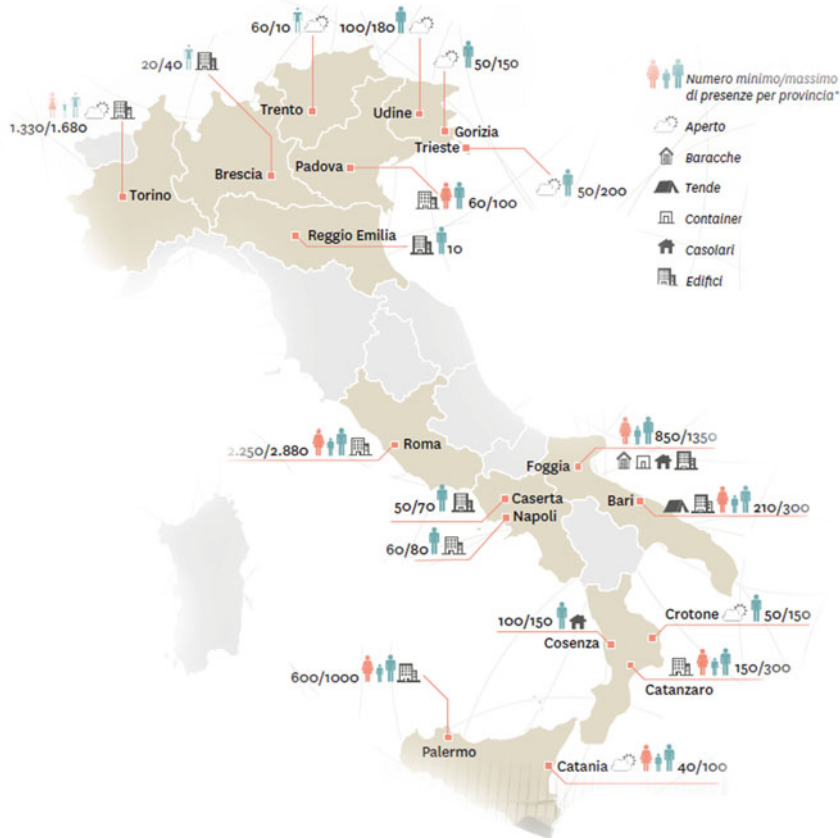


Fig. 2 Map of informal settlements in Italy. Source Medici Senza Frontiere “FuoriCampo” (2018)

South in rural contexts (e.g. Apulia, Calabria, Sicily), where the migrant population grows and retreats to coincide with the seasonality of agricultural work.

With reference to Southern Italy, the creation of informal settlements poses numerous challenges to both migrants and the host society.

From the migrants' perspective, living in these settlements can be incredibly difficult. The lack of basic services, such as running water and electricity, makes it impossible to carry out daily life activities. Migrants in these settlements are also at risk of exploitation and abuse, as they often have no legal protection and are vulnerable to criminal networks that exploit their precarious condition.

From the perspective of the host society, informal settlements pose challenges in terms of social cohesion and public health. These settlements are often located in already socially and economically disadvantaged areas and the influx of migrants may exacerbate existing tensions. Moreover, the lack of access to basic services, such as health care and sanitation, can pose a risk to public health, as diseases can spread rapidly in these crowded settlements.

These places emerge at the confluence of a residual reception system, especially in the post-recognition phase of legal protection, and are often described as places of despair and degradation (Belloni et al. 2020).

The places where migrants settle, often near agricultural fields, can be seen as places of deprivation of rights and dignity. In Southern Italy, these places host mainly migrants of Tunisian origin (Tunisians with 10,254 migrants, Egyptians with 9,958 migrants, migrants from Bangladesh with 8,727 migrants, from Afghanistan with 4,256 migrants, from Syria with 3,105 migrants, from the Ivory Coast with 1,912 migrants) (ISTAT 2022; Ministry of the Interior 2022).

Regarding informal settlements, 14 Italian municipalities stated that they had elaborated at least one feasibility study for the construction of housing for migrant workers. These are the municipalities of Bellosguardo, Bolzano, Campobello Di Mazara, Farigliano, Genoa, Manfredonia, Nardò, Porto Recanati, Ragusa, Rosarno, San Severo, Senise, Siracusa, and Taurianova (Anci 2022).

Below are the details of the projects considered to be of particular interest to the municipalities: in total, the estimated amount of work exceeds 21 million euro for more than 1,400 people accommodated.

As regards the situation in Sicily, the informal settlements in the territory extend from west to east along the migration routes from the south. These settlements are mainly located in rural areas, but not too far from medium or small urban centres, as they represent the only access to basic services not available within the settlements (Table 1).

From the point of view of settlement type, the precariousness of settlement is closely related to the nature of the settlement type and the characteristics of the materials with which it is made. There are different types of settlements, some made of salvaged materials such as wood, metal, and abandoned waste material, others consisting of camping tents or housing modules provided by institutions.

Despite their differences, these settlements share the precariousness and temporariness factors. Contrary to what one might imagine, in fact, such structures, linked

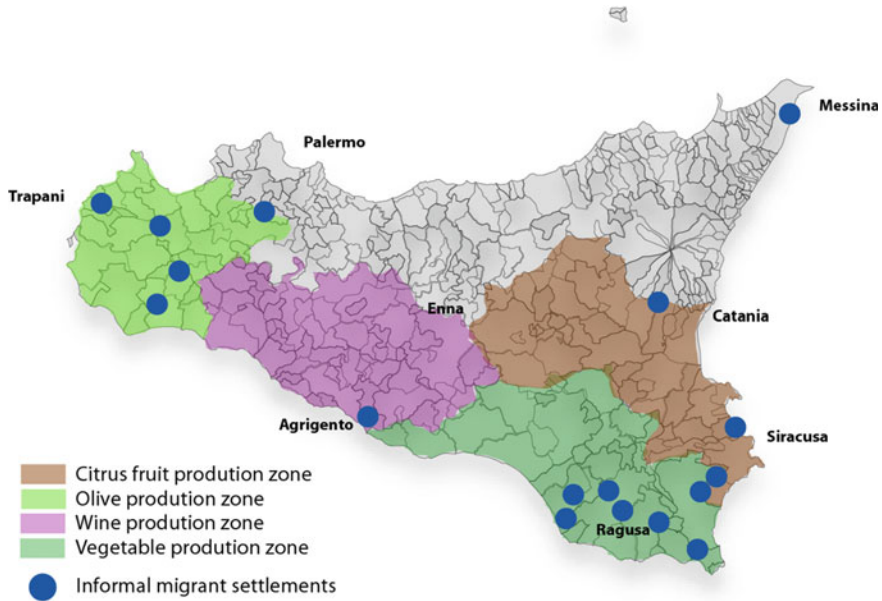
**Table 1** Description of interventions that some municipalities have started for migrants working in the agri-food sector

Municipality	Description intervention	Owner of land	Welcoming people
Bellosguardo	Dormitory building	Bellosguardo municipality	8
Bolzano	Dormitory building	Private	45
Campobello di Mazzara	Temporary structure (containers)	Agency of assets confiscated from crime	250
Genova	Dormitory building	Genova municipality	40
Manfredonia	Temporary structure (Containers)	Manfredonia municipality	40
Nardò	Dormitory building	Nardò municipality	10
Porto Recanati	Social housing	Private	200
Ragusa	Dormitory building	Ragusa municipality	16
Rosarno	Newly built building	Rosarno municipality	205
San Severo	Renovation of municipal buildings	San Severo municipality	150
Senise	Private dwellings to be acquired	Several owners	100
Siracusa	Temporary structure (containers)	Siracusa municipality	150
Taurianova	Adaptation and valorisation of confiscated land	Taurianova municipality	200
Total			<b>1.414</b>

Source InCas (2022)

to the temporariness of seasonal agricultural production, tend to assume a permanent character in that even in periods of low seasonality of agricultural production, the settlements remain partially occupied, waiting for the new production season.

The only conditions that lead to the abandonment of these informal structures are fires, almost always accidental, due to the use of gas canisters inside the settlement, and evictions, called by the administrations, which occur when the tolerance limit that the administration can tolerate is exceeded and which expose the precarious



**Fig. 3** Informal migrant settlements and the agricultural production areas in Sicily. *Source* own elaboration

living conditions of the informal settlement, revealing the invisibility that public administrations want to maintain at all costs.

Therefore, despite their structurally and temporally precarious condition, these settlements, under certain conditions, tend to persist over time.

In relation to the spatial distribution compared to the data available in the literature, there is a prevalent concentration of informal migrant settlements in the areas with the highest agricultural productivity, especially in the areas of Trapani to the south-west, in the areas of Agrigento to the south and in the areas of Ragusa, Syracuse, and Catania to the south-east.

Therefore, from an initial survey it is possible to consider how the key indicators for analysing the localisation choices of informal migrant settlements in Sicily are the routes of migratory flows, the areas of intensive agricultural production, and the proximity to urban nuclei that allow food supply and access to services (see Fig. 3).

### 3 The Case of Cassibile (Siracusa) in Sicily

Among the municipalities that have mobilised for the construction of stable accommodation for migrants engaged in agriculture is Syracuse, to be precise the hamlet of Cassibile (6000 inhabitants) just 14 km from the centre of Syracuse.

The area has a strong citrus fruit vocation. Until the middle of the last century, agriculture was the main source of livelihood for Syracuse and the entire province. Prominent crops included lemons, new potatoes, and watermelon (Istat Sixth Census of Agriculture 2011).

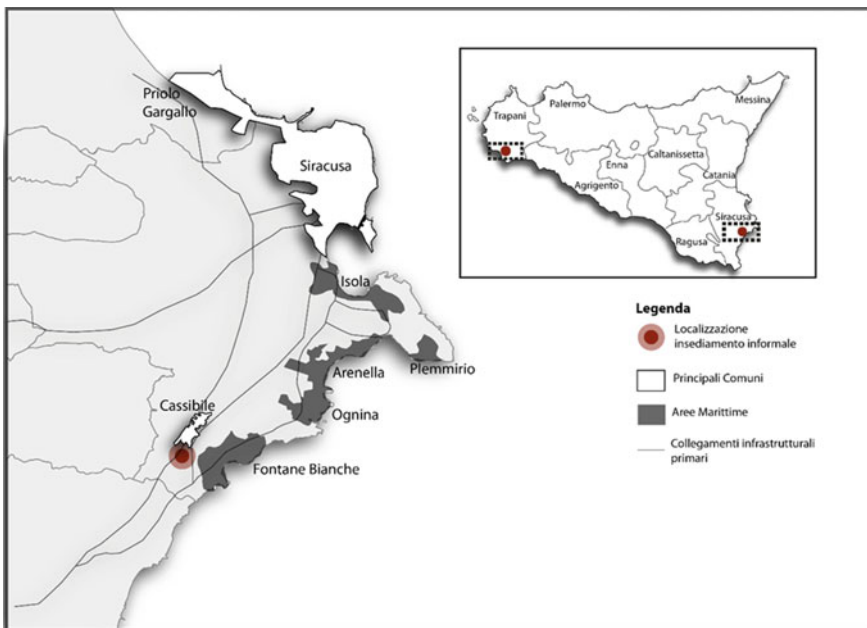
Over the years, this area has become a crucial hub for the exploitation of migrants and refugees in the area’s agricultural fields and, with the arrival of labourers, the first makeshift settlements began to take shape (Fig. 4).

Most of the migrants employed in seasonal agricultural work are regular migrants awaiting renewal of their residence permits, refugees, and asylum seekers. In these areas, the lack of policies guaranteeing the right to work in compliance with contractual regulations pushes migrants to rely on corporals.

Every morning, in fact, from 5:00 to 7:00 migrants are recruited in the main square or in the village bars to be then brought to the workplace for 9/10 h a day for a salary of 20/25 euros.

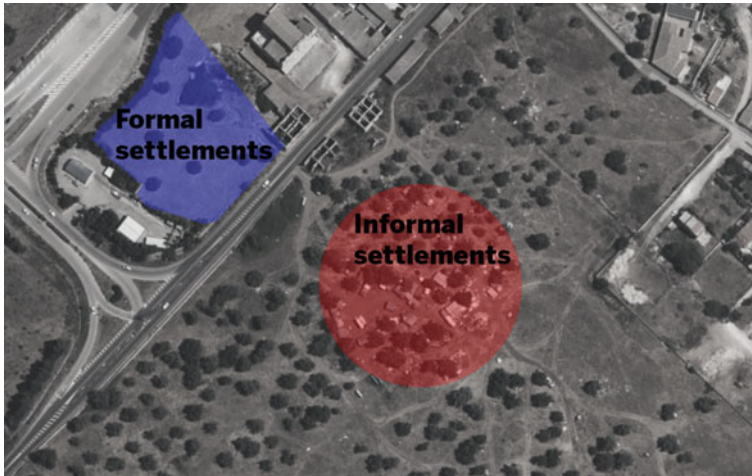
Added to this terrible problem of exploitation is the problem of housing. Victims of today’s prejudices and political currents that base their ideology on exclusion and the lack of a real reception policy, migrants are forced to use alternative housing methods, almost always resulting in the construction of informal settlements.

Within these areas, the same dynamics are repeated again and again: when informal settlements expand and become too visible, they are cleared but without a relocation policy, which pushes migrants to reconstruct these settlements again



**Fig. 4** The locality of Cassibile (SR) and the territorial framework of the informal settlement *Source* Personal elaboration





**Fig. 5** Informal settlement in Cassibile (SR) where foreign seasonal farm labourers live unable to use the hostel because they do not have documents and a regular work contract. *Source* Google maps

elsewhere, in more isolated places, thus widening the phenomena of dispersion and isolation (Fig. 5).

The prefecture of Syracuse responded to this problem by building a village to house foreign seasonal labourers. Inaugurated in April 2021, located in Cont.da Palazzo, it is part of the activities of the Su.Pr.Eme. (Protagonist South in Overcoming Emergencies).

It was realised with funds made available by the Ministry of the Interior, amounting to approximately 250,000 euro and is a project that aims to implement an interregional system action by putting in place measures aimed at the socio-labour integration of migrants as prevention and counteracting the exploitation of labour in agriculture.

These are containers, to be exact 17 housing units of 5 beds each with connections to the electricity and sewage networks, intended for regular migrants, who work as seasonal farmers in the local agricultural production areas, but only for a short period of time (Fig. 6).

In fact, in the intentions expressed from the beginning, the village is intended to become a (paid) hostel for foreigners and will only be used by those with a regular residence permit and a work contract. The internal capacity is about 150 people. The decision to locate these emergency settlements within the territory, and to limit them only to those with a residence permit, has triggered a dynamic of spontaneous attraction, leading many migrants to build and occupy makeshift dwellings in a more or less organised manner in the areas surrounding the village, creating informal self-managed settlements.

Since the construction of the village, numerous local citizens have taken to the streets, forming a committee, and opposing its construction because it is considered unsuitable and not of primary importance for the area's problems.





**Fig. 6** Container hostel in Cassibile (SR) for foreign agricultural labourers. *Source* SiracusaNews

To the population’s dissatisfaction with the formal settlement, we must also add the serious social and health conditions caused by the spontaneous informal settlements that have sprung up in neighbouring areas by those who were excluded from the selection process for the formal camp. Informal settlement that to date is totally invisible to the eyes of the administration.

Projects of this type can be defined as pseudo-housing in a semi-formal area useful to save the city’s decorum, while constantly maintaining an emergency bias and not responding to the problem with long-term planned actions, which defines it as a clear example of failed planning.

In the case of Cassibile, therefore, we are witnessing a precarious response from the administration that, by dividing the seasonal workers between those who can use the formal village and those who cannot, paradoxically doubles the problems.

To this must also be added the general discontent of the local community that does not want a settlement, albeit a formal one, close to the town centre.

## 4 Conclusion

The management of the migration phenomenon in Italy has always been characterised by recourse to the emergency dimension and the absence of planning. The absence of real housing support policies for beneficiaries of international protection exacerbates the already deep dynamics of segregation. However, access to housing represents an essential element for labour and social inclusion, as well as for the enjoyment of full social and civil rights in a territory; for many refugees, the occupation of land on

which to build informal settlements thus becomes a tool through which to remedy inadequate inclusion. Even though marginality and precariousness are an integral part of these realities, occupations are thus configured as political claims to the right to housing, and at the same time criticism of the limits of the reception system (Belloni et al. 2020).

Informal settlements are increasingly widespread and testify to migrants' ability to build projects and weave meaningful relationships (Pruijt 2013). In many cases, these forms of re-appropriation of abandoned areas activate a process of regeneration of spaces that have become marginalised in relation to the logic of gentrification, building speculation, and capital production (Benhabib 2004). However, the disconnection between collective identity, privileges of political belonging, rights and social claims are also the result of precise political choices made by institutional actors (Tarsi and Vecchiarelli 2020; Vecchiarelli 2021). In this context, it is necessary to rethink intervention strategies to respond to the multiple needs of the communities involved. The absence of long-term projects that take into account the needs and motivations of the migrant population and seasonal migrant workers thus undermines these people's attempts to build a minimum existential stability. The formal settlement project does not represent an adequate and stable response that in fact denies the structural dimension of the migration phenomenon. The coexistence and co-presence of informal and formal settlement makes explicit a policy of informality for which public institutions have a clear responsibility. The challenge is thus to strike a balance between the need to protect the rights of migrants and the need to ensure the security and well-being of the local population. This requires a shift from the traditional 'top-down' to a 'bottom-up' approach (Guercio 2020), based on a more comprehensive and inclusive approach to planning.

This implies attention to the local context and dialogue between the different actors involved in order to develop policies and strategies that take into account the specific needs of the communities concerned. It is also necessary to promote migrants' participation in the decision-making process to ensure that their rights and needs are considered.

In the end, it is essential to strengthen collaboration between local authorities, civil society organisations, and international organisations to develop integrated and sustainable solutions to the housing crisis.

## References

- Ambrosini M, Abbatecola E (2004) *Immigrazione e metropoli. Un confronto europeo*, FrancoAngeli, Milano
- Ambrosini M (2018) *Immigrazione irregolare nell'Europa meridionale: attori, dinamiche e governance*. Palgrave Macmillan, Cham
- Anci (2022) *Le condizioni abitative dei migranti che lavorano nel settore agroalimentare, primo rapporto nazionale*
- Aversa P (2021) *L'impatto della pandemia sulle migrazioni in Caritas*, Roma
- Balbo M (2015) *Migrazioni e piccoli comuni*, FrancoAngeli, Milano

- Belloni M, Fravega E, Giudici D (2020) Fuori dall'accoglienza: insediamenti informali di rifugiati tra marginalità e autonomia in *Politiche Sociali*. *Soc Policies* 2:225–244
- Benhabib S (2004) *The rights of others residents and citizens*. Cambridge University Press, Aliens
- Briata P (2010) *Dar spazio Il Governo Dei Territori Dell'immigrazione in Quattro Città Italiane*. Foedus, n. 28:63–79
- Cremaschi M, Lieto L (2020) Writing Southern theory from the Global North Notes on Informality and Regulation. *Equilibri* 24:261–280
- Guercio L (2020) La realtà migratoria e il ruolo delle città contro i processi di esclusione e marginalizzazione, Quale futuro per i territori mediani: le città tra evoluzione sociale e mutamento culturale, in *Sociologica-mente*, n. 17, Morlacchi editore, Perugia
- InCas (2022) Rapporto di ricerca sulle Condizioni abitative dei migranti che lavorano nel settore agroalimentar—Linea 2 del progetto InCaS finanziato dal Fondo nazionale per le politiche migratorie 2021
- Istat (2011) Sixth agricultural census. <https://www.istat.it/it/files/2012/07/sintesi.pdf>
- Istat (2021) Annual report 2021. [https://www.istat.it/storage/rapporto-annuale/2021/Rapporto\\_Annuale\\_2021.pdf](https://www.istat.it/storage/rapporto-annuale/2021/Rapporto_Annuale_2021.pdf)
- Istat (2022) Migration report. [https://www.istat.it/it/files/2022/02/REPORT\\_MIGRAZIONI\\_2020.pdf](https://www.istat.it/it/files/2022/02/REPORT_MIGRAZIONI_2020.pdf)
- King R (2000) Southern Europe in the changing global map of migration. In: King R, Lazaridis G, Tsardanidis C (eds) *Eldorado or Fortress? Migration in Southern Europe*. Macmillan, Basingstoke, pp 1–26
- Medici Senza Frontiere (2018) *Fuori Campo, Insediamenti informali: marginalità sociale, ostacoli all'accesso delle cure e ai beni essenziali per migranti e rifugiati*, Roma.
- Ministero dell'interno (2022) Dossier Viminale 1° AGOSTO 2021 - 31 LUGLIO 2022 Un anno di attività del Ministero dell'Interno, disponibile online. [https://www.interno.gov.it/sites/default/files/2022-08/dossier\\_ferragosto\\_2022.pdf](https://www.interno.gov.it/sites/default/files/2022-08/dossier_ferragosto_2022.pdf)
- Paba G (2003) *Movimenti urbani. Pratiche di costruzione sociale della città*. FrancoAngeli, Milano
- Ponzo I (2017) L'accoglienza dei rifugiati nelle aree extraurbane, rischi e potenzialità per l'integrazione. In: *FIERI (Forum Internazionale ed Europeo per Ricerca e integrazione)*, Torino
- Prencipe L, Sanfilippo P (2021) #UnasolaCasa L'umanità alla prova del Covid19. Centro studi emigrazione Roma
- Pruijt H (2013) The logic of urban squatting. *Int J Urban Reg Res* 37(1):19–45
- Tarsi E, Vecchiarelli D (2020) Una lettura critica degli insediamenti informali dei lavoratori stagionali: il caso della piana di Gioia Tauro. *Archivio di Studi Urbani e Regionali* (27):100–125
- Vecchiarelli D (2021) Superare il ghetto: analisi della segregazione abitativa dei lavoratori agricoli nella provincia di Foggia. *CRIOS: critica degli ordinamenti spaziali* 1(21). Franco Angeli, Milano

# **Human Rights and Migration**

# EU Migrant Policies and Human Rights: A General Overview



Annalisa Mangiaracina

**Abstract** The so called EU “hotspot approach” applied in frontline countries such as Italy and Greece has posed several concerns in the civil society about the respect of fundamental rights of migrants. Italy, after the condemnation by the European Court of Strasbourg, has adopted several reforms aimed at recognising a legal basis to the “detention” of migrants in the hotspots, but notwithstanding the positive assessment by the Committee of Ministers there are still several doubts as to whether the system complies with the ECHR as well as with the Italian Constitution. In this regard, the new Pact on Migration and Asylum, adopted by the European Commission, seems to re-propose the “hotspot approach”: it is necessary to monitor the implementation of future reforms to avoid a reduction in the level of protection of fundamental rights, such as the right to personal freedom.

## 1 Introduction

The “hotspot approach” was presented by the Commission as part of the European Agenda on Migration of April 2015 in order to support Greece and Italy to ‘swiftly identify, register and fingerprint incoming migrants (Mangiaracina 2016a). Currently, only Greece (Lesbos, Chios, Samos, Leros and Kos) and Italy (Taranto, Lampedusa, Pozzallo and Messina) host hotspots. According to the description provided by the Commission’s documents, the “hotspot approach” is ultimately a measure of operational support activated in order to help frontline member countries facing disproportionate migratory pressure in providing the registration, identification, fingerprinting and debriefing of asylum seekers, as well as return operations. To that end, the personnel of the European Asylum Support Office (EASO), the EU Border Agency (Frontex), the EU Police Cooperation Agency (Europol) and the EU Judicial Cooperation Agency (Eurojust) are deployed on the ground and work with the authorities of member countries concerned in helping to fulfil their obligations under EU law. In particular, Frontex helps with the identification, registration, and

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fingerprinting of people who arrived recently, the enforcement of return decisions and the collection of information on smuggling routes, while the EASO helps with the registration of asylum claims and has assisted in *ad hoc* relocation procedures following disembarkation operations. The UNHCR officers present in the “hotspot”, together with the International Organisation for Migration (IOM) should monitor the situation concern.

According to statistical data, the majority of the hotspots suffer with overcrowding, and concerns have been raised by several International associations with regards to living conditions, in particular for vulnerable migrants (such as minors, accompanied or not, elderly, pregnant women, single parents with minor children, persons with disabilities, serious illnesses or mental disorders, in addition to the survivors of torture, rape or other serious forms of violence, including human trafficking) and asylum-seekers. A situation that has degenerated as a consequence of the health crisis caused by the COVID-19 breakover.

Moreover, a specific issue discussed among scholars (Masera 2017; Pugiotto 2014) is the existence of a legal basis for the “administrative” detention of migrants within the hotspots. It should be underlined that the Italian Government issued two main documents framing the functions and management of hotspots: the Italian Roadmap, published on 28th of September 2015, and the Standard Operating Procedures (SOPs) applicable to Italian Hotspots, adopted on 17th May 2016, both drafted by the Ministry of the Interior as administrative instruments, without any normative value.

As expressly required by Article 13 of the Italian Constitution any restriction of personal liberty has to be based on a reasoned decision of the judicial authority, and any provisional measures taken by a police authority, which in exceptional cases of necessity and urgency, must be validated by the judicial authority within forty-eight hours. Also Article 5 of the ECHR, legitimates detention in specific situations expressly provided for by law.

The Italian legislation on migration, mainly regulated by the Legislative decree no. 286 of 25 July 1998, the so called “Consolidated text of provisions concerning immigration regulations and rules on the status of aliens”, has gone through several significant changes over recent years. A constant feature of the legislation is the recourse to administrative detention (Daniele 2018) for irregular migrants as well as for asylum seekers. In contrast, detention should be a measure of last resort, to be ordered only if other less coercive alternative measures cannot be applied effectively (Mangiaracina 2016b). Specifically, Article 14 § 1 of the above mentioned Legislative decree authorises, on the order of the Chief of Police (questore), the detention of a migrant “for as long as it is strictly necessary”. However, that provision applies only where removal by escorting the person to the border or a refusal-of-entry measure cannot be implemented immediately, because it is necessary to provide assistance to the alien, to conduct additional identity checks, or to wait for travel documents or the availability of a carrier. As a result, migrants are placed in centres named “Detention centre prior to repatriation” (CPRr)—formerly known as “Identification and Expulsion Centres” (CIEs)—conceived for the purpose of repatriation.

The Law decree no. 130 of 21 October 2020, converted by Law no. 173 of 18 December 2020, introduced a new § 1.1 in the above mentioned Article 14, establishing a priority for the detention of foreigners who are dangerous to public order and security or who have been convicted even with a non-definitive sentence for an offense impeding entry, and who are citizens of countries with which repatriation agreements exist.

Moreover, Article 6 of Legislative Decree no. 142 of 18 August 2015, “concerning the implementation of Directive 2013/33/EU laying down standards for the reception of applicant for international protection, as well as Directive 2013/32/EU on common procedures for granting and withdrawing international protection” provides for the detention of asylum seekers within centres provided for by Article 14 of Legislative decree no. 286 of 1998, under the circumstances set out in the same provision. According to § 1, the asylum seekers cannot be detained for the only reason of the examination of their application.

## 2 The Case of *Khlaifia and Others v. Italy*

The judgement of the Grand Chamber of the European Court of Human Rights intervened in the context of the above mentioned normative frame, concerning the case of *Khlaifia and others v. Italy* (European Court of Human Rights, Grand Chamber, 15 December 2016, *Khlaifia and others v. Italy*).

The case is about Tunisian citizens who landed on the Italian coast fleeing the events of the Arab Spring in September 2011. The migrants were intercepted by the Italian coastguard and brought to the “Early Reception and Aid Centre” (Centro di Primo Soccorso e Accoglienza–CPSA) located in Contrada Imbriacola, on the island of Lampedusa. When the centre was partially destroyed by a fire, the migrants were transferred aboard two military ships anchored in the port of Palermo and held while awaiting deportation to Tunisia.

The Grand Chamber, in its judgement, stated that the applicants’ deprivation of liberty had no clear and applicable legal basis in Italian law and, accordingly, the legal and factual grounds for their deprivation of liberty had not been promptly notified to the applicants. Indeed, the persons placed in a CPSA, which is formally regarded as a reception facility and not a detention centre, could not have the benefit of the safeguards applicable to placement in an Identification and Expulsion Centre (CIE), which for its part had to be validated by an administrative decision subject to review by the Justice of the Peace. Consequently, the applicants were not only deprived of their liberty without a clear and accessible legal basis, they were also unable to enjoy the fundamental safeguards of *habeas corpus*, as laid down in Article 13 of the Italian Constitution.

There was a situation of *de facto* deprivation of liberty and the consideration that placement in a CSPA is not subject to judicial supervision and cannot, even in the context of a migration crisis, be compatible with the aim of Article 5 of the European Convention: to ensure that no one should be deprived of his or her liberty in an

arbitrary fashion. The deprivation of liberty was not “lawful” within the meaning of Article 5 § 1 of the ECHR and did not satisfy the requirements of Article 5 § 2 of the same Convention, under which the legal and factual grounds for the deprivation of liberty had to be notified to the person concerned.

The Court also finds a violation of Article 5 § 4 of the ECHR which entitles detained persons to institute proceedings for a review of compliance with the procedural and substantive conditions which are essential for the “lawfulness”, in Convention terms, of their deprivation of liberty.

Furthermore, the Court observes that the Government has not indicated any remedies by which the applicants could have complained about the conditions in which they were held in the Contrada Imbriacola CSPA or on the ships *Vincent and Audace*. An appeal to the Justice of the Peace against the refusal-of-entry orders would have served only to challenge the lawfulness of their removal. Moreover, those orders were issued only at the end of their period of confinement. Then, a violation of Article 13 in conjunction with Article 3 of the Convention was also affirmed, because the applicants had no remedy for their complaint about the conditions of their detention on the ships (Zirulia and Peers 2017).

Following the judgement, the procedure for supervising its execution before the Committee of Ministers of the Council of Europe pursuant to Article 46 of the Convention was opened (Cancellaro 2021).

### 3 The Italian Legislation on Hotspots: Is There a Legal Basis?

Following the above mentioned condemnation by the European Court, a new season of reforms started in Italy, aimed at implementing the judgements. On 2 December 2021 the Committee of ministers of the Council of Europe closed the supervisory procedure for the implementation of the measures ordered. At the same time, the Committee reiterates its warning to the Italian authorities to take into proper consideration concerns expressed by civil society (Communication from the Association for Juridical Studies on Immigration (ASGI), A Buon Diritto Onlus, and the Italian Coalition for Civil Liberties and Rights (CILD) pursuant to Rule 9.2 of the Rules of the Committee of Ministers of the Council of Europe for the supervision of the execution of judgements and the terms of friendly settlements, relating to the case of *Khlaifia and others v. Italy*, 16 November 2021), stressing the importance of a continuous dialogue with the latter and with the National Guarantor of the Rights of Persons deprived of their Liberty, in order to take all necessary measures to ensure a rigorous and consistent application of the new legal framework. A framework that still continued to arise some critical remarks.

Concerning normative changes, firstly, it should be noted that by the Legislative decree of 17 February 2017, no. 13, converted by Law no. 46 of 13 April 2017, a new Article 10 *ter* was added into the Legislative decree no. 286 of 1998, aimed at



providing a legal basis to the “Crisis Points”, so putting an end to forms of detention without a legal basis, in conflict with fundamental rights. Specifically, it provides that foreign nationals who are tracked down when irregularly crossing internal or external borders or while being saved in rescue operations are brought to such Points for first assistance needs. It also establishes that these Crisis Points are the venue for photographing and fingerprinting, purposes of Articles 9 and 14 of EU Regulation no. 603/2013 of the European Parliament and of the Council of 26 June 2013, and that information on the international protection procedure, on the resettlement programmes in other EU Member States and on the possibility of accessing assisted voluntary repatriation is ensured.

According to the new § 1, the “Crisis Points” are to be established within the structures referred to in Law no. 563 of 29 December 1995—the so called “Puglia Law”—which merely provided for the creation of first aid centres along the Apulian coast in order to cope with the massive influx of migrants coming from Albania in the early 1990s, without however establishing the open or closed nature of such centres. The obvious consequence of this legal vacuum is that any restriction of liberty that may occur in these centres lacks any legal basis.

Although the “Crisis Points” are mentioned in some provisions, these are extremely limited in scope, providing no indications concerning the functioning of the centres in question—it is not clear whether these are “open” or “closed” centres—the procedures to be implemented within them, the protection of vulnerable groups during their stay in the hotspots and above all, the legal basis of their detention, a matter that is not mentioned at all. The indications concerning the procedures to be implemented in the crisis points are included only in the Standard Operating Procedures, which, as said before, do not have the force of a primary source, being a typical instrument of “soft law”. Moreover, it is to stress that these SOPs state that “where necessary, the use of force proportionate to overcoming objection, with full respect for the physical integrity and dignity of the person, is appropriate [...]”. Neither the length of the detention in order to complete the identification of migrants is regulated, before the adoption of the decision by the administrative authority, in compliance with Article 10 *ter* § 2. As noted by scholars (Cassibba 2017) in this case Article 349 of Italian criminal procedure code is not applicable, concerning the identification of the person under investigation: it requires the existence of criminal proceedings, while in this case there is not any criminal investigation. Therefore, the new provision does not appear in compliance with the guarantees established by Article 13 of the Constitution and Article 5 of ECHR, as affirmed by the Grand Chamber (Benvenuti 2018; Maserà 2018).

## 4 Towards a New Type of Detention

It should be noted that the above mentioned Article 10 *ter* of the Legislative decree no. 286 of 1998, also introduced a new type of detention in initial reception centres (such as CPSAs) of migrants who refuse to be identified. Indeed, the new § 3, provides

a detention in the event that a foreign person refuses to be identified through fingerprinting procedures, stating that such conduct constitutes the “risk of absconding by the applicant”. This detention must be carried out in a CPR—so renamed by law no. 46 of 2017—as required by Article 14 of the Legislative decree no. 286 of 1998. Concerning the procedural profiles, this type of deprivation of liberty is decided by the administrative authority (*questore*), following a case by case approach, and the decision maintains its effects for a maximum period of 30 days since its adoption, unless reasons at the basis of the decision should cease before. Where the detention concerns persons applying for international protection, the decision is convalidated by the special section of the Tribunal in the matter of migration, international protection and free movement of citizens in the European Union. With the aim of reinforcing migrants’ rights, by Legislative decree no. 130 of 21 October 2020, converted by law no. 173 of 18 December 2020, a new paragraph was added in Article 10 *ter* § 3, providing that the foreigner is promptly informed of his rights and faculties provided for by the decree that decides on the detention, in a well-known language or, where this is not possible, in French, English or Spanish.

The recourse to administrative detention as a policy adopted by the Italian Government in the fight against irregular migration is also provided in the Legislative decree no. 113 of October 2018, issued by the former Minister of Interior Matteo Salvini, and later converted into law no. 132 of 2018. First of all, it increased the length of detention in the CPRs, since 90 days up to 180 days in case of detention finalized to the expulsion (Masera 2019).

It also enables the detention of asylum seekers in hotspots for the purpose of determining their identity or nationality (Article 6 § 3 *bis* of the Legislative Decree no. 142 of 2015). The amendment introduced by Law decree no. 130 of 2020, provides that this should happen in the shortest possible time and for a period not exceeding 30 days and, if identification has not been possible within that timeframe, the migrant could be sent to the CPR for detention up to 90 days plus an additional 30 days when he/she belongs to a country with which Italy has signed repatriation agreements. This provision of a detention period up to 30 days and extendable to up to 90 plus 30 days in the CPR has been criticized (ASGI 2021) since it conflicts with the principle laid down in Article 9 of the recast Reception Conditions Directive according to which an applicant shall be detained only for as short a period as possible.

On 21 October 2020, the Legislative Decree no. 130 on migration and security was adopted aimed at reinforcing rights of persons detained in the CPR. It inserted a new § 2 in Article 14, establishing that adequate sanitary and housing standards are to be provided, in a way to ensure information regarding the *status*, the assistance and the respect of individual dignity. The freedom of correspondence, also by telephone, with the outside has to be ensured. Furthermore, according to the new § 2 *bis*, the foreigner detained may complain, in written or oral form, to the National or regional guarantor for the rights of persons detained or deprived of liberty. An instrument that has not been used in practice.

## 5 Hotspot and COVID-19

The relevant information on the situation of migrants in the hotspots during the health emergency caused by the COVID 19 virus can be found in the Report written by the National guarantor for the rights of persons detained or deprived of liberty. Hotspots during the emergency have become temporary quarantine places for foreign citizens who landed on the Italian coast. In this regard, the Guarantor (29 May 2020) has expressed his concern on the legitimacy of the detention disposed, being the repatriation impossible when borders are temporary closed and therefore the real possibility of getting persons returned to their home countries is almost inapplicable. “The overall legitimacy of a detention order depriving a person of their liberty and having a perspective that cannot be fulfilled, at least in a short time, continues to be doubtful”. In this context, the National Guarantor reported the position of the United Nations Network on Migration calling on States to suspend forced returns during the pandemic, in order to protect the health of migrants and communities, with the aim of supporting the human rights of all migrant persons. A perplexity has been expressed about our country’s choice not to end the detention of migrants during the months when their return—the sole purpose of detention—had become impossible. The issue is even more complicated when referring to persons whose detention is inevitably close to expiring due to reaching the maximum number of days. In their case, the continuation (and in some cases the extension) of detention, given the closure of borders, is undeniably and unnecessarily afflictive.

## 6 The Quarantine Boats

During the Covid-19 outbreak, the Italian authorities also admitted the use of boats for the quarantine of persons rescued at sea for which was not possible to indicate a so-called *place of safety* (Pos) in the Italian territory. Indeed, by the Inter-Ministerial decree no. 150 of 7 April 2020, it was established that “For the entire period of the health emergency [...] Italian ports will lack the necessary requirements to be classified Place of Safety [...] for cases of rescue carried out by naval units flying a foreign flag outside the Italian SAR [Search and Rescue] area”. On 12 April 2020, under the decree of the Head of the Civil Protection department, quarantine-ships were prepared for containment with the aim of providing accommodation assistance and health surveillance of people rescued at sea. The decree identifies as the main implementing authority the Department for Civil Liberties and Immigration of the Ministry of the Interior, which, in turn, relies on the Italian Red Cross (IRC) to carry out the procedures. More specifically, it states, that the implementing authority may use vessels to carry out the mandatory period of health surveillance for migrants rescued at sea for whom it is not possible to indicate a “place of safety” (safe place for disembarkation), in other words for migrants rescued by foreign vessels outside the Italian SAR zone. The decree also establishes that the implementing body shall

identify facilities “on land” where to host those arriving in Italy on their own for the mandatory period of health surveillance. However, even in this case, it leaves open the possibility to resort to vessels when it is not possible to identify reception facilities on land. Since mid-April 2020, up to the end of the pandemic a huge number of vessels belonging to private companies have been selected through a direct call for tenders for the purpose of carrying out the mandatory “quarantine period” for both migrants arriving on their own and those rescued by foreign-flagged vessels.

The first ones to experience this procedure were migrants rescued by the Alan Kurdi and Aita Mari vessels over the Easter period in Sicily. The vessels remained operational until the end of the state of emergency, which was extended until 30 March 2022. The ship remained anchored a mile off the port of Palermo for the duration of the quarantine period. On board, migrants were assisted by the crew members and the Red Cross staff, the latter appointed by the Civil Defence to cater for health care and any other basic needs for rescued foreign citizens.

The Italian National Guarantor for the Rights of Persons Detained or Deprived of Liberty stated that: “The implementation of quarantine measures in extraordinary and exceptional places cannot result in a ‘limbo’ situation: foreign nationals migrating to Italy are to be considered under the Italian State jurisdiction for the purposes of health care measures imposed on them. However—for many days—they do not have the opportunity to exercise the rights that our country grants and protects. They cannot claim asylum, they are not in fact—at least temporarily—protected as victims of trafficking or as unaccompanied minor migrants, nor can they promptly access the procedures for family reunification under the Dublin Regulation, which, however, have an intrinsic expiry date” (28 April 2020).

A judgement of the European Court of Justice (European Court of Justice, Grand Chamber, 14 May 2020, C-924/19 and C-925/19 PPU) is worth mentioning, according to which the Directive 2008/115 (the so called return Directive) and the Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection “must be interpreted as meaning that the obligation imposed on a third-country national to remain permanently in a transit zone the perimeter of which is restricted and closed, within which that national’s movements are limited and monitored, and which he or she cannot legally leave voluntarily, in any direction whatsoever, appears to be a deprivation of liberty, characterised by ‘detention’ within the meaning of those directives. The decision, as underlined by scholars (Mentasti 2020), needs attention for two main reasons: first of all, it has extended the type of conducts that are deemed as a form of “detention”, with the consequent application of guarantees for the detainees; secondly, it pointed out that the crisis caused by mass immigration or pandemic situations, cannot represent a justification for the reduction of guarantees in favour of migrants. A decision that could have an impact also for Italy regarding the quarantines on vessels.

## 7 The Future of Hotspot

On 23 September 2020 the Commission presented the new Pact on Migration and Asylum together with legislative proposals for the reform of the Common European Asylum System (CEAS). This new instrument—agreed between the European Parliament and the Council in December 2023—is aimed at providing a comprehensive approach, bringing together policy in the areas of migration, asylum, integration and border management, and recognising that the overall effectiveness depends on progress on all fronts.

In particular, it should be noted that there is a Proposal for a regulation introducing a screening of a third country national at external borders (Proposal COM (2020) 612 final) aimed at the immediate identification of migrants arriving irregularly in the EU. According to art. 6 § 3, the pre-entry screening—to be conducted at locations situated at or in proximity to the external borders—must be completed in 5 days from either their apprehension in the external border area or disembarkation in the territory of the Member state or their presentation at a border crossing point. During this process and where relevant, national authorities shall conduct a preliminary health and vulnerability assessment to evaluate whether a migrant is “in a vulnerable situation” (art. 9 § 2). After their identification, persons who are either vulnerable or in need of special procedural needs shall receive “adequate support” regarding their physical and mental health.

As underlined by scholars (Gazi 2021) the proposed Regulation “replicates the “hotspot” approach”. Thus, it is important to consider the deficiencies of this approach during recent years. On the one hand, this requires a special attention by all the actors, in the application of the monitoring mechanisms to avoid the violation of fundamental rights that—as reported—are still occurring in the hotspots (Tas 2022). And on the other hand, to increase alternatives to detention, measures that have proven to be “more cost-effective than detention, while also satisfying the states’ objective of preventing absconding and ensuring compliance with immigration proceedings” (Niederberger Martinez 2021). More recently, the Court of Strasbourg has pronounced other condemnations against Italy for the condition of migrants in the hotspot and the lack of a legal basis for the “detention”. In particular, the following judgements are relevant to the next legislative reforms: European Court of Human Rights, 30 March 2023, *J.A. and others v. Italy*, where the Court has found the breach of Articles 3, 5 §§ 1, 2 and 4 of the ECHR and Article 4 of Protocol No. 4 to the ECHR (Rocca, 2023); European Court of Human Rights, 23 November 2023, *A.T. and others v. Italy*, with reference to the condemnation for the illegal detention of unaccompanied minors in the hotspot of Taranto. Also Greece has been condemned for the breach of Article 3 ECHR in relation to the living condition of a pregnant women in the Samos Reception and Identification Centre (European Court of Human Rights, 4 April 2023, *A.D. v. Greece*).

## References

- Benvenuti M (2018) Gli hospot come una chimera. Una prima fenomenologia dei punti di crisi alla luce del diritto costituzionale. *Diritto, Immigrazione e Cittadinanza* 2:1–37
- Cancellaro F (2020) Immigration detention between law and practice in Italy: managing the border through arbitrary detention. In: Gatta GL, Mitsilegas V, Zirulia S (eds) *Controlling immigration through criminal law: European and comparative perspectives on ‘Crimmigration.’* Hart Publishing, Oxford, pp 193–210
- Cassibba F (2017) Il “trattenimento” del migrante irregolare nei “punti di crisi” ex art. 10 ter d.lgs n. 286 del 1998 nel prisma della Convenzione europea. In: <http://www.questionegiustizia.it>. Accessed 24 Jul 2017
- Daniele M (2018) La detenzione come deterrente dell’immigrazione nel decreto sicurezza 2018. *Diritto Penale Contemporaneo* 11:95–103
- Gazi T (2021) The new pact on Migration and Asylum: supporting or constraining rights of vulnerable groups? *European Forum* 6(1):167–175
- Mangiaracina A (2016b) The long route towards a widespread European culture of alternatives to immigration detention. *Eur J Migrat Law* 18:177–200
- Mangiaracina A (2016a) Hotspots e diritti: un binomio possibile? *Diritto penale contemporaneo* 1–13
- Masera L (2017) I centri di detenzione amministrativa cambiano nome ed aumentano di numero, e gli hotspot rimangono privi di base legale: le sconcertanti novità del decreto Minniti. *Diritto penale contemporaneo* 3:278–283
- Masera L (2019) La crimmigration nel decreto Salvini. *Legislazione penale*, 24 July
- Mentasti G (2020) Migranti e detenzione amministrativa in tempo di Covid-19: I bollettini del Garante dei detenuti pubblicati durante l’epidemia. *Sistema penale*
- Niederberger Martinez R (2021) Covid-19: a reckoning of the immigration detention system and a call for alternatives to detention programs. *New York University. J Int Law Polit* 136–143
- Pugiotto A (2014) La “galera amministrativa” degli stranieri e le sue incostituzionali metamorfosi. *Quaderni Costituzionali* 3:573–604
- Rocca M (2023) Upholding maritime migrant’s rights at the border of Europe-JA. and others v. Italy. *Ital Rev Int Comp Law* 3:564–577
- Tas S (2022) Fundamental rights violations in the hotspots: who is watching over them? *Eur Papers* 7(1):215–237
- Zirulia S, Peers S (2017) A template for protecting human rights during the ‘refugee crisis’? Immigration detention and the expulsion of migrants in a recent ECtHR Grand Chamber ruling. *Eulawanalysis*

# Refugees' Human Rights and the Duties of the EU



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**Abstract** The aim of our chapter is to propose an ethical justification for why the EU has certain duties towards refugees and to assess the actual fulfilment of these duties in the current political situation. We will first describe the challenges for the EU in this respect, that is, the current practices and discourses in the EU that are contesting the human rights of protection seekers arriving in its member states. These include the treatment of asylum seekers at the borders as well as in the refugee camps and during the asylum procedures. To create a theoretical foundation for a critique of these practices and discourses, we will then refer to the concept of “The Right to have Rights” of every person and the corresponding duties of states towards non-nationals to fulfil this right. For this, we will start from the essay “We refugees” by Arendt (Menorah J 36:69–77 1943), in which she first establishes the concept, and explains its implications for political action according to Arendt. To further develop Arendt’s ideas, we will use the work of Robert E. Goodin (\*1950) and differentiate dimensions, addressees, and bearers of such duties in the global perspective, particularly with reference to the notion of moral division of labour. To apply these ethical–political frames to the current situation, we will shortly discuss the framework of international law and the supranational institutional context of the EU. We will both recognise the potential of the EU as well as identify necessary implications and reforms for the EU politics from the perspective of its duties in protecting the human rights of refugees.

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## 1 Introduction

In her very impressive text entitled “We Refugees” (Arendt 1943, 69–77)<sup>1</sup> Hannah Arendt<sup>2</sup> describes her situation after her arrest in 1933 under the Nazi regime, her escape to Paris in the same year, the revocation of her German citizenship in 1937, her deportation by French authorities to a camp in 1940 and her escape to New York in 1941, where she was only granted citizenship again after further ten years, namely the US citizenship. Arendt experienced and suffered through the lawlessness of refugees and stateless people herself. She comments on her arrest in both Germany and France by referring to the creation of a new kind of people, namely “people who are put in concentration camps by their enemies and internment camps by their friends” (Arendt 1943, 12). The difficulty of bearing the situation of being without rights and in need of help is expressed in the following sentences: “When we are rescued, we feel humiliated, and when we are helped, we feel demeaned. Like madmen we struggle for a private existence with individual skills, for we fear that in the future we shall belong to that pitiable lot of scroungers whom we and the many former philanthropists among us remember only too well” (Arendt 1943, 21). She also describes the problems of finding acceptance in a foreign land and developing an identity in the new, very different environment without merely fitting in. Indeed, she says, the greatest danger for refugees is to be reduced to merely being human, because this involves the loss of all rights. Therefore, she later stresses so much the “right to have rights”. Today, over 80 million people worldwide are refugees and often have similar experiences of lack of rights in the countries where they arrive.

In the following chapter, we will first (1) give a brief overview of the current challenges related to the EU migration policy and describe the conditions for refugees at the EU borders. We then move to discuss how the situation challenges the concept of human rights from a moral point of view and to what extent human rights can be criticised as ineffective by Arendt (2). In (3) we propose a fundamental philosophical reflection on how to realise the “right to have rights” beyond Arendt by understanding the role of the national states as entities to whom certain general duties are assigned in a global moral division of labour. Looking at international law, we can see that parts of this general demands are already realised (4). The EU can be seen as a model of such a moral division of labour at a regional level, but still has a lot of deficits (5). We end our short contribution with notions regarding the identity and values of the EU (6), of which the defence of human rights is a crucial part.

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<sup>1</sup> We refer to the German edition Arendt (2020).

<sup>2</sup> Hannah Arendt was a German philosopher and political theorist, famous among other publications because of her book on totalitarianism. During the Nazi-regime she emigrated to the US. She inspired us to the following reflections, which nevertheless aim not to analyse her approach in detail.



## 2 Current Challenges for EU Migration Policy

Since border controls were removed within the Schengen area from 1995 onwards, the issue of dealing with regular as well as irregular migration has been urgent within the EU. During the last years, the number of refugees from countries suffering from political crises and civil wars have been rising. The wars and their consequences especially in Syria and in Afghanistan led to high numbers of asylum seekers, and when they reached a peak in 2015/16, conflicts, and difficulties regarding the control of migration to the EU escalated (Buckel et al. 2021, 10). Due to more restrictive regulations and measures in the EU the numbers decreased again, but still those wars, and the recent takeover of power by the Taleban in Afghanistan, as well as crises in other regions as in Venezuela and Colombia caused many people to flee to the EU (Eurostat 2021). The Russian war of aggression against Ukraine has resulted in the largest refugee movements and displacement in Europe after World War II.

Those fleeing leave their homes due to persecution or to the lack of basic livelihoods and the dangers for civilians caused by the conflicts. From other regions, mainly in Africa, people flee due to persistent poverty, as migrating to other countries seems to be the only opportunity to survive or to lead a humane life.<sup>3</sup> These movements are in part already caused by climatic changes, and predictions show that climate and biodiversity catastrophes will force a multiplied number of people to escape. The EU aims to reduce the number of migrants by tackling “the root causes of migration in Africa” (Council of the EU and European Council 2021), but so far this has not been a successful endeavour.<sup>4</sup> Europe is likely to be a preferred destination of future migrants and poor prospects do not prevent people leaving their homes.<sup>5</sup>

Furthermore, for many who would be entitled to asylum, it is very difficult to reach the EU through ordinary travel routes. As a result, migrants are trying to enter the EU illegally on different routes, by land via the Balkan (and recently also the Belarusian border) or by sea, via the Atlantic or the Mediterranean Sea. All the routes are perilous, and especially the Mediterranean has become known as a “Death Sea”: Unsuitable and overcrowded boats are used to cross the stretches between the Turkish coast and the Greek islands like Lesbos, or the Libyan coast and the Italian islands like Lampedusa, and often get into distress and sink. As the EU claims to fight migrant smuggling, the operational capacities for statal sea rescue have been massively reduced and civilian sea rescue is hindered in different ways. From 2014 to 2021, 22,721 persons died in the attempt to cross the Mediterranean or are missing

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<sup>3</sup> Still, many of the poorest parts of the populations have not even the possibility to flee and not infrequently are threatened by starvation.

<sup>4</sup> To address this seriously, EU trade policy, for example, would also have to be questioned, and the predictions on the climatic changes show that this will become even more difficult in the future. Cf. also Heimbach-Steins (2018), 234.

<sup>5</sup> Some common theories on migration distinguish push and pull factors, with the latter being properties of the destination countries that attract migrants. But recent research shows that this separation is not very helpful and in the vast majority of cases the so-called push factors are decisive for people to flee (Schammann and Gluns 2021, 19).

(International Organization For Migration 2021). Furthermore, there exist reports on illegal pushbacks, when for example the Greek coast guard forces the boats back into Turkish waters, and often migrants need various attempts to reach their destination. The EU is criticised for having the “security” of the external borders as the central aim, more than the protection of human lives (Heimbach-Steins 2018, 233).

Those who in spite of everything arrive to the EU territory are in some countries detained in camps during the asylum procedures which can take months or years. In those camps, basic living conditions often are not fulfilled and catastrophic hygienic and sanitary conditions, lack of protection from ice and snow, as well as lack of medical care are widespread problems. These poor conditions are also thought to deter further migrants. Decisions on asylum applications also for applicants outside those camps often take too much time, and problems with the procedures are reported, regarding, for example, missing interpreters in the interviews with the applicants, or the mental state of the sometimes traumatised persons is not considered adequately (Määttä et al. 2021, 63–64).

An effective and humane regulation of migratory movements is among other factors prevented by the severe conflicts within the EU, where it has proven very difficult to establish joint migration and asylum policies (Dzihic et al. 2018, 4). On different levels, there are contradictory approaches and convictions in the different member states which also the “New Pact on Migration and Asylum” from 2020 could not reconcile. One central point of conflict is the Dublin Regulation that defines the state responsible for processing the asylum application. This disadvantages the countries in the Mediterranean region where most refugees enter the EU. Another severe conflict is that with member states rejecting to accept migrants or refugees, calling them a threat for their nations and thus blocking attempts to establish a fair distribution quota. In many member states xenophobic attitudes have become visible in the last years and movements hostile towards migrants have gained more influence, so that not seldomly these tendencies are considered in the political decision-making, leading to even more restrictive policies.

The disagreements between different EU member states also make administrative and organisational collaboration on migration and asylum more difficult and prevent a common strategy with clear responsibilities especially in emergency situations, which is clearly to the disadvantage of the migrants. These observations show that there is a very fundamental problem regarding the issue of flight and migration in the EU. Therefore, we want to present general reflections from a moral philosophical point of view, as well as make some suggestions for implications and reforms on the political level.

### 3 Missing the Effectivity of Human Rights and the “Right to Have Rights” Corresponding to Hannah Arendt

In her criticism of the concept of human rights—Arendt often used the term “Rights of Man”—she started with the observation, that the “French Revolution combined the declaration of the Rights of Man with the demand for national sovereignty” (Arendt 1994, 230). Despite being “inalienable rights” these human rights in reality were enjoyed only by citizens of nation states, and even only of the most prosperous ones (Arendt 1994, 279). The paradoxes that Arendt identifies and her notions on human rights bear similarities with the current critique related to the international refugee regime and the protection of migrants in the European Union and its borders. One of the key arguments of Arendt was that the plight of the stateless people showed us how rights that were declared as inviolable lost their meaning when no state was guaranteeing these rights. As human rights are ineffective if they are not legally or politically guaranteed, for refugees and migrants to have enforceable rights, there needs to be an instance to protect these rights (Hirsch and Bell 2017, 418).

As Arendt notes, a nation state may become a human rights violator, when denying rights from those not belonging to the political community. Therefore, and certainly with reference to her own experience, Arendt states that “we became aware of the existence of a right to have rights [...] and a right to belong to some kind of organized community, only when millions of people emerged who had lost and could not regain these rights” (Arendt 1994, 296–297). With the “right to have rights” Arendt assumes that human rights, to be effectively observed and protected, need a more fundamental right preceding them like a kind of precondition, which allows human rights to be granted at all. Human rights, then, must be more than civil rights and must apply even when people are not nationals of a state.

Therefore, in her view, the mere “right to a nationality” (Art. 15(1) of the UDHR) would not be sufficient. For Arendt, it would be very difficult to come to a universal, non-discriminatory mutual recognition as equals, at least within nation states, which for reasons of homogeneity have to exclude those who are different. “Our political life rests on the assumption that we can produce equality through organization, because man can act in and change and build a common world, together with his equals and only with his equals” (Arendt 1994, 301). The challenge would be to offer a solution for such a common world on the global level reducing the importance of the nation states. Nor would the right to emigration (Art. 13(2) UDHR), which does not correspond to a right to immigration, be enough. Even the latter might not resolve the problems, because migrants usually receive full citizenship rights only very late. Something like a global civil society and a global democracy would be needed (Martinsen 2019), for the right to have rights to be legally established and enforceable, but not only in nation states and not only for its citizens.

## 4 The Global View Beyond Hannah Arendt

Our core idea is that to address the challenge from an ethical viewpoint, we should not start with the nation states and their sovereignty when thinking about the rights of persons, but with whole humanity—the Universal Declaration of Human Rights (UDHR) in its preamble even talks about the “human family”. If we achieve to reflect on how the rights of persons to have rights could be fulfilled on a global level, regardless of the status as citizens or as refugees, it would be easier to speak about the rights of refugees beyond the nation state attributing these rights.

The question can be answered by reflecting on the correspondence of rights and duties or obligations and asking what conditions must be met for the proclaimed human rights not to remain as empty rights. In the case of negative rights, such as the right not to be killed, this is less difficult, because they correspond to obligations to cease and desist that are simply imposed on everyone else. However, there will be a need for institutions to control these cease-and-desist obligations and, if necessary, to sanction any infringement. In the case of positive rights, such as the right to a socio-cultural subsistence minimum, this becomes less easy as it is not so clear who has the duty to care for a starving person. It is therefore necessary to define responsibilities for the protection of negative rights and the guarantee of positive rights, to create appropriate institutions and to organise appropriate measures jointly. In order to guarantee positive rights, a differentiated allocation of different duties is needed, often called a “moral division of labour” (Shue 1988, 687–704). This concept has to be understood in the context of a globalised society.

In pre-modern, traditional ways of life, it was highly plausible to organise this moral division of labour in such a way that the duties corresponding to the rights decreased with the geographical distance from the bearer of the rights. Initially one had responsibility for one’s closest relatives, for neighbours and friends, for one’s own village, and, if at all, only in the end for “strangers” in the sense of “foreigners”. Henry Shue has shown, however, that spatial distance cannot be a convincing criterion for moral disenfranchisement (Shue 1988, 691–695; Goodin 1988, 663–686, here 681). It seemed plausible only because it corresponded to the principle of causality at the time: only through spatial proximity help was possible, only through spatial proximity did relationships with mutual responsibility emerge. This is no longer the case in today’s highly globalised world. Today, morally relevant effects and opportunities arise even over great distances. This applies all the more to moral effects and possibilities of international corporations, international civil society organisations, large states and globally networked media. In such a world, all people have rights, but at the same time the duty to make a contribution in accordance with their—often very different—possibilities, so that such a moral division of labour is organised through organisations and institutions that can guarantee the rights of all people. “Special duties” do not arise primarily from spatial or other forms of proximity, but rather from the moral division of labour that is valid and practised in each case, for which proximity and distance can be a consideration. They are specifically distributed general duties (Goodin 1988, 678).

From this point of view, it can be argued that nation states are not more than organisations to realise the moral division of labour in the guarantee of human rights (Goodin 1988, 682–686). As a world state does not exist, human rights can be more easily realised in individual states and they can also be more easily democratised and better adapted to local or regional requirements. It therefore makes sense to have many states in accordance with the principle of subsidiarity and, if possible, to organise them together in such a way that their citizens can communicate well with each other (via one or more common languages). According to this idea, such states are no longer independent results of treaties concluded by their citizens, but the result of a successful moral division of labour at world level to guarantee the rights of all human beings, both through their organisation and through their borders, which assign certain duties to certain states towards certain people. However, these duties are not specific duties, but nothing more than specifically assigned, general duties.

The consequence of this is that the validity of people's rights within a particular state cannot depend solely on the existence or proper functioning of that state. Rather, if people are not protected by their states, then the corresponding duties that are no longer fulfilled fall back on the "human family" as a whole and make a changed moral division of labour necessary, at least temporarily. Unfulfilled specifically assigned general duties must therefore be redistributed.

In view of the massive violation of human rights in many states, which consists not only of political, religious or ethnic persecution, but also of the violation of basic positive rights such as the right to food, health, education, there must be a redistribution of duties by which these rights can be effectively guaranteed. Duties to citizens no longer have priority over duties to other people when those who originally had these duties cannot fulfil them (Barry and Goodin 1992; Goodin 1988, note 4). On a global scale, states would have to cooperate much more closely than in the past to guarantee these rights in all states and to help people, for example by allowing entry and residence, who otherwise would not be able to enjoy these rights. Following this idea, both the willingness to admit migrants and the so-called "combating the causes of flight" must therefore be strengthened worldwide.

## **5 Arendt's "Right to Have Rights" and Current International Law**

Although Arendt's notions on the perplexities of human rights continue to bear relevance for the present-day struggles of refugees and for the EU migration policy, the institutional human rights framework, and the international framework for refugee protection, created in the aftermath of World War II have considerably evolved since the context of her writings. Yet, as there are no mechanisms of enforcement in the global society, states remain as central actors in bearing the responsibility of protection and in the admission of asylum seekers, refugees, and migrants. While the right to control borders is considered part of state sovereignty, this is limited by

the international treaties states have obliged themselves to. One of the most important obligations is the non-refoulement principle: the prohibition to return anyone to an area where she or he would be in danger.

The question of what duties states have towards refugees and migrants has long been debated in political theory and moral philosophy. As admission is different for citizens, economic migrants, refugees, and family members the different categorisations and statutes bear importance (Bauböck 2019, 2) and have also consequences for the rights one is entitled to. In international law, refugees have a particular status of non-citizens towards which states have particular duties. In political theory, the grant of asylum is often considered to restore the protection of human rights in situations when the state of origin fails to protect its citizens. In this framework the legitimacy of the state is connected to the protection of human rights and refugee protection is considered as repairing the legitimacy (Bauböck 2019; Gibney 2015).

In the international system of states, persons seeking protection are thus “in between nation-states” (Haddad 2008) and in the EU between the national and supra-national layers of potential protection. This also demonstrates the tension between human rights as universalist and context-transcending claims and how their actualisation is yet related to particular democratic contexts and practices (Benhabib 2004). At the heart of this tension is the right of asylum—a right that Arendt described as “the only right that had ever figured as a symbol of the rights of Man in international relationships” (Arendt 1994, 280) and a right that is closely related to her argument about the right to have rights, right to entry and reside (Hirsch and Bell 2017, 424). There is a right to seek asylum (UDHR Art 14), which is currently undermined by the non-entry policies of the EU, but not a corresponding duty for the states to grant asylum. Asylum thus remains as a prerogative of the state.

## 6 And the EU?

As an entity that integrates individual states of a certain region, the EU can be conceptualised under the idea of a moral division of labour to consider its duties in the global context, as well as the internal division of responsibilities inside the EU.

The recent migration crisis in Europe has been seen as a crisis of the European integration, underlying the weaknesses of the common asylum and migration policies and bearing significant consequences for a policy area that has been seen as critical for the EU. It has had important implications for European co-operation, freedom of movement, democracy and the rule of law, and the EU as protector of human rights (Zaun 2018; Byrne et al. 2020).

The shortcomings of the EU are well known, related particularly to the Dublin framework and the lack of shared norms in refugee reception and recognition and fair distribution of refugees. The recent developments have shown the rise of protectionist politics, the emphasis on nation state and arguments related to sovereignty in the EU (Marin et al. 2020). In terms of protecting the human rights of refugees and thinking

of what duties states have towards protection seekers, attention should precisely be paid to the potential of supranational politics and institutions of the EU.

While there are no mechanisms of enforcement in the global context of refugee protection, Bauböck emphasises the possibilities of the EU for establishing a burden-sharing regime among the member states, at the heart of which is the duty to admit refugees but also states' duties towards each other and co-operation. Noteworthy here is that the EU could be an almost ideal context within the European integration and supranational framework, although the potential has thus far remained unrealised (Bauböck 2018b).

Whereas the international refugee regime is built around the 1951 Refugee Convention, the EU operates on a regional level, having effect on 27 member states, combining international and EU level obligations as well as member states practices (Byrne et al. 2020, 3–4). What distinguish the EU from the international setting are the relative powerful EU institutions that have a broad mandate for creating and enforcing norms taking primacy over national law. The EU has also more democratic legitimacy for its policies through representation in institutions such as the European Council and the European Parliament. Within the Schengen framework, the abolishing of international borders and free movement is coupled with external borders. When entering the national border migrants enter also the wider European territory, underlying the need for common standards of protection in all member states (Bauböck 2018a, 146–147).

Furthermore, the rights of refugees and migrants and the duties of states bear important consequences for what the EU aspires to be as a polity. These are related to the question of membership and have high cultural and moral symbolical value (Boswell 2000, 538). When debating rights of migrants and refugees and EU's commitments towards protection seekers and their admittance or non-admittance, what are at stake are values. The legitimacy of the EU is related to the founding values including "respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights" as outlined in the Treaty of the European Union (TEU, Article 2). Moreover, the respect for fundamental rights is mentioned as a core for constituting the area of freedom, security and justice. Core for the common policies on asylum, immigration and border controls are solidarity between member states as well as fairness towards third-country nationals (TFEU, Article 67).

Although these values should be at the core of EU policies, there is a clear gap between normative aspirations and ideals and political practices and realities. This is manifested also in the co-operation with states that do not fulfil the legal standards of the European Union, and on the other lack of power, authority and legitimacy of the supranational institutions towards unwilling or unable member states (Lavenex 2018).

Solidarity has been a key principle for constructing the common asylum system (Marin et al. 2020, 5), though proven controversial in political practice. European states thus failed not only their obligations towards those seeking protection, but also obligations towards each other (Byrne et al. 2020, 7). Thus, the harmonised protection regime should be combined with fair sharing of responsibilities among member

states, as well as the EU should acknowledge its responsibilities for neighbouring states (Bauböck 2019, 12, 15).

The solution would not be to close off Europe from asylum seekers and refugees and move the protection outside Europe, but to provide safe and legal pathways to migration. The externalisation of refugee protection may decrease the numbers of asylum seekers arriving, but it leaves the EU seem rather weak in relation to actions by third parties. While policies that prevent asylum seekers access to the state territory have been commonly used, the non-entry policies undermine Arendt's "right to have rights", right to claim protection and have access to safety and to the recognition of human rights (Hirsch and Bell 2017).

## 7 The Identity of the EU

In 2012, the EU was awarded the Nobel Peace Prize because "for over six decades [it] contributed to the advancement of peace and reconciliation, democracy and human rights in Europe". On many occasions politicians of diverse parties insist on common European values and try to formulate an identity of the EU based on these values. But the current EU policies towards migrants and refugees for the most part contradict these values and the EU identity. The EU will not be able to count on the solidarity among its members and a good moral reputation by other countries and regions of the world, if it does not realise consequently its own presumptions of morally founded obligations. For those who do not want to accept such a kind of normative discourse, we might remind them, that both more migration and ethically sound reputation in the world also lie in the best understood self-interest of the citizens of the EU. If the EU would take seriously the values and principles it seeks to promote, as well as realise its supranational potential, its politics towards migrants and refugees could be improved substantially.

## References

- Arendt H (1943) We Refugees. *Menorah J* 36(1):69–77
- Arendt H (1994) *The origins of totalitarianism*. Harvest, Harcourt, New York
- Arendt H (2020) *Wir Flüchtlinge*. 10. Auflage. Reclam, Ditzingen
- Barry BM, Goodin RE (ed.) (1992) Free movement. In: *Ethical issues in the transnational migration of people and of money*. University Park, Pa.: Pennsylvania State Univ. Press.
- Bauböck R (2018a) Europe's commitments and failures in the refugee crisis. *Eur Polit Sci* 17:140–150
- Bauböck R (2018b) Refugee protection and burden-sharing in the European Union. *J Common Market Stud* 56(1):146–151
- Bauböck R (2019) Mare nostrum: the political ethics of migration in the Mediterranean. *Comp Migr Stud* 7(4):1–15
- Benhabib S (2004) *The rights of others. Aliens, Residents, and Citizens*. Cambridge University Press, Cambridge



- Blättler S (2000) Zwischen Universalismus- und Nationalstaatskritik. Zum ambivalenten Status des Nationalstaats bei Hannah Arendt. *Deut Z Philos* 5:691–706
- Boswell Ch (2000) European values and the asylum crisis. *Int Aff* 76(3):537–557
- Buckel S, Graf L, Kopp J, Löw N, Pichl M (2021) Der lange Sommer der Migration als ein Ergebnis gesellschaftlicher Kämpfe. In: Buckel S et al (ed) *Kämpfe um Migrationspolitik seit 2015. Zur Transformation des europäischen Migrationsregimes*. transcript Verlag (Kultur und soziale Praxis), Bielefeld, pp 7–28
- Byrne R, Noll G, Vedsted-Hansen J (2020) Understanding the crisis of refugee law: legal scholarship and the EU asylum system. *Leiden J Int Law* 33(4):871–892
- Cassee A (2016) *Globale Bewegungsfreiheit. Ein philosophisches Plädoyer für offene Grenzen*. Suhrkamp, Berlin
- Council of the EU, European Council (2021) EU migration policy. <https://www.consilium.europa.eu/en/policies/eu-migration-policy/>
- Dzihic V, Günay C, Pisoiu D (2018) Migration managen? Die Widersprüche der EU-Migrationspolitik und ihre Auswirkungen auf die europäische Nachbarschaft. Österreichisches Institut für Internationale Politik, Wien (oiip). [https://www.ssoar.info/ssoar/bitstream/handle/document/60960/ssoar-2018-dzihic\\_et\\_al-Migration\\_managen\\_Die\\_Widerspruche\\_der.pdf?sequence=1&isAllowed=y&lnkname=ssoar-2018-dzihic\\_et\\_al-Migration\\_managen\\_Die\\_Widerspruche\\_der.pdf](https://www.ssoar.info/ssoar/bitstream/handle/document/60960/ssoar-2018-dzihic_et_al-Migration_managen_Die_Widerspruche_der.pdf?sequence=1&isAllowed=y&lnkname=ssoar-2018-dzihic_et_al-Migration_managen_Die_Widerspruche_der.pdf)
- Eurostat (2021) Asylum statistics. [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Asylum\\_statistics#Citizenship\\_of\\_first-time\\_applicants:\\_largest\\_numbers\\_from\\_Syria.2C\\_Afghanistan.2C\\_Venezuela\\_and\\_Colombia](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Asylum_statistics#Citizenship_of_first-time_applicants:_largest_numbers_from_Syria.2C_Afghanistan.2C_Venezuela_and_Colombia)
- Gibney MJ (2015) Refugees and justice between states. *Eur J Polit Theo* 14(4):448–463
- Goodin RE (1988) What is so special about our fellow countrymen? *Ethics* 98:663–686
- Haddad E (2008) *The refugee in international society between sovereigns*. Cambridge University Press, Cambridge
- Heimbach-Steins M (2018) Grenzenlose Offenheit oder begrenzte Verantwortung? Ethische Wegmarken europäischer Flucht- und Migrationspolitik. In: Merkl A, Koch B (eds) *Die EU als ethisches Projekt im Spiegel ihrer Außen- und Sicherheitspolitik Nomos*. Baden-Baden, Ashendorff Verlag, Münster, pp 225–249
- Hirsch AL, Bell N (2017) The right to have rights as a right to enter: addressing a lacuna in the international refugee protection regime. *Hum Rights Rev* 18(4):417–437
- Hoesch K (2018) *Migration und Integration. Eine Einführung*. Springer VS, Wiesbaden
- International Organization For Migration (2021) Missing migrants project. Migration within the Mediterranean. <https://missingmigrants.iom.int/region/mediterranean>
- Lavenex S (2018) 'Failing forward' towards which Europe? Organized hypocrisy in the common European Asylum system. *J Common Mark Stud* 56(5):1195–1212
- Loick D (2017) Wir Flüchtlinge. Überlegungen zu einer Bürgerschaft jenseits des Nationalstaats. *Leviathan* 45(4):574–591
- Määttä SK, Puumala E, Ylikomi R (2021) Linguistic, psychological and epistemic vulnerability in asylum procedures: an interdisciplinary approach. *Discourse Stud* 23(1):46–66
- Marin L, Penasa S, Romeo G (2020) Migration crises and the principle of solidarity in times of sovereignism: challenges for EU law and polity. *Eur J Migr Law* 22(1):1–10
- Martinsen F (2019) *Grenzen der Menschenrechte. Staatsbürgerschaft, Zugehörigkeit, Partizipation*. transcript Verlag, Bielefeld
- Menke Ch (2016) Zurück zu Hannah Arendt. Die Flüchtlinge und die Krise der Menschenrechte. *Merkur Deutsche Zeitschrift für europäisches Denken* 70:49–58
- Raimondi F (2016) *Prekäre Politik. Hannah Arendt zur Flüchtlingsfrage*. Zeitschrift für politisches Denken 1(8):93–109
- Schammann H, Gluns D (2021) *Migrationspolitik. Nomos*, Baden-Baden
- Schulze Wessel J (2017) *Grenzfiguren - Zur politischen Theorie des Flüchtlings*. transcript, Bielefeld
- Shue H (1988) Mediating duties. *Ethics* 98:687–704
- Zaun N (2018) States as gatekeepers in EU Asylum politics: explaining the non-adoption of a refugee quota system. *J Common Mark Stud* 56(1):44–62

# I Don't Have a Plan B: Changing Family Relationships in Forced Migration



Lotta Kokkonen and Sari Pöyhönen

**Abstract** In times of crises, relationships change, and these changes do not necessarily comprise a linear process of clear and distinct stages in which trust and closeness develop over time. On the contrary, relationships are in continual flux and the experiences of closeness may vary. In this study, we focus on one individual, Fatema, who has been living in Finland since 2015. Her story is derived from a linguistic ethnography carried out at a reception centre located in a rural Swedish-dominant region of Finland. We describe the changes and negotiations within Fatema's close family relationships with her children and husband. We look at meaningful turning points in these relationships in order to broaden the understanding of the changes in closeness and contribute to the knowledge of how and why such relationships grow, change, weaken, and are reconceptualised during dramatic life changes due to forced migration and over time.

## 1 Introduction

Forced migration as an object of study is predominantly associated with flows of populations rather than with movements of individuals with names (Pöyhönen and Simpson 2021). During the political turbulence of the “refugee reception crisis”, where identity inscriptions, such as religion, ethnicity and gender, are securitised, it is important to pay attention to the emic side of the stories and the lived experiences of individuals. Who are the persons who are fleeing from war-torn countries? How do they carry on with their lives, dependent as they are on the decisions of the migration officials and other public authorities? How do their family relationships change from displacement to resettlement? What are the points of negotiation within parental relationships and how do the relationships change as the environments change?

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Maintaining and establishing relationships locally and globally are complex processes, especially for people who experience forced migration (e.g. Sirriyeh 2010, 2013). There is a growing body of work that focuses on family relationships within the broader literature on migrant transnationalism (Baldassar and Merla 2013; Chuang and Costigan 2018; Van Hook and Glick 2020). The literature on transnational families often engages multiple forms of family relationships and exchanges on a global scale. In many communities and “families”, care and nourishing relationships extend biological ties, and the Global North understanding of a nuclear family is often limited in understanding the complex and multifaceted close relationships in many situations of transnational social networks (e.g. Grace 2019).

Harsh life experiences before, during and after fleeing one’s home influence refugees’ and asylum seekers’ families as a whole and the individual relationships between different family members alike. Stress caused by traumatic events prior to fleeing, during the journey and after resettlement can cause traumas that influence relationships within refugees’ and asylum seekers’ families (e.g. Sangalang and Van 2017). For example, parents’ symptoms of posttraumatic stress disorder (PTSD) are reflected within the relationships between parents and their children (van Ee et al. 2016). After resettlement, families may also face crises related to communication problems between spouses, between parents and children, and increased substance use (McCleary 2016). In addition, asylum seekers’ and refugees’ family relationships must yield to the changing laws that dictate, for example, family reunion in the receiving countries (e.g. Taylor 2018; Pellander 2016).

In forced migration settings, family relationships are turbulent due to the changes taking place. Despite the widely reported challenges, these changes within family relationships do not necessarily lead to conflict and distress (Hynie et al. 2013). Refugee families also utilise a range of strengths and resources to overcome resettlement and acculturative stressors (e.g. Betancourt et al. 2015).

Close relationships, such as family relationships, are seldom the sole cause of stress or purely source for social support. Indeed, relationships are likely to develop dialectically with both positive and negative changes (Baxter and Bullis 1986). What is less studied, however, is how refugees’ and asylum seekers’ family relationships change over time and fluctuate between support and challenge. There are some longitudinal studies on the development of family relationships in forced migration (e.g. McMichael et al. 2011) and, for example, Koh et al. (2013) has studied Burmese refugees’ experiences of parental expectations in the pre- and post-migration contexts. There are fewer studies, however, that would have analysed how different family relationships link together to form patterns and negotiations of closeness in these different relationships.

In this study, we apply a microlevel approach to family relationships. We focus on one individual, Fatema, and her changing family relationships in forced migration. Fatema is not her real name, but it was chosen by her for our study. Because of the sensitivity of the research topic and Fatema’s life situation, we will reveal necessary information only, and a lot is not being discussed at all to secure Fatema and her family’s anonymity. Moreover, the focus is on her relationships with her children and husband. These relationships, however, are not the only family relationships

that Fatema has. She has also talked about her parents, her husbands' parents and siblings, and her other relatives as family members. Fatema arrived in Finland with her two children as an asylum seeker in 2015 while her husband was missing, and his whereabouts were unknown.

In the following sections, we first describe our research approach, and the sources of data that inform our analysis. We also introduce Fatema in this section. In the analysis, we focus on the turning points within Fatema's relationship with her children and husband. This section is organised chronologically, as the identified turning points also happened over time. We end with a discussion of the study and propose an idea to widen the scope of exploring family relationships to include perspectives of all family members.

## 2 Linguistic Ethnography and Narratives of Forced Migration: Fatema's Story

To migrate is a physical as well as a symbolic act of dislocating and relocating (Baynham and De Fina 2005). It generates stories that have been waiting to be told—often for a long time. Understandings of the experience of forced migration can be gained through an approach grounded in linguistic ethnography, which focuses on individuals' lived experiences and how they intersect with wider structural transformations in the society (e.g. Copland and Creese 2015). In most cases, linguistic ethnography of forced migration draws on individual narratives produced in immediate interaction, and long-term partnerships with research participants (Baynham and De Fina 2016).

Fatema's story is derived from a longitudinal multi-sited (Marcus 1995) linguistic ethnography. It started in early autumn 2015 in a reception centre in Oravais, a small village located in a rural Swedish-dominant region of Finland (see more Pöyhönen and Simpson 2021; Pöyhönen et al. 2020) and continued in Capital region from 2016 onwards after Fatema received a four-year residence permit and moved there. We argue that prolonged engagement has a pivotal role in the gaining of trust and for stories to be told. In the case of Fatema, we have known each other for over six years. The data for the present study consists of ethnographic field notes, recordings and transcripts of interviews and conversations, photographs and videos, and logs of social media interaction. Data were collected between 2015 and the summer of 2021. Sari Pöyhönen, author 2 here, was the principal investigator of the project, and Lotta Kokkonen, author 1 here, contributed to the fieldwork on visits to Oravais in 2016, and in Capital region from 2016 to 2019. Fatema is around 45 years old, born in Iraq, Shia Muslim by religion, Arabic speaker, political scientist by education, married, mother of two children. Fatema grew up in a large family:

In my country, I was raised in a large family, eight sisters, three brothers. My father was a teacher and back then worked in schools. He was a great man, very educated man, had a very open mind. So, he supported us all – nine daughters and three sons. All of us have college and higher education.

Fatema has been living in Finland since the summer of 2015. Before she fled to Finland, she had worked as a civil servant in a governmental institute. Her husband was Sunni Muslim by religion, a civil servant working in a local court office. In 2005—two years after the Iraq war began—his office was attacked, and he was severely injured. The couple received messages to leave the city, and so they fled to the countryside, “to a Sunni village”, where the husband’s family was living. In the winter of 2015 the husband disappeared. No one knew whether he was kidnapped or killed. His family could not locate him in hospitals or in prisons. It was clear that Fatema had to leave to protect both families. She fled with her children, 8 and 12 years old, to Finland, “changing from one car to another”, via Turkey to Europe.

### 3 Turning Points in Close Relationships

Relational change is often seen as the development of perceived closeness (Mongeau et al. 2022), and closeness is here conceptualised as the psychological bond a person feels towards their parent, child, or spouse (Golish 2000). We apply the concept of a turning point when analysing Fatema’s relationships with her children and husband. A turning point is “any transformative event that alters a relationship in some important way, either positively or negatively” (Baxter et al. 1999, 294).

The analysis of turning points in relationships draws from a developmental perspective on relationships and stems broadly from the interpretive paradigm (Mongeau et al. 2022), and it is grounded in the perceptions of actual participants (Baxter et al. 1999; Braithwait et al. 2018). Looking at turning points in relationships helps to analyse events that contribute to relationship change and to movement from one direction to another (Baxter and Bullis, 1986). This approach allows researchers to capture the dynamic nature of relationships. Understanding the changes in closeness in family relationships could contribute to knowledge about how and why these relationships grow, change, weaken, and are reconceptualised during dramatic life changes due to forced migration and over time.

We do not use the method of turning point analysis in the sense that we would have asked participants to list all the incidents, such as disclosure of sensitive information, reciprocity, or physical demonstration of intimacy, that they recalled and associated with changes in the joint commitment level in each relationship (e.g. Baxter and Bullis 1986). Instead of asking Fatema to recall specific critical incidents in her relationships with her husband and children through a questionnaire or in an interview, we draw on longitudinal ethnographic data, including Fatema’s personal narratives and our fieldnotes, to identify the kinds of changes in Fatema’s life and relationships that would be considered turning points, since they are associated with positive and negative relational changes (Baxter and Bullis 1986). Methodologically our turning point analysis is thus based on the analysis of narratives (Polkinghorne 1995), in which the analysis results in the descriptions of themes, in our case family relationships, that cut across stories as well as identify the relationships between

and among them. Next, we will describe the identified turning points in Fatema's relationships with her children and husband.

## 4 Turning Points in Fatema's Relationships with Her Children and Husband

By looking at the data and immersing ourselves in the discussions and fieldnotes, we were able to identify turning points: events that seemed to have significant meaning in developing and renegotiating these relationships. The changes in relationships were often linked to changes in circumstances, such as moving to a new location in Finland. In the following, we illustrate the changes and turning points on a timeline to illuminate the parallel changes in different relationships (Table 1).

### 4.1 Relocation to Finland: Reaching Safety, Imagined Relationship

In comparison to single men living with their children at the reception centre in Finland, Fatema had fewer relationships as well as fewer opportunities to establish new relationships. Gender roles in the reception centre were traditional: men were offered as volunteers for fixing apartments and other "men's jobs", while women took care of housework. Fatema's relationships focused on her children and their wellbeing. That was also her deliberate choice. Fatema felt that she had to provide care and some sort of stability to her children by being present as much as possible.

While the children are at school, Fatema goes to Finnish courses, participates in a voluntary handicrafts course, sits with her neighbour. In front of her children, she tries to be brave and

**Table 1** Fatema's close relationships: turning points in her relationships with her children and husband

Year	Turning points: Children	Turning points: Husband
2015	Relocation to Finland: safety, building trust	Missing husband: imagined relationship and high uncertainty
2016	Residence permit and moving to Capital region: clashing expectations and realities	
2017		Found and located husband: negotiating trust, creating new ways of communicating
2018	Family reunion: renegotiating the family roles, dilemmas in parenting	Reunion: hope and realisation of the physical conditions, changing roles in caretaking
2019		Renegotiation: dependency, negotiating power and closeness

not show her grief. Her education in international politics is not relevant at this temporary stop at the Finnish asylum centre, it's part of her past. Her current story is focusing on being a mother, a woman, Iraqi, and an asylum seeker, whose husband is missing (Sari's fieldnotes, September 2015).

The relationships with the children were not only important in themselves, but also other relationships that Fatema had at the reception centre evolved around her children. Social workers and counsellors as well as children's teachers were the most frequent contacts Fatema had at the reception centre. Family relationships turned out to be the common ground and shared experience that enabled trust to be built, not only between the children's school but also between Fatema and Sari. Sari wrote about the first meeting:

We met with Fatema in September 2015 for the first time, talked for hours. We drank Assam tea. Cried. Laughed. Compared our notes of how to be a mum and fail every day. Feelings of conviviality (Sari's fieldnotes, October 2015).

When we talked about how Fatema coped with all that had taken place during their escape from Iraq and their time at the reception centre, she told us: "I deal with it because I have to. I don't have a plan B. I cannot give up, since I am the only one that the [children] have".

It was important that the children were safe but building trust with them in a new environment also meant learning new ways of being, Fatema explained: "I was always with my children, 24/7 never leaving them from my sight". Before fleeing, the children had mostly played indoors due to the hostile circumstances. During the journey, Fatema had made sure that they would not be separated under any circumstances. In the reception centre Fatema found it difficult to let her children play outside in the field on their own since the memories from the past continued to haunt her. On a cognitive level, she knew that it was perfectly safe for the kids to be playing outside by themselves, but emotionally she confessed to being nervous every time her children were playing out of her sight. The children, she said, had to convince her by reassuring her with statements like "Mum, really it is ok for us to play out there. Do not worry".

While at the reception centre, Fatema's relationship with her husband was on hold. He was missing and Fatema did not know if he was still alive. Fatema had their wedding photo with her, but she had wrapped the photo in a plastic bag and put it in a hallway closet. There were constant rumours that some Sunni men had been released from a prison, or that mass graves were found in Iraq. Perhaps he would be there? And then what?

Fatema: "Sometimes I hear good news, bad news, they found many people and this prison [---] No, he's not in ISIS prison? He's in a militia's other prison? In jail or something. Sometimes I really need to hear the news. [But] sometimes I switch my telephone off. I don't want to hear anything, even I see my brother or my family or my husband family calling, calling" (interview, October 2015).

In order to avoid the possible bad news, Fatema did not always want to answer phone calls and WhatsApp messages from her own and her husband's siblings in

Iraq. She balanced between hope and fear, maintaining the relationship with her imagination. Avoiding bad news allowed Farema to imagine the relationship as is used to be. This kind of imaginary co-presence provides a means of focusing attention in the present on a sense of continuity between past relationships and future opportunities, and it is a strategy that helps to mediate and make somewhat more bearable the forced separation that is common to the refugee experience (Robertson et al. 2016).

#### ***4.2 Residence Permit and Move to the Capital Region: Negotiating Dependency and Trust***

Fatema received permanent residency in Finland in the spring of 2016. Fatema felt that Oravais would have provided a safe and calm environment for the children to grow up. She wanted to stay in the village, because she saw that being a single mother would be too demanding for her in a big city. At the same time, however, she acknowledged that a bigger city would have more opportunities to offer in terms of employment, schooling, and free-time activities. Eventually, the family moved to Capital region with the anticipation of finding more opportunities for her children and herself. At this point, Fatema was thinking of opening a café: “I know I am good at making cakes and all that. I could open a small café nearby and support my family with that”.

In the city, the children reacted to their new environment differently than Fatema had expected. For one, they seemed to have challenges in finding friends. “They should make friends, play outside”, Fatema said. She was also worried that her children would not learn Finnish. When we discussed this phase in her family life, Fatema told us that she feels close to her children since they stayed physically close to her, but at the same time she acknowledged they might be too dependent on her.

Fatema also felt pressure to adapt to her new environment and learn Finnish. Moreover, there was the hard reality of being a single mother with teenage children, with hopes of a family reunion alongside conflicting feelings and emotions about the relationship and situation with her husband.

Now I am fine. In general, I am fine. Try to keep everything ok. Try to keep everything in control. But now it seems to be more difficult than before. Sometimes I feel that I am very disappointed. Very bad situation. But I try to control myself and focus on the positive thinking. Because coming to here Finland, wonderful place, I got help for everything. But now that I think of myself here, more than after a year in Capital region and one year at the language course and I still cannot speak good. And not to understand well. And that is not good. You see, the language is the key to feel like home. To understand. And now I cannot read my mail, I cannot control my life. I have to use English or to ask a friend to help. And it is not easy for me. I am not going to get a job. And it is same with my kids. It is two years now and they do not speak at all Finnish. Maybe it is the motivation. They are teenage [children], you know, and mom here can always solve any problems. Mother will always help, so they think; good [I do not have to learn the language]. It is very, very hard (interview, January, 2017).



Fatema studied in an integration training course for adult migrants, and this meant that she was not at home for the children all day long. She had tried to establish routines within the family, for example, by setting dinner times, and creating a list of housework that everyone should do. She hoped her children would take more responsibility, even arranging for one of her children to have a job distributing magazines and advertisement in a local neighbourhood.

Fatema: “[The other child] has friends who are from this same neighbourhood and [the child] is much happier now. But they speak English. And [---] is now rebelling like a teenager. [The other child] has a job distributing magazines. This way [---] earns money for the video games. If it was not for this, [---] would not leave the house at all” (interview, January, 2017).

At the same time, she did not want to be too demanding to her children, being aware of the challenges they had in trying to adapt to their new environment and life situation. There was also the fact that the children missed their father, both in their own way. Fatema explained: “I know that I am not strict enough for the kids. It is difficult to support them, but not expect too much, you know.” At the end of the day, she told us that she often helped the older child to distribute the magazines and confessed to having done the job herself a couple of times.

After the family moved to Capital region, Fatema received news about her husband. He had been found and was back at the family home in Iraq. Communication between the spouses was not easy at the beginning since the husband felt that Fatema had betrayed him by fleeing. Finally, his family members convinced him that Fatema had had no choice but to take the children to safety. This still caused mistrust between the spouses and the first phone calls “felt like talking to a stranger”. Fatema had conflicting feelings about the fact that the husband was now found. She said that of course she was happy that the children would finally see their father, and she was relieved to find out that he was alive. But at the same time, Fatema realised she had to build trust and closeness within her relationships again from the start and that the everyday routines they had developed with the children would have to be reorganised and renegotiated if he were to move to Finland too. There was also the fact that Fatema’s husband had suffered a severe injury before imprisonment, something that would have a significant effect on Fatema’s future.

### **4.3 Family Reunion: Renegotiation**

Children are having their meal at the table wearing headphones, watching videos on their mobile phones while eating. Fatema is serving food to her husband, who needs help in eating. She serves the children too, who would not need help, but expect that from her. Eventually Fatema’s plate is just full of chicken bones, left from the others who have just finished their dinner (Sari’s fieldnote, June 2019).

The quote from Sari’s fieldnotes is from a time when the family had been reunited and the children had both become teenagers. After the husband came to Finland, it was evident the relationships had to be renegotiated again.

During this time, Fatema described how she felt this inadequacy in many respects. Her priority was to be a “good” mother and a supportive spouse taking care of her disabled husband. After this came the challenges of learning a completely new occupation and preparing for the language test that would be required for Finnish citizenship. The idea of returning to a career as an expert in the field of international policy had been forgotten, as had the idea of becoming an entrepreneur and owning a café. This dream had been replaced by becoming a school assistant.

Fatema: “Before I thought of having my own project. But now I think about it and I discuss a lot with my teachers. And I think that I should be more realistic. [---] So, I started to think about this job. Ohjaaja [instructor]. That I can do now. [---] But you need to have dreams too, right? I think that it is more important to be realistic. More dreams can mean more disappointments” (interview, January, 2017).

Fatema’s story seemed to follow the sad path of de-skilling migrant women, where their intellectual capacity is being undermined and, consequently, they are seen as a potential source of manual labour and workers for low-paid jobs (e.g. Mojab 1999).

In their relationship, Fatema and her husband were negotiating about recovery, sharing positive and good memories while aiming at regaining the sense of closeness through shared history. On one occasion, Sari witnessed a discussion that took place in the family’s living room which illustrated the possible challenges and tensions in balancing between good and soothing memories and the reality of their situation. Fatema and her husband were remembering how they used to like to read a lot and how their house in Iraq was located close to a street with many bookshops. The discussion took a negative turn, when the husband remembered that it was the same street where four children were killed in a car bombing.

Our notes before the COVID pandemic and at the time when the family had been reunited and living together in Capital region illustrates the couple’s current situation:

It’s been 11 months since we met previously with Fatema and the first time I get to know her husband. He’s been in our conversations from the very beginning – a missing person that belonged to life in the past. Now he’s here. We (all three of us) had long conversations over the coffee table. It seems that Fatema’s everyday life is anchored in learning Finnish and supporting her children. Now this missing person needs attention and care. From time to time, Fatema and I went to the balcony so she could have a break (and a cigarette). There’s so much to talk about, to share, but not now (Sari’s fieldnote, June, 2019).

In June 2019 Sari asked Fatema about the wedding photo she had seen at Oravais. The one that Fatema had kept in the closet, wrapped in a plastic bag. Fatema said that she still had it but did not want to place it anywhere to be seen. It was a different life back then, and many things had changed. Now this is what they had to continue with.

## 5 Conclusions

In this chapter, we have told the story of Fatema. It is about forced migration and living in the Northern periphery, trying to find a place in the new society, and renegotiating family relationships in changed circumstances. This is a unique and individual story, but the hope is that many people can relate to Fatema's lived experiences. Relationships change in times of crises, and these changes do not occur in a linear process of clear and distinct stages where trust and closeness continuously develop. On the contrary, relationships take unexpected turns and the experiences of closeness are constantly negotiated and may vary. Here we have described the changes and negotiations within Fatema's close relationships, particularly those with her children and husband.

Crises can create a sense of urgency or the need for an increased degree of closeness in child–parent relationships (Golish 2000). In situations like this, families in forced migration are often supported by local communities (e.g. Betancourt et al. 2015). Fatema was clearly aware of the fact that her children were dependent on her and her wellbeing, but since there was no community support available for her, she felt she had to carry all the responsibilities herself. She had no plan B, nor any possibility to collapse or give up. The coping strategy also involved keeping her marital relationship alive in her imagination even though the husband was missing and communication with him was not possible. This was also meaningful for the children, because the idea of their father one day returning to them was important for their wellbeing.

Studies looking at transnational families point out that developing and maintaining relationships by creating so-called ICT-based co-presence is possible in transnational families. However, Baldassar et al. (2016), among others, stress that mediated communication has not replaced the need or desire for physical co-presence, which transnational families achieve through regular visits. Yet, as Fatema's story illustrates, the possibility to have the long-awaited physical presence is not only a straightforward positive experience. It can include a range of contradictory feelings, thoughts, and actions that need to be taken into consideration when renegotiating the closeness within these relationships. Though there is a vast body of literature that speaks of the importance of family reunification within refugee families, Choumanivong et al. (2014, 97) remind us: "Each refugee family has a unique story. In order to maximise the effectiveness of supportive interventions, these stories must be identified, appreciated and honoured".

Transnational migrant families face conflicts within family relationships typically after two to three years of entry to the new country. Fatema encountered some additional challenges around that time. In her relationships, the conflicts were not because of the lack of trust stemming from a different pace in learning the new language or due to the children pursuing more independence from their parents (e.g. McCleary 2016; McMichael et al. 2011). Instead, the cause of stress seemed to be the changing family dynamics and Fatema hoping for more independence for the children. She was balancing the idea of helping her children to become more independent, but at

the same time she worried about their abilities, such as their language competence, to cope in their new life situations.

Fatema, like so many other refugee mothers, prioritised identifying herself as a mother, while state policies often prioritise their status as refugees (Vervliet et al. 2014). As a mother, Fatema demonstrates a role that contains feelings of dependency and powerlessness, but also one with remarkable agency that gives sense to her life, helping her to initiate change and make choices. Fatema told us about her emotional challenges, such as being disturbed by traumatising experiences and deep feelings of loneliness, but she also shared positive turning points, such as enhanced experiences of closeness and trust and feeling less lonely.

In this chapter, we applied the concept of turning points to analyse and illustrate the relational changes within Fatema's family relationships. We did not rigorously apply or follow turning point analysis as a method. We are also aware of the warning by Baxter and Bullis (1986a) regarding overly reductionistic analysis when concentrating on units of analysis larger than the turning point. They state that "relationship stages or periods may consist of multiple turning point events that merit a finer-grained analysis" (Baxter and Bullis 1986, 471). While outlining the turning points on a timeline and parallel to the physical changes in Fatema's life, we might have overlooked many finer-grained events. However, we believe that the turning points described here constitute useful story lines, with "self-obtained chunks" of a relationship's history (Baxter and Bullis 1986, 490) even though the analysis is based on rather rough categories and turning points in time. Our aim is to highlight the longitudinal and ethnographic approach to the manifold development of Fatema's close relationships, which illustrates the fluctuating nonlinear processes of development within family relationships in forced migration.

We have told the story of Fatema and her relationships with her children and husband mainly through Fatema's perspective. Forced migration studies, particularly those looking at parental factors related to the mental health of children and adolescents, predominantly rely on reports by adults (Eruyar et al. 2020). In the future, it would be important to widen the scope and analyse family relationships from the perspectives of children and spouses as well in order to see the relational changes and turning points they consider relevant and meaningful.

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## References

- Baldarssar L, Merla L (2013) *Transnational families, migration and the circulation of care: understanding mobility and absence in family life*. Routledge, New York

- Baldassar L, Nedelcu M, Merla L, Wilding R (2016) ICT-based co-presence in transnational families and communities: challenging the premise of face-to-face proximity in sustaining relationships. *Global Netw* 16(2):133–144
- Baxter LA, Bullis C (1986a) Turning points in developing romantic relationships. *Hum Commun Res* 12(4):469–493
- Baxter LA, Braithwaite DO, Nicholson JH (1999) Turning points in the development of blended families. *J Soc Pers Relat* 16(3):291–314
- Baynham M, De Fina A (2016) Narrative analysis in migrant and transnational contexts. In: Martin-Jones M, Martin D (eds) *Researching multilingualism. Critical and ethnographic perspectives*. Routledge, Abingdon, pp 31–45
- Baynham M, De Fina A (eds) (2005) *Dislocations/relocations: narratives of displacement*. Routledge, New York, pp 1–10
- Betancourt TS, Abdi S, Ito BS, Lilienthal GM, Agalab N, Ellis H (2015) We left one war and came to another: resource loss, acculturative stress, and caregiver–child relationships in Somali refugee families. *Cultur Divers Ethnic Minor Psychol* 21(1):114–125
- Braithwaite DO, Waldron VR, Allen J, Oliver B, Bergquist G, Storck K, Marsh J, Sword N, Tschampl-Diesing C (2018) “Feeling warmth and close to her”: communication and resilience reflected in turning points in positive adult stepchild–stepparent relationships. *J Fam Commun* 18(2):92–109. <https://doi.org/10.1080/15267431.2017.1415902>
- Carling J (2008) The human dynamics of migrant transnationalism. *Ethn Racial Stud* 31(8):1452–1477
- Choumanivong C, Poole GE, Cooper A (2014) Refugee family reunification and mental health in resettlement, Kōtuitui: New Zealand *J Soc Sci Online* 9(2):89–100. <https://doi.org/10.1080/1177083X.2014.944917>
- Chuang SS, Costigan CL (2018) (eds) *Parental roles and relationships in immigrant families: an international approach*. Springer
- Copland F, Creese A (2015) *Linguistic ethnography: collecting, analysing and presenting data*. Sage, London
- Emmel N, Huges K, Greenhalgh J, Sales A (2006) Accessing socially excluded people–trust and the gatekeeper in the researcher-participant relationship. *Sociol Res Online* 2(2). <http://socresonline.org.uk/12/2/emmel.html>
- Erucar S, Maltby J, Vostanis P (2020) How do Syrian refugee children in Turkey perceive relational factors in the context of their mental health? *Clin Child Psychol Psychiatry* 25(1):260–272. <https://doi.org/10.1177/1359104519882758>
- Golish TD (2000) Changes in closeness between adult children and their parents: a turning point analysis. *Commun Rep* 13(2):79–97. <https://doi.org/10.1080/08934210009367727>
- Grace BL (2019) Family from afar? Transnationalism and refugee extended families after resettlement. *J Refug Stud* 32(1):125–143. <https://doi.org/10.1093/jrs/fey019>
- Hynie M, Guruge S, Shakya YB (2013) Family relationships of Afghan, Karen and Sudanese refugee youth. *Can Ethn Stud* 44(3):11–28. <https://doi.org/10.1353/ces.2013.0011>
- Koh LC, Liamputtong P, Walker R (2013) Burmese refugee young women navigating parental expectations and resettlement. *J Fam Stud* 19(3):297–305. <https://doi.org/10.5172/jfs.2013.19.3.297>
- Marcus GE (1995) Ethnography in/of the world system: the emergence of multi-sited ethnography. *Annu Rev Anthropol* 24(1):95–117
- McMichael C, Gifford SM, Correa-Velez I (2011) Negotiating family, navigating resettlement: family connectedness amongst resettled youth with refugee backgrounds living in Melbourne, Australia. *J Youth Stud* 4(2):179–195. <https://doi.org/10.1080/13676261.2010.506529>
- McCleary JS, Shannon PJ, Cook TL (2016) Connecting refugees to substance use treatment: a qualitative study. *Soc Work Pub Health* 31(1):1–8. <https://doi.org/10.1080/19371918.2015.1087906>
- Mojab S (1999) De-skilling immigrant women. *Can Woman Stud* 19(3). <https://cws.journals.yorku.ca/index.php/cws/article/view/7886>

- Mongeau PA, Miller Henningsen ML, Oliver-Blackburn BM (2022) Developmental theories of relationships: Uncertainty, stage model and turning point approaches to relationships' lifespan. In Braithwaite DO, Schrodt P(eds.) *Engaging theories in interpersonal communication: Multiple perspectives*. 3rd edn. Routledge, New York, pp 328–341
- Pellander S (2016) *Gatekeepers of the family: regulating family migration to Finland*. University of Helsinki. Publications of the Faculty of Social Sciences. <https://helda.helsinki.fi/handle/10138/162719>
- Polkinghorne DE (1995) Narrative configuration in qualitative analysis. *Int J Qual Stud Educ* 8(1):5–23
- Pöyhönen S, Simpson J (2021) Contesting language policy for asylum seekers in the Northern periphery: the story of Tailor F. *Lang Policy* 20:261–285. <https://doi.org/10.1007/s10993-020-09554-0>
- Pöyhönen S, Kokkonen L, Tarnanen M, Lappalainen M (2020) Belonging, trust and relationships: collaborative photography with unaccompanied minors. In: Moore E, Bradley J, Simpson J (eds) *Translanguaging as transformation: the collaborative construction of new linguistic realities*. *Multilingual Matters*, Bristol p, pp 58–75
- Robertson Z, Wilding R, Gifford S (2016) Mediating the family imaginary: young people negotiating absence in transnational refugee families. *Global Networks* 16(2):219–236. <http://onlinelibrary.wiley.com/doi/https://doi.org/10.1111/glob.12111/epdf>
- Sangalang CC, Van C (2017) Intergenerational trauma in refugee families: a systematic review. *J Immigr Minor Health* 19:745–754
- Sirriyeh A (2010) Home journeys: Im/mobilities in young refugee and asylum seeking women's negotiations of home. *Childhood* 17(2):213–227
- Sirriyeh A (2013) *Inhabiting borders, routes home. Youth, gender, asylum*. Farnham: Ashgate
- Taylor S (2018) Refugee family reunion: what might have been. *Alternat Law J* 43(3):209–215
- van Ee E, Kleber RJ, Jongmans MJ, Mooren TTM, Out D (2016) Parental PTSD, adverse parenting and child attachment in a refugee sample. *Attach Hum Dev* 18(3):273–291. <https://doi.org/10.1080/14616734.2016.1148748>
- Van Hook J, Glick JE (2020) Spanning borders, cultures, and generations: a decade of research on immigrant families. *J Marriage Fam* 82:224–243. <https://doi.org/10.1111/jomf.12621>
- Vervliet M, De Mol J, Broekaert E, Derluyn I (2014) That I live, that's because of her': intersectionality as framework for unaccompanied refugee mothers. *Br J Soc Work* 44(7):2023–2041. <https://doi.org/10.1093/bjsw/bct060>

# *Ius Migrandi* and Citizenship: An Historical Perspective from the Roman History



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**Abstract** Almost a century after Barthold Georg Niebuhr and Pietro Bonfante's work and their interpretation about the *ius migrandi*, this essay aims to offer a thought about a current debate on the granting of citizenship and migration policies between *regnum* and *Res publica* of Roman history.

## 1 Introduction

There is no doubt that the term “citizenship” is still today the cornerstone on which modern national systems are built. The vastness of the fields in which it is used means that it assumes the most heterogeneous connotations and meanings, having to be considered outdated the traditional idea that it represents the belonging of a person to the highest organic political community: the State (Degni 1921). As noted by Santi Romano (1988, 66), the challenge arises from the inherent difficulty in dissecting citizenship into discrete rights and duties. This obstacle hinders or, at the very least, significantly complicates the formulation of a preconceived definition, which would inevitably fail to grasp the dynamic nature of its constitutive content.

Such a definition, therefore, can be reached only empirically and indirectly limiting itself to an investigation on the norms that, in the various state systems, regulate the acquisition and the loss of the citizenship (Clerici 1989; Silving 1956; De Castro 1961).

However, despite the extreme variety of legal situations that distinguish it, as Grosso (1997) points out there is no manual of public, private or international law that does not dedicate a chapter or a voice to citizenship, providing a definition of

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the concept, delimiting the field of investigation giving to the readers a partial or sectorial definition (Léca 1986).<sup>1</sup>

An example will help elucidate this assumption. As outlined in the «*Citizenship*» («*Cittadinanza*») entry of the «*Enciclopedia Giuridica Italiana*» (Barsanti 1913), this is described as the complex of rights and duties bestowed upon individuals within a specific political association, sanctioned by its laws. The definition further emphasizes that citizenship constitutes the bond linking the individual to the political association and manifests as a relationship between the State and the citizen, within the limits prescribed by the laws. It becomes apparent that, inadvertently, the author has presented not just one definition but three facets of citizenship: a “*set of rights,*” a “*sum of duties,*” and the “*bonds—both horizontal and vertical—of loyalty and protection*”.

The difficulties to demonstrate with abstract and synthetic formula the various positive phenomena included under the name “citizenship”, is more difficult if we consider how the idea of fundamentals rights, during the last thirty years, break up the idea of State-nation how close society, isolated and self-sufficient (De Pasquale 2012, 445; Zanfrini 2007, 8)<sup>2</sup> in which the citizenship was used how juridical category *ad alios excludendos*. Historically, in fact, the term citizenship reflects the closed and differentiated character of the reference communities as an institution that directly captures the person by linking it to the political idea of the personal State in which a political community is expressed. Today, the influence of various political and social factors and the fusion between relatively homogeneous communities have meant that the idea of citizenship is specified in the most diverse forms, taking on different degrees and a great variety of content and scope, appearing as elusive in its fundamental characteristics (Perticone 1957). The old continent, maybe, is emblematic representation of this break-up for the measures adopted at the end of 80 s and the start of 90 s by European Community. First with the Single European Act (SEA)<sup>3</sup> and then with Maastricht<sup>4</sup> (1992) and Amsterdam<sup>5</sup> (1997) Treatys the European Community takes one of the most important steps in modern history, embarking on giving concrete content to European citizenship<sup>6</sup> now established by Article 9 of the TUE and by the Article 20 of Treaty on the Functioning of

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<sup>1</sup> The author observes that the main difficulty in speaking fully of citizenship derives from the conceptual heterogeneity that surrounds it, both due to the variety of functions that refer to it (e.g. family citizenship, business or craft citizenship, national citizenship, etc....) either as a result of the empirical situations it designates. See also: (Crifò 2005a, b).

<sup>2</sup> According to the author, immigration becomes an expression of the crisis of sovereignty in the nation-state, which ideally should involve not only controlling access to the territory but also determining the criteria defining membership in all the organizations within it. See also: (De Grazia 2003, 363–380).

<sup>3</sup> GU L 169 of 29.6.1987.

<sup>4</sup> GU C 191 of 29.7.1992.

<sup>5</sup> GU C 340 of 10.11.1997.

<sup>6</sup> Treaty on European Union 92/C 191/01 (ndr. Maastricht), art. 8: «*Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union*».



the European Union (Papa 2017; Condinanzi et al. 2006). In the European vision, the concept of citizenship puts an end, perhaps definitively, to the correspondence between citizenship, nation and nationality, forcing the Member States to rethink the internal balances; to its prediction, in fact, there is no intention on the part of the supranational order to replace national identities with a European identity, rather, the aim of ensuring that the rights and interests of Member States' nationals are genuinely protected by the right of movement and residence between Member States. This, moreover, is evident from the constant reference in the founding Treaties to the concept of nationality as to the nationality of the Member States (Rossi 2006).

Italy too has been put to the test by the reflections of the supranational approach. The debate on citizenship, in fact, has returned several times in the parliamentary tables dividing the positions—both the experts and those of the public opinion<sup>7</sup>—and concretizing themselves in an alternation of reform proposals built around a binary dichotomy between “exclusion” and “inclusion”,<sup>8</sup> among those who are already members of the political community and those who ask to be admitted (Rigo 2011).

An example of this alternation, moreover, can be found in the regulation of relations with foreigners implemented by the legislation of the Italian State over time. From the granting of the same rights of the Italian citizen, sanctioned by the Civil Code of 1865,<sup>9</sup> to the subordination of the same to the condition of reciprocity of the 1942 Code,<sup>10</sup> sometimes passing through measures of openness and inclusion

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<sup>7</sup> The debate is far from being exclusive to Italy, as it often takes the same form in other continental countries. An example of this is the reform introduced at the time by the Schroeder government, according to which a person born in Germany of foreign parents, at least one of whom has been legally residing in Germany for eight years and has a residence permit or for three years with an indefinite residence permit, shall acquire German nationality, as referred to in Bill 1570/2006, containing new rules on nationality, presented on 2 August 2006. Certainly, more recent are the reflections conducted by the continental European countries belonging to the so-called “Visegrad” group (Poland, the Czech Republic, Slovakia and Hungary), where there is an attempt to revise, in a restrictive and sometimes discriminatory way, the national provisions on citizenship. Furthermore, in the panorama of the experiences of the Member States of the Union, it is worth considering the peculiar position taken by Spain with the reform carried out by Article 2 of the Ley 11/1990, which, by completely reforming Article 14 of the Civil Code, introduced a particular form of “civil citizenship” (*vecindad civil*), which has the merit of linking citizenship not to nationality but to the protection of human rights, and to the new forms of protection of persons, on the basis of residence in the territory of the State.

<sup>8</sup> Among the various initiatives, mention should be made of the adoption of the “*Carta di Palermo*” of 15 March 2015 (to which the Municipalities of Barcelona, Paris, Düsseldorf and Turin also adhered) with which a revision of the policies of Italy and Europe was proposed with the request for the introduction of regulations to facilitate the acquisition of citizenship as an instrument of inclusion and to recognize international mobility as a human right fundamental. The full text of the Charter can be found at [www.palermocapitalecultura.it](http://www.palermocapitalecultura.it).

<sup>9</sup> Art. 3 «*The foreigner is entitled to enjoy the civil rights granted to citizens*» («*Lo straniero è ammesso a godere dei diritti civili attribuiti ai cittadini*»).

<sup>10</sup> Art. 16 «*The foreigner is allowed to enjoy the civil rights granted to citizens on the condition of reciprocity and subject to the conditions specified in special laws*» («*Lo straniero è ammesso a godere dei diritti civili attribuiti al cittadino a condizione di reciprocità e salve le condizioni contenute in leggi speciali*»).

(as the L. 28/1998 so-called “*Turco-Napolitano*”) but much more often closing,<sup>11</sup> we witness a multifaceted vision of the foreigner. Citizenship, understood in this way, ends up becoming a figure that unites, but at the same time separates (Calore 2019) creating around the social and political community a bubble that the island, which protects its identity and the advantages achieved, relegating it to non-citizens outside (Zincone 2009).<sup>12</sup>

## 2 «*Peuple Romain*» How «*Modèle De Tous Le Peuples Libres*»

Citizenship, therefore, between definitional difficulties and innovation is characterized as a theme of real importance both in the political debate and in the technical-legal so that, as pointed out by Crifò (2005a, b), everyone talks about it, even the Romanists and historians moved by the search for continuity between Roman and current experience.

Beyond a possible historical continuity between phenomena later historian, which I believe should be approached with some caution (Marotta 2013),<sup>13</sup> there is no doubt that the Roman model constitutes an interesting point of reference in reconstructing the terms of citizenship. Show the principles and follow the spread—from the monarchical age to the *Constitutio Antoniniana*—of the *civitas Romana* is the main way not only to grasp the fundamental values of Roman history but also, and above all, to assess the political significance that the granting of citizenship took on in relations with the peregrines and that allowed the transformation of Rome from a small village in Latium to the Empire (Donati Giacomini and Poma 1996).

Old Legends, become heritage of roman identity (Carandini 2003, 2006, 2010, 2011, 2013, 2014),<sup>14</sup> drawing the imagine of one community born by fusion of

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<sup>11</sup> See L. 189/2002 so called Bossi-Fini and the text of D.I. n. 113 of October 4, 2018, coordinated with conversion law no. 132/2018 called “*Sicurezza e immigrazione*”: art. 14 with which amendments are made to the law n. 91 of February 5th, 1992.

<sup>12</sup> According to the author, within the context of emigration, citizenship serves as a crucial element in a high-stakes scenario where immigrants, from a position of vulnerability, attempt to counterbalance the whims of fortune, while host countries, from a position of strength, seek to safeguard the advantages of a more favorable fate.

<sup>13</sup> I am in full agreement with the thoughts and bibliography cited by the author. Historical comparison, there is no doubt, is an extremely dangerous intellectual exercise. Indeed, it must not stop at the mere finding of analogies between realities distant in time, considering it necessary to take into account the context within which the individual institutions, taken from time to time, are arranged.

<sup>14</sup> Combining the historiographical experience with the archaeological one, the author tells us how the legends of Rome are not just fairy tales; the reconstruction of the long journey of the story of him living in a world where truth and fiction are both present and intimately mixed. Distinguishing and separating one from the other by trying to trace what actually happened in the early days of the city is a difficult task and not always possible. On Carandini 2003 see the review of: (Fraschetti 2007). In a critical sense (Ampolo 2013) the position whereby Carandini and his followers make uncritical use of legends, without questioning their true value independently of the archaeological documentation,

different peoples<sup>15</sup> which from monarchy age did of the increase of citizenship an guiding principle. Recall the Romulean *Asylum* (Del Ponte 2016; Fanizza 2012) on the *Campidoglio*, narrated by historians such as Dionysius of Halicarnassus<sup>16</sup> and Livy,<sup>17</sup> an emblem of the Romans' readiness to welcome and integrate outside peoples, creating an ever-growing population that would become the foundation of their future greatness.<sup>18</sup>

In addition to the measures that led to the extension of the *civitas* to entire communities by the will of the *Rex*,<sup>19</sup> the constitutional reform attributed by tradition to Servius Tullius<sup>20</sup> (578–535 BC) is also consistent with the policy of Rome, with which we see the replacement of the institutional structure of the city-community to the original federative structure of the Latin-Sabian age (Cerami and Miceli 2018). In fact, if on the one hand, the inclusion in the newly constituted territorial tribes was functional to the creation of the centuriate army and to the increase of Rome's war power, on the other hand it allowed the Etruscan king to overcome the mechanism by which immigrants acquired citizenship through inclusion in the patron's family clan (Mastrocinque 2003), laying the foundations for an acquisition based on the criterion of residence, and therefore registration, in a tribe (Mercogliano 2015).<sup>21</sup>

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impressively mixing news, selecting only what serves the subjective reconstruction, mixing authors, genres and sources in an unacceptable manner; they prefer *fabulae* and extreme concordance, not taking into account cases of invented or reconstructed traditions in recent, historically verifiable periods.

<sup>15</sup> For Liv. 1.2.4, the Latin peoples was born by the fusion between *Aborigeni* with *Troiani*. Romulus himself is said to be descended on his mother's side from *Ascanius*, son of the Trojan hero *Aeneas* and founder of *Albalonga*, or from his half-brother *Silvius*. See Liv. 1.3–4. Modern research has extensively investigated the origin of the myth of the Trojan origins (Giardina 1994, 73). It is interesting to note that the contribution, in its rich exposition, does not conceal the idea that the memory of this Trojan origin served to find an ancient and prestigious moment of identity and to remove the suspicion of the Romans' barbarian origin (Ampolo, *op. cit.*; Licandro and Arcaria 2014). Most recent: Valditara (2018, 1–7).

<sup>16</sup> Dion. Hal. *Antiquitates Romanae* 2.15.3–4. In the author's account, the duality of Romulan thought emerges: on the one hand, it offers relief and protection to all those fleeing oligarchies and tyrannies by making them Roman citizens; on the other hand, it does not conceal the utilitarian vision of its action aimed at further increasing the power of Rome.

<sup>17</sup> Liv. *Ab urbe condita* 1.8.4–6.

<sup>18</sup> Cf. Plut. *Romulus* IX, 3–4.

<sup>19</sup> For example, see the introduction of conquered Latin neighbors into Rome through assaults or the incorporation of *Alba Longa*, the population of *Politorio*, *Tellene* and *Ficana* during the reign of *Anco Marcius*. Liv. *Ab urbe condita* 1.20.5–6.

<sup>20</sup> Liv. *Ab urbe condita* 1.43.13; Dion. Hal. *Antiquitates Romanae* IV.15.1.

<sup>21</sup> The author suggests that the criterion of belonging to tribes appears to be, from a legal perspective, crucial for inclusion in citizenship. This aligns with the logic of administrative identification within *comitia* through a procedural approach, rather than serving as a recognition of social or political superiority or some form of personal qualification. The conclusions drawn by Mercogliano, and those who value the relationship between residence in the territorial tribes and citizenship, find an indirect confirmation in the works of Dionysius of Halicarnassus. In particular, the historian [Dion. Hal. IV.22] confirms the ambition and commitment of *Servio* in increasing the population of Rome, highlighting his commitment to the freed servants (*ed. manomessi*) admitted into the city body precisely through the registration in the four urban tribes. *Mutatis mutandis*, it must therefore

Other than the analysis of the individual measures and reforms pertaining to the enlargement of the Roman *civitas*—the analysis of which is certainly not feasible here because of the wealth of material<sup>22</sup>—this glimpse of the beginnings reinforces the idea of how the overcoming of ethnic barriers—even if in a utilitarian vision—was one of the elements that determined Rome’s success.

Not only were historians well aware of this (e.g., the aforementioned Livy and Dionysius of Halicarnassus, but also Velleius Paterculus<sup>23</sup>), but also illustrious jurists (such as, among many others, Cicero, who dedicated ample space to citizenship in his orations, and Pomponius, to whom we owe the theorisation of the *civitas augescens*), Emperors (see the speech of the emperor Claudius reworked by Tacitus, *ann.* XI. 23–25) philosophers (Seneca<sup>24</sup> is an example) and even enemies (see the letter sent by Philip V, King of Macedonia, to the inhabitants of Larissa in Thessaly<sup>25</sup>).

Even Rousseau, during the eighteenth century, seems to show awareness of the relevance of the Roman model. The most “revolutionary” thinker of the modern age, in fact, was also the one who showed the most sympathy for the most conservative institution.<sup>26</sup> Within the pages of his «*Discours sur l’origine et les fondements de l’inégalité parmi les hommes*», Rousseau, for the first time, casts his gaze towards Rome as a wellspring of inspiration. Within its complex and multiform system, he discerns a potential model for all free peoples, elevating Rome to the status of an exemplar. This visionary stance is further corroborated in the «*Extrait du projet de paix perpétuelle de Monsieur l’abbé de Saint-Pierre*» where Rousseau, in his reflections on citizenship, acknowledges Rome’s conquests as the foremost milestones. He astutely recognizes that all European peoples, prior to Roman influence, were essentially barbarians, largely unfamiliar with one another, bound only by their shared humanity—a condition marred by the scourge of slavery, scarcely elevated beyond that of mere brutes.

Rome’s exceptional inclusivity, as Rousseau contends, became the catalyst for mankind to transcend such a dire state, ultimately paving the way for the genesis of a distinct European identity. Whereas the Greeks traditionally partitioned humanity into those destined to command and those confined solely to servitude, it was through

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be considered that it was congruent with the historical fact that registration was a necessary act to become *cives*.

<sup>22</sup> For an exhaustive analysis and a detailed bibliography, please refer to: Sherwine-White (1973); Luraschi (1976, 1978); Barbati (2012).

<sup>23</sup> Vell. Pat. II.16.4; II.20.2. In these passages, the author addresses the question, that remained open for some time, concerning the distribution of the newly incorporated citizens into tribes after the social war.

<sup>24</sup> Sen. *Apocolocyntosis* III.3. On Claudius’ policy of spreading Roman citizenship and encouraging the integration of provincials.

<sup>25</sup> IG IX.2.517 = *Syll.*<sup>3</sup> 543. In 217–215 BC, when Rome had been completing the political unification of Cis-Appennine Italy for half a century, the Macedonian king, writing to one of the Greek communities he controlled, identified the freedom to grant citizenship as the cornerstone of Roman greatness. See Thornton and Mari (2016, 139–196). On the interest shown by Filippo V in what was happening in Italy see: Giovannini (1998, <http://archive-ouverte.unige.ch/unige:9462>); Mari (2018, 283–311).

<sup>26</sup> Thus: Catalano (1985, 2007, 359–367, 2013a, 3–20, 2013b).

Roman endeavours that diverse and hitherto unknown peoples could be harmoniously amalgamated, all united by the common thread of their humanity.<sup>27</sup> Intriguingly, Rome, for reasons yet to be fully unravelled, bestowed upon them a collective homeland and shared sentiment. This laid the groundwork for the establishment of a political and civil union, initiated under the principate of Claudius and furthered by Antoninus Pius, wherein every subject of Rome found incorporation among its citizens.

Thus, Rousseau's intellectual corpus reinvigorates and reintroduces into the tapestry of European political and legal thought a distinctive model of citizenship. With eloquence and cogency, he resurrects this centuries-old paradigm, which continues to serve as a lodestar, resonating just as profoundly today as it did in times past.<sup>28</sup>

If Rome, then, is the model, if we must dialogue with it in order to find answers to the doubts that still permeate the legal and political debate on citizenship today, what are the premises that we must bear in mind? What are the elements that a legal historian cannot do without, as Nietzsche argues in his «*Unzeitgemäße Betrachtungen*»,<sup>29</sup> in order not to slowly turn into an actor who plays a part badly or, worse, superficially?

The answer is not easy, that each interpreter will want to propose his own scheme, his own answers, and his own assumptions. What follows in the next few pages, therefore, is intended to represent only one of the possible and multiple answers for

<sup>27</sup> The reference to Roman law, which Rousseau was to take up a few years later in the fourth part of his famous "*Contrato Social*", is part of a historical context in which citizenship, and therefore the citizen, is the physical and normative expression of many "exclusive little worlds", differing in customs, activities, cultural characteristics and language. Thus: Furia (2002). For a portrait of the citizen up to 1789 see Demandes des habitants de la paroisse de Massy aux Etats généraux de 1789 (Mavidal and Laurent 1868).

<sup>28</sup> In France at the end of the eighteenth century, devastated by the Seven Years' War (1756–1763) and the revolution of 1789, the "model" outlined by Rousseau would be recalled several times and placed at the basis of precise demands for reform of the legal system. Thus, for example, in the *Cahiers de doléances*, which in 1789 preceded the convocation of the States General, harsh criticism was levelled from all corners of France at the feudal system. The editors of these books proposed an articulated revision of the system of citizenship, proposing not only the classical distinction of Roman law between *civis* and *servus*, but the restoration of the ancient concept and content of the *status civitatis*, of material and moral involvement in the management and defence of the State, of the homeland, to be manifested concretely through the support of public burdens, the payment of taxes, and the fulfilment of military obligations. See: Furia (2002); Padoa Schioppa (2007, 430–ss). In the same way, Rousseau's thought largely influenced Jacobin ideas. His works, in particular the *Contrat social*, were used as a theoretical reference by French revolutionaries not only to re-found society and public organisation, but also for civil codification. See for content and bibliography Fioravanti (2007). In the twentieth century, the thought is also echoed in the codifications of South America thanks to the important work of the Romanist Augusto Teixeira de Freitas. See: Catalano (2013a, b, 7–10).

<sup>29</sup> For those who approaching the study of Roman law and its history, they must have the strength to understand and meditate on its value, demonstrating their mastery of its fundamentals so as not to become a meddling young man who entertains the Romans as if they were his equals: «[...] *kleine vorlaute Burschen suchen wir mit den Römern umgehen als waren diese ihresgleichen*» (Nietzsche 1873).

studies on Roman citizenship, which can serve, in conclusion, as a tool for a reflection on European citizenship, starting from one of the most controversial topics: the *ius migrandi*.

### 3 Niebuhr, Bonfante and the So-Called «*Ius Migrandi*»

One of the most controversial aspects in historical analysis is the existence or non-existence in archaic times, of a supposed *ius migrandi*. On it, in fact, is polarized and the dichotomy between those who describe an overall situation of great juridical commonality, as well as ethnic, in the light of which Rome stands out as a community aimed at inclusion and those who, while not expressly denying this right, they underline the absence in the sources of evidence on its existence.<sup>30</sup>

It is a common opinion in literature that the theorist of the modern concept of *ius migrandi* must be identified in the German Barthold Georg Niebuhr,<sup>31</sup> who in his *Römische Geschichte* (Niebuhr 1811, 1812) believed, based on some testimonies of Dionysius of Halicarnassus, that this right corresponded to the Greek *isopoliteia*.<sup>32</sup>

Indeed, in some fragments of the third century BC collected in the *Sylloge*,<sup>33</sup> the term ἰσοπολιτεία(ν) (Paoli 1930; Szanto 1892; Busolt 1892; Lécrivain 1899; Kolbe 1929)<sup>34</sup> would seem to identify a system of recognition of *politeia* (ed. citizenship) not dissimilar to the one potentially used in Rome; the “neocitizens”, in

<sup>30</sup> Recently Gagliardi (2020a, b) reconstructed this dichotomy by focusing on the manuals of public and private Roman law. According to the author, they fall into the category of those who expressly recognised *ius migrandi*: Perozzi (1906); Kubler (1925, 114–ss); Longo and Scherillo (1935, 106) De Francisci (1939) (see De Francisci (1968, p 192)); Scherillo and Dell’Oro (1949, 68–ss); Frezza (1954, 166); Volterra (1961, 63); Grosso (1965, 240); Cassola and Labruna (1979, 240); Talamanca (1990, 106–ss) (see Talamanca (2013, 56)); Marrone (1994, 217) (see Marrone (2004, 138)); Cerami et al. (1996, 104); Guarino (1997, 308–ss); Guarino (1998, 199–ss); Vincenti (2000); Crifò (2005a, 2005b, 134); Fernandez de Buján (2008, 112); Fascione (2008, 84); Brutti (2009, 169); Cantarella (2010, 122) (see Cantarella (2015, 32–34)); Bassanelli Sommariva (2011, 59); Bassanelli Sommariva (2012, 36); Pugliese et al. (2012, 59); Corbino (2012, 288); Lovato (2014, 168); Marotta (2016, 147).

Conversely, they would fall into the second category, namely those who omit any reference to *ius migrandi*: Betti (1942, 54–ss); Arangio Ruiz (1960); Grosso (1965, 261); Burdese (1975, 139); Kaser (1983, 28); Pastori (1992, 206–ss); Dalla and Lambertini (2001, 73); Scherillo and Gnoli (2003, 90); Serrao (2006, 266–ss); Cascione (2007, 49); Costabile (2012, 105–ss) (see Costabile (2016, 58)); Petrucci (2018, 8); Gnoli and Fagnoli (2018, 85).

An hypothetical third category is instead identified in those who speak of *ius migrandi* for *Latins coloniarii*, but do not deal with the same right for *Latins prisici*: Masiello (2008, 46); Humbert and Kremer (2014, 20).

<sup>31</sup> See: Gagliardi (2020a, b); Felici (2017, 61–ss).

<sup>32</sup> Indeed, Dionysius, in his *antiquitates romanae*, speaks of *isopoliteia* in a few cases: concerning *foedus* with the Gabii (Dion. Hal. 4.58.3); the *foedus Cassianum* (8.35.2); of the rights granted by Servius Tullius to freed slaves (4.22.3–4); *foedus* with the Ercnici.

<sup>33</sup> IG 5. 2. 11 = Syll. 3501; IG 5. 2. 419 = Syll. 3472.

<sup>34</sup> What exactly the attribution of the *isopoliteia* («ἰσοπολιτεία») from the documents consisted of is not clear. However, nearly all authors who have approached the topic confirm the idea that

fact, became such by virtue of a decree of citizenship which, among other things, provided for their inclusion in the civic subdivisions (Savalli 1985). This inclusion in the structures of the *polis* would have allowed the foreigner/neocitizen to exercise civil rights (including the ability to acquire ownership of land, «*enktesis*», and to marry female citizens, «*epigamia*») and political rights that could never have been exercised without being enrolled in a «*demos*», a «*phratry*» and a «tribe». Yet, despite the authoritative nature of the theses of Niebuhr, the *Antiquitates Romanae* of Dionysius while making extensive use of the Hellenistic term «*isopoliteia*» do not seem to give rise, in the context of Lazio, to an *ius migrandi*, at least not in the configuration that this right had in the Greek world. In Dion. Hal. 8.72.4–5,<sup>35</sup> for example, it is confirmed that, in 486 BC, Latins and Hernias residing («*κατοικοῦντας*») in the city had remained foreigners having no right to vote in popular assemblies. If, in fact, the *foedus Cassianum* had truly offered Latins the opportunity to become citizens by a simple request, what reasons might have dissuaded them from opting for it?

Another example of the impossibility of bringing the Greek *isopoliteia* model back to the Roman world is offered by the meticulous examination of Dion. Hal. 7.18.3 undertaken by Luigi Capogrossi Colognesi (2000). The offer made to the Romans to emigrate to the nearby Latin cities and acquire, after deliberation of the same, citizenship—of which we read in the aforementioned passage of Dionysius—inevitably leads to the conclusion that the Romans did not yet have a right guaranteed by a pre-existing international treaty (the *foedus Cassianum*, in fact) so the term *isopoliteia* used by the historian in defining the internal relations to the Latin league must necessarily be understood almost in a non-technical sense, almost as the author's attempt to offer a public of Greek readers a rough idea of Roman institutions for these seeds unknown. Moreover, as Capogrossi Colognesi (2000) points out, against a technical interpretation of the term *isopoliteia* applied to the Roman world there is a general argument on the nature of *foedus* itself; while, in fact, the Greek institute defined a bilateral relationship between two communities that had reciprocally established this right in favor of the citizens of the other—in a system that essentially guaranteed dual citizenship—in the case of the *foedus Cassianum* it regulated not bilateral relations between two cities, but a set of multilateral relations between all the cities of the League. The *isopoliteia*, applied to such a relationship, would pave the way for a legal system by virtue of which each Latin and each Roman would simultaneously hold, in addition to their original citizenship, all the other citizenships of the members of the League, openly violating the Ciceronian's principle for which the «*civil law does not allow any Roman citizen to hold the franchise of two states*»<sup>36</sup>; prohibition that the Arpinate considers already adopted by the maiores with

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the term is used in inscriptions to denote both the treaty by which a city granted *isopoliteia* to the citizens of another and the subjective right determined by such a treaty.

<sup>35</sup> Dion. Hal. 8.72.4–5.

<sup>36</sup> Cic. *Balb.* 11.28: «*Duarum civitatum civis noster esse iure civili nemo potest*». See also Cic. *pro Caec.* 30.100 e *de leg.* 2.2.5. For an analysis of the extent of the principle, as mentioned by Cicero in the *Pro Balbo*, see Genovese (2010).



an even divine origin.<sup>37</sup> A monstrosity that, in all likelihood, Dionysius himself may not have truly contemplated.

If the content of the alleged right is traced back to the early 1800s and the work of the mentioned Niebuhr, the expression *ius migrandi* has a closer source.

Not long ago, Franco Vallocchia (2018), on the XXXVI International Seminar of Historical Studies “Da Roma alla Terza Roma”,<sup>38</sup> had the opportunity to argue that the term *ius migrandi* finds its origin in the work of Pietro Bonfante in the early 1900s. In his “Diritto Romano” (Bonfante 1900), inspired by the work of Theodor Mommsen (1876), dealing with the expansion of Rome and the relationship with the Latins, affirmed the possibility for the latter to take up residence in Rome and, by means of mere registration in the census lists, to obtain full Roman citizenship by virtue, precisely, of the supposed *ius migrandi*.<sup>39</sup>

It would, therefore, be a somewhat derivative nature of the phrase identifying such a right, evolving from the initial analyses of the German master to find its perfect culmination in the work of the preeminent Italian scholar and jurist of his era. This nature is affirmed in Bonfante, evident in both the Italian translation of «*Abriss des römischen Staatsrechts*», published in 1904, and his «*Storia del Diritto Romano*» from 1923. It is worthwhile, therefore, to briefly examine these works to grasp the influence they exerted in shaping the genesis of the phrase *ius migrandi*.

At the dawn of the twentieth century, barely a year after Mommsen’s death,<sup>40</sup> Pietro Bonfante becomes author of an important translation of the «*Abriss des römischen Staatsrechts*» (Bonfante 1904), a synthesis of the monumental treatment of the «*Römisches Staatsrecht*» published, for the first time, in April 1876.

The «*Abriss*», released in May 1893 when the author was 76 years old, is characterized by Bonfante not merely as “*a compendium of the extensive legal exposition*” but as “*something more*”; in it the author summarises his work and innovates it (Casavola 2006).<sup>41</sup> Bonfante asserts that the arrangement and organization of the topics “*appear superior*”, with certain sections remaining unpublished, such as “*the administration of justice*”, and others being reformulated, like “*the chapter on criminal jurisdiction*”. This transformation establishes it as a classic work in every aspect, both in form and content.

<sup>37</sup> Cic. *Balb.* 31.

<sup>38</sup> «*Da Roma alla Terza Roma*», XXXVI International seminar on historical studies, organized by the “Giorgio La Pira” research unit of the National Research Council–Sapienza University of Rome, in collaboration with the Institute of Russian History of the Russian Academy of Sciences, Rome, Campidoglio, 22 April 2016.

<sup>39</sup> The same author, a few years earlier, on the same subject had mentioned *ius commercii*, *connubium*, *ius suffragii et honorum*, but not *ius migrandi* (Bonfante 1896, 40).

<sup>40</sup> 1 November 1903, aged 86.

<sup>41</sup> The distance of more than a quarter of a century between the *Staatsrecht* and the *Abriss* reveals the emergence in Mommsen of that systematizing intelligence which he considered proper to the jurist and peculiar to his vocation to law rather than to philology and history. He reflected in his personal events the travails of Germanic academic culture which had kept philological, historical and legal disciplines separate, which had isolated epigraphy and numismatics from historiography. And even among jurists, the separation between private and public law had left science to the former and preserved the latter in antiquarian erudition.



However, the author openly acknowledges his modifications to Mommsen's original work, emphasizing that such interventions are essential to avoid becoming "*sad disciples*" unable to take "*a step further*". It is in this "license" of his that the foundation of the Roman master's thought is most likely to be found. Already in the fourth chapter (Bonfante 1904, 25), dedicated to the right of citizenship, Bonfante attributes to Mommsen's thought the idea that the following are causes for the acquisition of citizenship: birth by legitimate marriage; birth out of wedlock, according to the rules of the clientele; the assumption in place of a child of a *filius familias* of Latin law and, finally, the migration of Latin to Rome after renouncing his right to his homeland (limited several times in the Republican age and then abolished by the *Lex Licinia Mucia*). Similarly, in the eighth chapter (Bonfante, 1904, 72),<sup>42</sup> the author translates (freely) the German expression «*die lateinische Freizügigkeit*» (Mommsen 1893, 61) into Italian as «*diritto latino di immigrazione*» opening the way to the idea that, at least until 95 BC, Latin people did not need the consent of the two communities (the Roman and the native) in order to acquire Roman citizenship, since a declaration of will to that effect expressed at the census was sufficient.

The reflection of this approach, anything but merely semantic, is, as mentioned, evident in his "*Storia del Diritto Romano*" published for the first time in 1923 and then revised by his son, Julian, in 1958.<sup>43</sup> In the second part of the first volume, dedicated to the federative and municipal system, the author in describing the gradual formation of "the political build" of Rome, with explicit references to the works of Mommsen, Beloch (1880, 1926) and Pais (1918, 1926), and, in particular of the internal relations of the Latin confederation it includes the *ius migrandi*, and *ius commercii*, as a right granted by the Romans to the Latins pre-existing the same *foedus Cassianum* (Capogrossi Colognesi 2000, 70)<sup>44</sup> and cornerstone of the community of the Latin federal community. Thus, an intimate bond between Latins and Romans emerged, by virtue of which the former, by transferring their domicile to Rome, became Roman citizens and, vice versa, every Roman, by transferring his or her domicile to a Latin city or giving his or her name to a Latin colony, became Latin. This interpenetration, the author adds, would not fail even with the Latin war at the end of the fourth century (338 BC).

Rereading Livy,<sup>45</sup> in fact, there is no change in *foedus iniquum*. The alliance with the individual communities of Latium is still (at least in theory) marked by a tendency of equality of the parties; outside the political and military direction, the cities of the league retain the right to the redistribution of the *ager publicus* conquered over the enemies with Rome, they still have the *commercium* and freely exercise the *ius migrandi*, as mentioned, with the mere registration in the census lists.

<sup>42</sup> Indeed, the translation remains unchanged even in the second, revised and corrected edition of Arangio Ruiz (1943).

<sup>43</sup> In this edition, the editors have limited themselves to correcting obvious oversights and standardizing the spelling and form of the quotations without altering the structure of the text.

<sup>44</sup> The author, addressing the theme of the *foedus Cassianum* and the figure of Spurio Cassio, underlines the importance of the treaty, if only as a moment of legitimation and confirmation of practices and rights that at least in part pre-existed and dated back to the monarchical age.

<sup>45</sup> Liv. *Ab vrbe condita* 8.11; 9.43.

Well, whatever the reason (translation error of Mommsen's words or not), at the end of the nineteenth century *ius migrandi* as opposed to today's skepticism was a certainty.<sup>46</sup>

In the light of these considerations, it would seem natural to conclude by espousing the theses of those who configure *ius migrandi* as a “modern myth” (Coskun 2016, 535),<sup>47</sup> accepting the idea of an institution that is new both in form and substance, a modern construction resulting from an interpretation “culturally oriented towards inclusiveness”.

And yet, it cannot be denied that, although evanescent and complex, the history of Roman law is full of clues to the existence of such a faculty, so much so that authors such as Capogrossi Colognesi himself—in his most recent contributions on the theme (2006, 2021)—have, with authority and balance, overcome the old perspectives, coming to admit the existence of a *ius migrandi* for the Latins in Rome.

## 4 Expulsion Orders in Livy

To understand this last assumption, we will briefly analyse two passages from Livius that are closely related to each other and are particularly relevant both in the more recent reinterpretation offered by Capogrossi Colognesi and by Umberto Laffi. These passages, which are at the basis of the modern theories on the *ius migrandi* (Laffi 2001, 45), allow us to trace, with a certain precision, the relations between Rome and its Latin allies in the first quarter of the second century BC. We refer to the passages of Liv. *Ab urbe condita* XXXIX, 3.4–6 and XLI, 8.6–12.

The first episode (Liv. XXXIX, 3.4–6) takes place in 187 B.C. The fragment provides us with evidence of how ambassadors from the Latin allies, hailing from all over Latium, had gathered in large numbers at the gates of the Roman Senate, lamenting that a great multitude of their fellow citizens had immigrated to Rome and had been enrolled in the census lists. In response to the protests of the Latin envoys, the Senate tasked the praetor Q. Terentius Culleo with locating these immigrants and repatriating anyone whom the local authorities could confirm had been counted in the census, or whose father had been counted, starting from the census of 204–203 B.C., that is, in the last 17 years (Kremer 2006). As a result of this investigation, 12,000 Latins returned to their communities, following a procedure not unfamiliar in the history of the city.

As early as 206 B.C., indeed, delegates from the Latin colonies of Piacenza and Cremona presented themselves before the Roman Senate with a poignant appeal. They lamented the aftermath of Gallic incursions and the resulting devastation, which

<sup>46</sup> In a 1958 study, Carlo Castello stated that no reference to the so-called *ius migrandi* can be found in works published before the nineteenth century (Castello 1956, 209).

<sup>47</sup> The author goes so far as to speak of this original *ius migrandi* as a «a modern myth, with no root in primary sources».

had led to a substantial exodus of colonists. Consequently, their once-thriving cities stood eerily depopulated, and their fields lay abandoned.

This circumstance was further compounded by the likelihood that many colonists had sought refuge in Rome, deeming it a sanctuary from the perils they faced. Despite the absence of explicit pleas from the ambassadors, the Senate, mindful of the urgent need to address the serious depopulation and defections, took decisive action, through a *senatusconsultum*, mandated that citizens from these colonies should return to their homelands within a year,<sup>48</sup> thereby endeavoring to restore the vitality of these once-bustling communities.

Beyond the analysis of the expulsion measures, their nature, and purpose, I defer to the extensive literature that has developed on this subject,<sup>49</sup> Livy's testimony reveals several noteworthy points: (1) The expulsion measure applied to Latins who had immigrated to Rome and had registered themselves in the census there; (2) in the absence of additional information regarding special census lists reserved for non-Romans (Kunkel and Wittman 1995, 433),<sup>50</sup> it must be assumed that these individuals had succeeded in acquiring citizenship and had been enumerated among Roman citizens; (3) Roman citizenship was revoked precisely by the measure that compelled them to return to their homeland, where they had been recorded in the census some time before their emigration (Frezza 1956; Luraschi 1979a, b, 64).

These insights are further substantiated in subsequent passages of Livy's work, notably in Liv. XLI, 8.6–12, where an additional Latin embassy in 177 B.C. is chronicled. During this episode, the Latin allies, echoing their familiar grievances, expressed apprehensions that continued urbanization could, within a few decades, lead to the abandonment of both cities and the countryside, rendering community's incapable of supplying the required military contingents.

Above the persuasive arguments deployed by the Latin envoys (Broadhead 2003, 136–140) to prompt intervention by the Roman Senate—particularly the strategic use of the fear of potential difficulties in providing military<sup>51</sup>—the narrative's significance lies in Livy's portrayal of the mechanism through which Latins, included in Roman registries, acquired citizenship.

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<sup>48</sup> Liv. 28.11.10–11. The circumstance is expressly noted by Luraschi (1979a, b, 79–80).

<sup>49</sup> For a comprehensive reconstruction and an extensive bibliography, see Laffi (2017, 85–105).

<sup>50</sup> In the opposite direction see: Coskun (2009). The Author, based on some maxims of Cicero about citizenship, believes that the Latins who emigrated to Rome took up residence in a special census list. See also Coskun (2015) in which the A. seeks to counter with a rhetorical question: «*should we really believe that Roman citizens, while being subject to taxation as well as to conscription into military service or to recruitment for personal duties (munera), would have tolerated that resident foreigners enjoyed the safety and amenities of the urbs for free?*». Furthermore, arguing about what is missing in the Livian passage, he states that: «*to the intervention of at least one tribune of the plebs, who could have been appealed to by any of the 12,000 cives novi, but not by a Latin. Nothing of this kind is reported. Instead the historiographer's concluding comment expresses approval, incompatible with the understanding of 12,000 cases of fundamental breaches of the law.*».

<sup>51</sup> Liv. 41.8.7.

Livy, indeed, after recounting the memorandum presented by the Latins detailing how the situation had unfolded, invokes the right they enjoyed acquiring citizenship through «*migrationem et censum*» based on a «*lex socii nomini Latini*». This measure, at least in the reconstruction under consideration here, was supposed to grant Roman citizenship to immigrants who left in their respective communities a natural male lineage («*stirpem ex sese*»).<sup>52</sup>

It is not easy to know when the law, as reported by Livy, was formulated; differently from what Tibiletti (1961, 239)<sup>53</sup> claims, I believe that the fact that Livy does not mention this law in reference to the events that took place in 187 is not to be considered as useful information for the purposes of establishing the chronology. In fact, a systematic reading of Livy's account leads us to think that, given the repetition of the Latins' grievance, the latter, having arrived back in Rome in 177 B.C., took care, as is the case in the past, to establish the date of the event. The systematic reading of Livia's account leads us to think that, given the repeated complaints of the Latins, the latter, who arrived in Rome again in 177 BC, took care, as is natural, to justify the new requests with adequate supporting documentation and that, therefore, the reference to the *Lex socii nomini Latini* was nothing more than an expedient to fortify their arguments by asking the Senate for an intervention that was certainly more incisive than the expulsion measure that 10 years earlier had proved inadequate in stemming the flow of migrants to the detriment of the Latin communities.<sup>54</sup>

If we agree with the thesis of Capogrossi Colognesi and in the absence of other evidence, it is to be believed that this *lex* is very old, if not even older than the *foedus Cassianum* itself, excluding all those theories which see in the latter the ultimate source of an unlimited right by the Latins to acquire *ipso iure* Roman citizenship with the transfer and registration in the census lists in Rome. On the other hand, it must be accepted that in the Roman experience—at least with reference to the large masses of Latin allies who after the Hannibalic war and in the following decades moved to Rome—the supposed right of migration would never have been conceived in terms different from those contemplated by Livy's quotation.

Such an interpretation allows to overcome the obstacle of the alleged lack of an anchorage in the sources by finding a temperance between the different positions that deny or affirm the existence of a *ius migrandi* in the Roman experience.

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<sup>52</sup> Liv. 45.15.1; Sall., *Iug.* 5.7; Gel., 5.19.16.

<sup>53</sup> The author believes that the law cited by Livius would be later than 187 B.C. since Livius himself does not mention it when he deals with the expulsions of that year. See Liv. XXXIX, 3.4–6.

<sup>54</sup> Such an interpretation, however, is confirmed by the mention of the two kinds of fraud to the law that the immigrants carried out in order to create a change of citizenship and that were detrimental to the Latin *socii* (Liv. XLI, 8.9–10) as well as in the three requests that they formulated and that were not limited to the mere reproposal of an expulsion measure in line with the one adopted in 187 BC. (Liv. XLI, 8.12).

## 5 Conclusions

In conclusion, in the view of the Livian passages and the conclusions that can be drawn from them, I think it is plausible that the Latins had the opportunity to acquire Roman citizenship by migrating to Rome. However, taking up what has already been said above, I believe that some clarifications are necessary regarding the consequences of such an approach.

In historical studies, in fact, we are increasingly witnessing a search in the past for topical elements, the primacy of dogmas and their evolution, with a widespread indifference to the material conditions and political transformations that determined the juridical nature (Brutti and Somma 2018). Legal phenomena are thus decontextualized and depoliticized, resolving the comparison into the recognition of similarities and distinctions between abstract forms, preventing a correct analysis of the relations between past and present.

It is not a return to Savigny or to nineteenth-century constructivism that can help us to construct a common European law based on an improbable continuity of the Romanist tradition.

Thus, it is not by ascertaining the existence of a right to migration in monarchical or republican Rome that one can support the demolition or reform of the concept of citizenship today; nor, even less, can one entrust this task to the idea of Rome how “open city”, imagining that the nation states can achieve Roman splendor by copying an abstract model whose aims and structures are not fully understood. Because, while it is true that Rome made the breaking down of ethnic barriers a strong point that led to its hegemony in the Mediterranean, it is equally true that this took place, for the most part, for selfish reasons. This is demonstrated by the forced expulsions mentioned by Livy in 187 BC and 177 BC.

Egoism, or rather the utilitarian view of the granting of citizenship, still emerges in the very way of understanding relations with the foreigner.

The Roman world, in fact, did not have a right of the people according to the modern concept, which supposes free and autonomous coexisting states that recognize it; the traditional idea is that the original condition between peoples, including the Latin federation, was one of perpetual enmity, of war (De Martino 1954), and it became natural, therefore, that the foreigner should be considered an enemy. This is demonstrated by the term *hostis* itself, which represents, at least for Mommsen, the oldest definition of a foreigner<sup>55</sup> and which underlines an element of hostility. A fact that is also fully confirmed at the time of the XII Tables where it is evident that the term was used to indicate the foreigner, the one who was outside the coordination of

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<sup>55</sup> The most probable etymology ascribes the term to *hostire* (to beat) and this is the meaning that Mommsen adopts in his *Römische Forschungen*, I, 326, no. 1; 349 no. 50. However, there is no lack of contrary opinions that see the term ascribed to the Indo-European words *ghosti* or *gast*, or to the Greek «ξένιος» (hospitable), which express the idea of hospitality. See: Ernout and Meillet (1967, 301); Ehlers (1934); Walde and Hofmann (1938, 662–ss); Benveniste (1969, 95; 2010).

*gentes* and with whom it was at most possible to establish legal relations: *Adversus hostes aeterna auctoritas* (Laurent 1880).<sup>56</sup>

On the other hand, I do not share the views of those who see the foreigner in Rome as a resource with whom legal relations were knotted. I personally think it is more appropriate to take a prudential approach such as that adopted by Fadda (1884),<sup>57</sup> accepting that the concept of the foreigner and relations with him depended essentially on the development of the community and the constitutional structure of Rome and the intensification of trade relations with neighboring communities, and that therefore we are faced with a changing concept in which he may have been sometimes an enemy and sometimes a friend.

Clarifying the meaning of the term, or, at least, marking its evolution in the historical context of reference, should not be seen as mere philological training but as an important element for better understanding the historical development of international relations. For Rome, these relations were anything but secondary; there is no aspect of Roman life that has not been affected by Rome's openness to the outside world. Even the language, the identity of a people, was for a long time influenced by its relationship with other peoples, where countless everyday terms were Greek or Celtic borrowings (Valditara 2018, 9).

The same holds true for the realm of religion, where Rome showcased an extraordinary exemplar of incorporating foreign cults into its own practices, all the while preserving the authenticity of their original ceremonies. Sesto Pompeo Festo's «*De verborum significatu*» provides a notable instance, particularly in reference to *Peregrina sacra*.<sup>58</sup> Here, religion transcends its role as a mere defining element in the early bonds among Roman citizens; it emerges as an indispensable instrument for societal and intellectual development, characterized by a broader cultural receptivity towards foreigners (Muroni 2016).

In a parallel vein, cultural assimilation also played a pivotal role. In the aftermath of triumphant wars against Philip of Macedonia (197 B.C.) and Antiochus III, the King of Syria (188 B.C.), the Greek language and culture became ingrained within Roman society. As elucidated by Pliny's writings,<sup>59</sup> it was a mark of distinction for a Roman of noble lineage to not only express an affinity for the Greek language but also to consider an educational sojourn with tutors in Greece (Eckert 2018, 19) as an indispensable facet for advancing in their social and intellectual pursuits. This cultural

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<sup>56</sup> Commencing from the fundamental assumption that war is an enduring state among peoples, the author deems it natural the perspective held by the Twelve Tables regarding foreigners, labeling them as enemies devoid of rights. Furthermore, the author underscores the imperative of discerning between conquered populations assimilated into Rome and those subjected to Roman dominion, highlighting the nuanced distinction between the concept of an enemy articulated in the Twelve Tables and the designation of a peregrinus within Roman legal statutes. In oppositive: Catellani (1895).

<sup>57</sup> In the same sense: Degni (1921).

<sup>58</sup> On the *Peregrina sacra* see the work of: Sini (1996, 49ff); Id. (2003).

<sup>59</sup> Plin. *NH*, 29.14. The author recounts how Cato, the emblem of contempt for *imprudencia*, as well as the *volubilitas* of the Greeks, could not help but advise his son to learn the Greek language and read its texts.

permeation extends to other facets such as writing, imported from Etruria, the introduction of currency by the foreign King Servius Tullius, the adoption of surveying techniques, and, lastly, the venerable art of warfare—a crowning achievement within the Roman community (Valditara 2013, 2018).

It is difficult to imagine studying the splendor of Roman civilization without mentioning the ingenuity and courage of its leaders; yet before Rome became one of the greatest empires that history has ever known and its emperors ruled over a territory that in its greatest expansion came to encompass a land area of almost 6 million km<sup>2</sup>, it was thanks to the influences of the peoples with whom it came into contact that the myth of the unbeatable Roman army was born.

An example of this is Sallust's account<sup>60</sup> of the introduction of the maniples by Marcus Furius Camillus, who was of Samnite origin, and therefore came from the most bitter enemies of the Romans.

Also, the traditional image of Roman troops fighting in the enemy ranks holding the gladius. The gladius, in fact, soon became not only the "official weapon" of the legionnaires but also the instrument most often used by gladiators in the circus.<sup>61</sup> This weapon, as stated by the sources (Bishop 2017), far from being a product *made in* Rome, was introduced, in all probability, by Scipio Africanus, deriving it from the Celtiberians on his return from the campaign in Spain, radically transforming the way of fighting.

Well, the arguments briefly outlined so far allow a partial, though not exhaustive, conclusion: Rome certainly recognized the usefulness of confrontation and dialogue with other peoples, and under certain conditions granted them the privilege of citizenship. This is testified, as mentioned, by the Roman community's ability to permeate the changes imported by the neighboring populations with which they came into contact. Moreover, the issue was already clear to ancient authors such as Polybius,<sup>62</sup> who tells us that «The Romans [...] more than any other people can change habits and aiming for the best» regardless of where this «best» came from. And it is in this permeability, that we probably find the secret and the foresight of the Roman Empire and its two thousand years of history; the Romans, unlike the Greeks,<sup>63</sup> were able to strip themselves of the idea of a pure ethnic group, free of intermingling with other peoples, selecting from external stimuli those that could guarantee not only survival but also, and above all, prosperity.

However, this should not lead us to an aseptic interpretation of the Roman experience, motivated by that search for continuity between the Roman experience and the current experience mentioned in the introduction. Rome, in fact, did not have a right of the people as we understand it today, opening itself *sic et simpliciter* to the world, integrating, if anything, anyone who was worthy, even if foreign in origin,

<sup>60</sup> Sall. *Cat.*, 51.38. In the same sense Simm. 3.11.3.

<sup>61</sup> The *munera gladiatoria* themselves made their appearance in Rome around the third century BC. These spectacles were probably imported from Etruria or Campania as a side dish to funeral ceremonies.

<sup>62</sup> Polb. *Hist.*, 6.25.11.

<sup>63</sup> Dion. Hal. 2.17.1–2.



and closing itself off or expelling—as seen in Livy’s account—anyone who was not worthy. This spirit was summed up by Dionysius of Halicarnassus<sup>64</sup> when he wrote that citizenship was granted to anyone, from whatever class they belonged and wherever they came from, if they benefited the Roman community (Valditara 2018, 49).

## References

- Ampolo C (2013) Il problema delle origini di Roma rivisitato: concordismo, ipertradizionalismo acritico, contesti. I. *Annali della Scuola Normale Superiore di Pisa* 5(1):217–284
- Arangio Ruiz V (ed) (1943) *Disegno del diritto pubblico romano*, 2a ed. Milano, p 91
- Arangio Ruiz V (1960) *Istituzioni di diritto romano*. Napoli, pp 54ff
- Barbati S (2012) Gli studi sulla cittadinanza romana prima e dopo le ricerche di Giorgio Luraschi. *Rivista di Diritto Romano* XII
- Barsanti E (1913) *Cittadinanza*, Enc. Giurid. It. III(II):603ff
- Bassanelli Sommariva G (2011) *Lezioni di diritto privato romano*. I. Strumenti, Santarcangelo di Romagna, p 59
- Bassanelli Sommariva G (2012) *Lezioni di diritto privato romano*. III. Istituzioni, Santarcangelo di Romagna, p 36
- Beloch KJ (1880) *Der Italische Bund Unter Roms Hegemonie: staatsrechtliche und statistische Forschungen*, Leipzig
- Beloch KJ (1926) *Römische Geschichte bis zum Beginn der Punischen Kriege*. Berlino
- Benveniste E (1969) *Le vocabulaire des institutions indo-européennes*, I. Économie, parenté, société, p 95
- Benveniste E (2010) *Dono e scambio nel vocabolario indoeuropeo*. *Problemi di linguistica generale*, trad (eds) Giuliani MV, pp 376–383
- Betti E (1942) *Istituzioni di diritto romano*, 2a ed. Padova, p 45
- Bishop MC (2017) *The gladius: the Roman short sword*. Oxford
- Bonfante G, Crifò G (eds) (1958) *Storia del Diritto Romano*, IVth ed. Milano
- Bonfante P. (1896) *Istituzioni di Diritto Romano*. Firenze, p 40
- Bonfante P (1904) *Disegno del diritto pubblico romano*. Traduzione e postille di Pietro Bonfante. Milano
- Bonfante P (1900) *Diritto Romano*. Firenze, pp 51ff
- Broadhead W (2003) *The local élites of Italy and the crisis of migration in the IInd Century B.C.* In Cébeillac-Gervasoni M, Lamoine L (eds) *Les élites et leurs facettes. Les élites locales dans le monde hellénistique et romain*, Clermond-Ferrand, Rome, pp 131–148
- Brutti M, Somma A (2018) *Diritto: Storia e comparazione*. Nuovi propositi per un binomio antico. Max Planck Institute for European Legal History, pp 1ff
- Brutti M (2009) *Il diritto privato nell’antica Roma*. Torino, p 169
- Burdese A (1975) *Diritto Privato Romano*. Torino, p 139
- Busolt G (1892) *Die griechischen Staats und Rechtsaltertümer*, II ed. Monaco, pp 57ff
- Calore A (2019) *Cittadinanze variabili*. In: Calore A, Mazzetti F (eds) *I confini mobili della cittadinanza*. Torino, pp 2–15
- Cantarella E (2010) *Diritto romano*. Istituzioni e storia. Milano, p 122
- Cantarella E (2015) *Istituzioni di diritto romano*, Milano, pp 32–34
- Capogrossi Colognesi L (2000) *Cittadini e territorio*. Consolidamento e trasformazione della *civitas* Romana. Roma, p 70

---

<sup>64</sup> Dion. Hal 1.9.4.



- Capogrossi Colognesi L (2006) L'idea di cittadinanza, dalle sue radici nell'antichità classica agli orizzonti contemporanei. In: Amato Mangiameli AC (eds) *Persone e Stati. Le conseguenze della globalizzazione e della innovazione tecnologica*, Atti Teramo 13–15 novembre 2003. Milano, pp 11–32
- Capogrossi Colognesi L (2021) Tra miti di fondazione e pratiche di governo: genesi e funzione del ius migrandi. In: Garofalo L, Vacca L (eds) *Studi in ricordo di Carlo Augusto Cannata*. Napoli, pp 55–68
- Carandini A (2003) *La nascita di Roma. Dei, lari, eroi e uomini all'alba di una civiltà*, II ed. Milano
- Carandini A (2006) *La leggenda di Roma, I. Dalla nascita dei gemelli alla fondazione della città*. Milano
- Carandini A (2010) II. Dal ratto delle donne al regno di Romolo e Tito Tazio. Milano
- Carandini A (2011) III. La Costituzione. Milano
- Carandini A (2013) *La fondazione di Roma raccontata da Andrea Carandini*. Bari
- Carandini A (2014) IV. Dalla morte di Tito Tazio alla fine di Romolo. Milano
- Casavola FP (2006) Mommsen nella romanistica italiana. *Diritto@Storia, Rivista Internazionale di Scienze Giuridiche e Tradizione Romana* 5
- Cascione C (2007) *Manuale breve di diritto romano*. Milano, p 49
- Cassola F, Labruna L, Talamanca M (eds) (1979) *Lineamenti di storia del diritto romano*. Milano, p 240
- Castello C (1956) Il cosiddetto ius migrandi dei Latini a Roma. Ricerche in tema di concessione e accertamento degli status civitatis et familiae dal 338 al 95 a.C. *Bullettino dell'Istituto di Diritto Romano "Vittorio Scialoja"* 61:209ff
- Catalano P (2007) Note per l'interpretazione della Constitution de la Republica Boliviana de Venezuela secondo la dottrina di Simon Bolivar. *Teoria del Diritto e dello Stato. Riv Eur Di Cult e Sci Giuridica* 2:359–367
- Catalano P (1985) Alcuni principi e concetti del diritto pubblico romano da Rousseau a Bolivar e oltre. *Studia Iuridica* XII
- Catalano P (2013a) Cinque premesse inattuali per studi sulla cittadinanza romana. *Bullettino dell'Istituto di Diritto Romano "Vittorio Scialoja"* 107:3–20
- Catalano P (2013b) Rousseau et le droit publique romain. In Dufour A, Quastana F, Monnier V (eds) *Rousseau, le droit et l'histoire des institutions. Act du Colloque international pour le Tricentenaire de la naissance de Jean-Jacques Rousseau*. Genève, pp 1712–1778
- Catellani EL (1895) *Il diritto internazionale privato e i suoi recenti progressi*, vol I, n 18, 2° ed. Torino.
- Cerami P, Miceli M (2018) *Storicità del diritto. Strutture costituzionali, fonti, codici. Prospettive romane e moderne*. Torino, pp 140ff
- Cerami P, Corbino A, Metro A, Purpura G (1996) *Storia del diritto romano. Profilo*, 2° ed. Soveria Mannelli, p 104
- Clerici R (1989) Voce *Cittadinanza*. *Digesto delle Discipline Pubblicistiche* 18:113ff
- Condinanzi M, Lang A, Nascimbene B (2006) *Cittadinanza dell'Unione e libera circolazione delle persone*, II ed. Milano
- Corbino A (2012) *Diritto privato romano. Contesti, fondamenti, discipline*. Assago, p 288
- Coskun A (2016) The Latins and their legal status in the context of the cultural and political integration of pre- and early Roman Italy. *Klio XCVII* I:535
- Coskun A (2009) *Bürgerrechtentzug oder Fremdenausweisung? Studien zu den Rechten von Latinern und weiteren Fremden sowie zum Bürgerrechtswechsel in der Römischen Republik (5 bis frühes 1 Jh vChr)*. Stuttgart
- Coskun (2015) About scholarly debate, the value of authorities and a new approach to the concept of Latin privileges in the Roman Republic. A response to David Kremer. in *Athenaeum. Studi di letteratura e storia dell'antichità* 103:606–610
- Costabile F (2012) *Storia del diritto pubblico romano. Manuale per gli studi universitari*, 3 ed. Reggio Calabria, pp 105ff

- Costabile F (2016) *Temi e problemi dell'evoluzione storica del diritto pubblico romano*. Torino, p 58
- Crifò G (2005a) *Civis. La cittadinanza tra antico e moderno*. Roma-Bari
- Crifò G (2005b) *Lezioni di storia del diritto romano*, 4° ed. Bologna, p 134
- Dalla D, Lambertini R (2001) *Istituzioni di diritto romano*, 2° ed. Torino, p 73
- de Castro F (1961) *La nationalité, la double nationalité et la supra-nationalité*. *Recueil des Cours dl'Académie de la Haye* 102(I, 543):552ff
- De Francisci P (1939) *Storia del diritto romano*, vol I, 2° ed. Milano
- De Francisci P (1968) *Sintesi storica del diritto romano*, 4° ed. Roma, p 192
- De Grazia L (2003) *Immigrazione, cittadinanza e diritti politici*. *Arch Giurid Filippo Serafini* 223:363–380
- De Martino F (1954) *Storia della costituzione romana*, vol II. Parte prima, Napoli
- De Pasquale T (2012) *Problemi interpretativi della nozione giuridica di cittadinanza: un concetto «europeizzato» di diritto pubblico interno? La controversa relazione tra cittadinanza dell'Unione europea e cittadinanza nazionali degli Stati Membri*. *Riv It Dir Pubbl Comunit* 3–4:445
- Degni F (1921) *Della cittadinanza, appendice alle Istituzioni ministeriali sulla naturalizzazione per decreto reale, sulla cittadinanza in Tripolitania e su modifiche ai registri di cittadinanza e note relative al Trattato di pace di San Germano*. Napoli
- Del Ponte R (2016) *L'asylum di romolo: da schiavi a cittadini romani*. *Diritto@Storia, Rivista Internazionale di Scienze Giuridiche e Tradizione Romana* 14
- Donati Giacomini and Poma, 1996 *Donati Giacomini P, Poma G (1996) Cittadini e non cittadini nel mondo romano Guida ai testi e ai documenti*. Bologna
- Eckert A (2018) *Roman Orators between Greece and Rome—Cato the Elder, L. Crassus an M. Antonius*. In: Gray C, Balbo A, Marshall RMA, Steel CEW (eds) *Reading republican oratory. Reconstructions, contexts, reception*. Oxford, pp 19ff
- Ehlers H (1934) v. Hostis. *Thesaurus Linguae Latinae* VI.2, coll 3061
- Ernout A, Meillet A (1967) *Dictionnaire étymologique de la langue latine*, 4° ed. Parigi, p 301
- Fadda M (1884) *La condizione giuridica dello straniero presso i Romani*. Appendix in *Gianzana S, Lo straniero nel Diritto civile italiano*, Torino
- Fanizza L (2012) *Asilo, diritto d'asilo, romolo, cesare, tiberio*. Index, *Quaderni camerti di studi romanistici international survey of roman law*. Napoli 40:605–616
- Fascione L (2008) *Storia del diritto privato romano*, 2° ed. Torino, p 84
- Felici M (2017) *Aspetti dell'espansione municipale romana all'indomani della guerra latina*. In: Barbulesco M, Felici M, Silverio E (eds) *La Cittadinanza tra Impero, Stati Nazionali ed Europa, Studi promossi per il MDCCC anniversario della Constitutio Antoniana, L'Erma di Bretschneider*. Roma, pp 61ff
- Fernández de Buján A (2008) *Derecho privado romano*. Madrid, p 112
- Fioravanti M (2007) *Aspetti del costituzionalismo giacobino. La funzione legislativa nell'acte constitution del 24 giugno 1793*. *Historia Constitucional (revista electrónica)* 8
- Fraschetti A (2007) *Alcune osservazioni a proposito di un recente volume su “La leggenda di Roma.”* *ArchClass* 58:317–335
- Frezza P (1954) *Corso di storia del diritto romano*. Roma, p 166
- Frezza P (1956) *Note esegetiche di diritto pubblico romano*, in *Studi in onore di Pietro De Francisci I*, Milano, p 204
- Furia A (2002) *La cittadinanza durante la Rivoluzione francese (1789–1799)*. *Scienza & Politica. Per una storia delle dottrine* 14:27
- Gagliardi L (2020) *La romanistica ottocentesca e la ‘costruzione’ niebuhriana del ius migrandi. «Historia et Ius» 18–paper 15*
- Gagliardi L (2020) *Niebuh, l'isopoliteia e il ius migrandi arcaico*. *Rivista di scienze giuridiche IV*
- Genovese M. O (2010) *Duarum civitatum civis noster esse iure civili nemo potest (Balb. 11.28): visione ciceroniana e sua rispondenza al contesto storico-giuridico della tarda repubblica*. In *Studi in onore di Luigi Arcidiacono IV*. Torino pp 1591–1637

- Giardina A (1994) L'identità incompiuta dell'Italia romana. L'Italie d'Auguste à Dioclétien. Actes du colloque international de Rome (25–28 mars 1992). Roma, p. 73
- Giovannini A (1998) La disintegrazione politica del mondo ellenistico. In: Settis L (eds), *Una storia greca*. Torino
- Gnoli F, Fagnoli I (2018) *Institutiones iuris Romani*. Milano, p. 85
- Grosso G (1965) *Lezioni di storia del diritto romano*, 5° ed. Torino, p. 261
- Grosso E (1997) *Le vie della cittadinanza. Le grandi radici. I modelli storici di riferimento*. Padova
- Guarino A (1997) *Diritto Privato Romano*, 11° ed. Napoli, pp. 308ff
- Guarino A (1998) *Storia del diritto romano*, 12° ed. Napoli, pp. 199ff
- Humbert M, Kremer D (2014) *Institutions politiques et sociales de l'Antiquité*, 11° ed. Paris, p. 20, p. 278
- Kaser M (1983) *Römisches Privatrecht*, 13° ed. München, p. 28
- Kolbe W (1929) *Das griechische Bundesbürgerrecht der hellenistischen Zeit*. ZSS XLIX:129ff
- Kremer D (2006) Il censo nelle colonie latine prima della guerra sociale, in Capogrossi-Colognesi L, Gabba E (eds) *Gli statuti municipali*, Pavia, pp. 627–645
- Kübler B (1925) *Geschichte des Römischen Rechts. Ein Lehrbuch*. Leipzig-Erlangen, p. 114ff
- Kunkel W, Wittman E (1995) *Staatsordnung und Staatspraxis der römischen Republik, II. Die Magistratur*. München, p. 433
- Laffi U (2017) Le espulsioni di immigrati provenienti da comunità latine e italiche in età repubblicana, in *Athenaeum. Studi Di Lett e Stor Dell'antichità* 105:85–105
- Laffi U (2001) Sull'esegesi di alcuni passi di Livio relativi ai rapporti tra Roma e gli alleati Latini e Italici nel primo quarto del II sec. a.C. In: Laffi U (eds) *Studi di Storia Romana e di diritto*. Roma, p. 45ff
- Laurent F (1880) *Droit civil international*, vol I(81). Bruxelles, p. 187
- Léca J (1986) Individualisme et citoyenneté. In: Brinbaum P, Léca J (eds) *Sur l'individualisme*. Puf, p. 162ff
- Lécrivain C (1899) *Daramberg e Saglio. Dictionnaire des antiquités grecques et romaines*, voce *Isopoliteia*, vol III, p. 585ff
- Licandro O, Arcaria F (2014) *Diritto romano. I. Storia Costituzionale di Roma*. Torino
- Longo C, Scherillo G (1935) *Storia del diritto romano. Costituzione e fonti del diritto*. Milano, p. 106
- Lovato A (2014) Cittadini e stranieri: lo status civitatis. In: Lovato A, Puliatti S, Solidoro Maruotti L (eds) *Diritto privato romano*. Torino, p. 168
- Luraschi G (1976) Sulla data e i suoi destinatari della *lex Mincia de liberis*. SDHI XLII:431–443
- Luraschi G (1978) *Sulle leges de civitate (Iulia, Calpurnia, Plautia Papiria)*. *Studia et Documenta Historiae et Iuris* XLIV:321–370
- Luraschi G (1979) *Foedus Ius Latii Civitas*. Aspetti costituzionali della romanizzazione in Transpadana. Padova, pp. 79–80
- Luraschi G (1979) *Foedus Ius Latii Civitas*. Aspetti costituzionali della romanizzazione in Transpadana. Padova, pp. 64–65
- Mari M (2018) L'attività della cancelleria antigonide negli anni delle guerre romano-macedoniche. *Historika* VIII:283–311
- Marotta V (2013) Tre riflessioni sulla cittadinanza: da Roma antica al mondo attuale. *Ivris Antiqui Hist* 5:53ff
- Marotta V (2016) Cittadini e stranieri. In: Schiavone A (eds) *Storia giuridica di Roma*. Torino, p. 147
- Marrone M (1994) *Istituzioni di diritto romano*. Palermo, p. 217
- Marrone M (2004) *Manuale di diritto privato romano*. Torino, p. 138
- Masiello T (2008) *Corso di storia del diritto romano*, 2° ed. Bari, p. 46
- Mastrocinque A (2003) *Sulle forme di acquisizione della civitas romana*. *Diritto@Storia, Rivista Internazionale di Scienze Giuridiche e Tradizione Romana*, marzo 2

- Mavidal J, Laurent E (1868) *Archives parlementaires de 1787 à 1860, Recueil complet des débats législatifs et politiques des Chambres françaises, Première série (1787–1799)*, vol IV. Paris, pp 682–683
- Mercogliano F (2015) *Commercium, conubium, migratio. Immigrazione e diritti nell'antica Roma*, in *Cultura giuridica e diritto vivente. Rivista on line del Dipartimento di Giurisprudenza, Università di Urbino Carlo Bo*
- Mommsen T (1876) *Römisches Staatsrecht*, vol III.1. Leipzig
- Mommsen Th (1893) *Abriss des römischen Staatsrechts*, p 61
- Muroni A (2016) *La cittadinanza romana tra esperienza storica ed attualità. Diritto@Storia Rivista Internazionale di Scienze Giuridiche e Tradizione Romana* 14
- Niebuhr BG (1811) *Römische Geschichte. Mit einer Charte*, vol I. Berlino
- Niebuhr BG (1812) *Römische Geschichte. Mit einer Charte*, vol II. Berlino
- Nietzsche F (1873) *Unzeitgemäßen Betrachtungen*. Leipzig
- Padoa Schioppa A (2007) *Storia del diritto in Europa. Dal medioevo all'età contemporanea*. Bologna, pp 430ff
- Pais E (1918) *Storia critica di Roma*. vol III. Roma
- Pais E (1926) *Storia di Roma. Dalle origini alle guerre puniche*. vol I, part II. Roma
- Paoli UE (1930) *Studi di diritto attico*. Firenze, pp 286ff
- Papa MI (2017) *La cittadinanza dell'Unione Europea. Prospettive di sviluppo*. In: Barbulesco M, Felici M, Silverio E (eds) *La Cittadinanza tra Impero, Stati Nazionali ed Europa, Studi promossi per il MDCCC anniversario della constitutio Antoniana*. Roma, nota 2, p 311
- Pastori F (1992) *Gli istituti romanistici come storia e vita del diritto*, 3° ed. Milano, pp 206ff
- Perozzi S (1906) *Istituzioni di diritto romano*, vol I. Firenze, pp 11ff
- Perticone G (1957) *Voce Cittadinanza*. *Novissimo Digesto Italiano* III. Torino, pp 306ff
- Petrucci A (2018) *Lezioni di diritto privato romano*. Torino, p 8
- Pugliese G, Sitzia F, Vacca L (2012) *Istituzioni di diritto romano*. Torino, p 59
- Rigo E (2011) *Cittadinanza. Trasformazioni e crisi di un concetto*. In: Zagato L (ed) *Introduzione ai diritti di cittadinanza*, III ed. Venezia, pp 11ff
- Romano S (1988) *Il diritto pubblico italiano*. Milano, p 66
- Rossi LS (2006) *La cittadinanza dell'Unione europea*. In: Tizzano A (ed) *Il Diritto Privato dell'Unione Europea*, ed I, vol II. Torino, p 117
- Savalli I (1985) *I neocittadini nelle comunità ellenistiche. Note sulla concessione e l'acquisizione della politeia*. *Hist: Z Für Alte Gesch* 34(4):387–431
- Scherillo G, Dell'Oro A (1949) *Manuale di storia del diritto romano* Milano-Varese, pp 68ff
- Scherillo G, Gnoli F (2003) *Diritto romano. Lezioni istituzionali*, 2° ed. Milano, p 90
- Serrao F (2006) *Diritto privato, economia e società nella storia di Roma. I. Dalla società gentilizia alle origini dell'economia schiavistica*. Napoli, pp 266ff
- Sherwine-White AN (1973) *The Roman citizenship*, 2nd edn. New York
- Silving H (1956) *Nationality in Comparative Law*. *Am J Comp Law* 456ff
- Sini F (1996) *Dai peregrina sacra ai pravae et externae religiones dei Bacchanali, alcune riflessioni su 'alieni' e sistema giuridico-religioso Romano*. *Studia et Documenta Historiae et Iuris* 60:49–ss [= *Studi in memoria di Gabrio Lombardi I. Roma*]
- Sini F (2003) *Dai documenti dei sacerdoti romani: dinamiche dell'universalismo nella religione e del diritto pubblico di Roma*. *Diritto@Storia Rivista Internazionale di Scienze Giuridiche e Tradizione Romana* 2
- Szanto E (1892) *Das griechische Bürgerrecht*. Tübingen
- Talamanca M (1990) *Istituzioni di diritto romano*. Milano, pp 106ff
- Talamanca M (2013) *Lineamenti di diritto privato romano*, 2° ed. Milano, p 56
- Thornton J, Mari M (2016) *Città greche tra conservazione e modelli rivoluzionari: Megalopoli, Larisa e i re Macedoni nel III secolo a.C. Studi ellenistici*, vol 30. Pisa-Roma, pp 139–196
- Tibiletti G (1961) *Latini e Ceriti. Studi giuridici e sociali in memoria di Ezio Vanoni*. Pavia, p 239ff

- Valditara G (2013) Cittadinanza tra merito individuale e interesse pubblico. *Seminarios complutenses de derecho romano. Revista intenacional de derecho romano y tradicio romanistica* 26:43ff
- Valditara G (2018) *Civis romanus sum*. Torino
- Vallocchia F (2018) *Ius migrandi? Migrazioni latine e cittadinanza romana*. Index: *Quaderni camerti di studi romanistici*, vol 46. *International Survey of Roman Law*, Napoli, pp 698–705
- Vincenti U (2000) *Le forme dell'organizzazione del dominio romano in Italia e nel Mediterraneo*. In: Schiavone A (ed) *Storia del diritto romano*. Torino, p 58
- Volterra E (1961) *Istituzioni di diritto privato romano*. Roma, p 63
- Walde A, Hofmann JB (1938) *Lateinisches etymologisches Wörterbuch*, I, dritte Auflage. Heidelberg, pp 662ff
- Zanfrini L (2007) *Cittadinanze–Appartenenza e diritti nella società dell'immigrazione*. Laterza, Roma-Bari, p 8
- Zincone G (2009) *Immigrazione: segnali di integrazione*. Sanità, scuola e casa. Bologna

# Crimmigration and Procedural Guarantees: A Dual Perspective



Paola Maggio

**Abstract** The relationship between criminal law and migratory phenomena is complex and can have different interpretations depending on whether one looks at the accused or the victim. In the first case, the authors' strong conception of criminal law prevails. In the second, a stronger protection of victims is evolving within a supranational framework that enhances human rights. The victim paradigm enters into the assessment as soon as the jurisdiction is identified and consequently orients the charge, complicates the correct identification of the accused with respect to the victim, influences the means of obtaining evidence, and connotes weak witnesses. In an integrated perspective inspired by the canon of due diligence, useful safeguards must be found to strengthen the guarantees of the criminal model within a dual, contextual and integrated vision of the rights of the victim and those of the accused.

## 1 Immigration and Criminal Law

The relationship between criminal law and migratory phenomena is complex and can have different interpretations depending on whether one looks at the preponderant interest of the offender or of the victim. In the case of the former, the authors' strong conception of criminal law prevails. In the case of the latter, there is room for enhanced protection of victims within a supranational framework that values human rights.

In recent years, the aversion to foreigners has resulted in a massive "Crimmigration" (Spena 2017), a concept used to express the punitive tendencies, the recourse to measures of expulsion and administrative detention of migrants, made all the more serious when not combined with measures of real prevention or contrast to the phenomena of trafficking and human trafficking. Manifestations of the so-called criminal law of the enemy, in this case the foreigner, have increased.

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Often the mechanisms of criminalisation and expulsion measures have been intertwined with a deficit of humanitarian protection and have compromised subjective rights under Articles 2 and 10, paragraph 3 of the Constitution, deviating even from the standard of Duty of Due Diligence, a fundamental paradigm that should mark the international and supranational measures and individual national choices in the protection of migrants (Waisman 2010). It requires, in particular, the identification of the victims of trafficking and smuggling and to protect them, while at the same time identifying the perpetrators and preventing the continuation of the crimes.

In Italy, a new concept of victim has been consolidated, at the centre of which is the multifunctional concept of “vulnerability”, directly transfused into the substantive case law, capable of influencing the investigative process and trial ascertainment, while justifying forms of anticipation of the contradictory and drawing the contours of “weak” declarative evidence (Giolo and Pastore 2018).

In cases of trafficking and smuggling, human dignity has taken on preponderant procedural significance, accentuating the role of instruments of “integrated protection” in relation to the importance of the interests affected, which have been combined with support measures and limitation safeguards for the further victimisation of the exposed subjects.

The contextualization of these values calls for the application of rules capable of ensuring the “most intense protection of rights” (Ruggeri 2015). However, depending on whether one looks at the victim or at the offender, the affirmation of rights approach may favour expansionist tendencies of criminal repression and generate compromise within the re-socialisation function of the sanction often due to the scarce implementation of policies inspired by the restorative paradigm.

## **2 Projections of “Vulnerability” on the Contours of the Offence and on Trial Assessment**

A central feature in the formulation of charges for acts of trafficking and smuggling of human beings is represented by the condition of subordination of the weak subject arising from the profile of consent: it is often lacking or, if present, is vitiated. Consent also operates as a differential criterion between trafficking and smuggling.

The blurring of the boundary between the two cases (Ferrara 2019) sees episodes of trafficking evolve into cases of trafficking and the transformation of smuggling into trafficking causes the original intention to migrate to lose its meaning.

In the trial assessment of these facts, we observe the entrance of victimological elements that imply judgements on the forms of coercion. Vulnerability, transfused into the structure of the offence, transits into the formulation of the charge and influences the demonstrative elements suitable to support it at trial.

The notion of vulnerability and the characteristic elements of the forms of coercion inherent in trafficking appear all the more serious when the conduct is directed against women or minors. “Vulnerability” presents a peculiar ambivalence: it is a central

element of the offence, but it is also an essential element to prove the typical conduct (Maggio 2021a, b).

A decision of the Grand Chamber of the European Court of Human Rights (European Court of Human Rights, Grand Chamber, 25 June 2020, *S.M. v. Croatia*; Vitarelli 2020) broadened the scope of application of Art. 4 ECHR to include the prohibition of so-called internal trafficking, and outlined, from the viewpoint of favour victimae, the role of the abuse of vulnerability within the constituent elements of the crime of trafficking. It constitutes an indication of the presence of the instrumental element of trafficking and of the performance of forced labour, even when the victim voluntarily offers to work at first, with the further clarification that the lack of reliability of the declarations of the “weak” victim cannot justify the defective completion of the investigation or the failure to adopt protective measures in favour of the same victim.

It is a matter of indications aimed at integrating and implementing the contents of the internal notion of “vulnerability”, today contained in Art. 90-quater c.p.p., to be ascertained case by case by resorting to the parameters of Art. 90-quater c.p.p., and destined to originate multiple projections on the procedural institutions.

The extension of the area of vulnerability has caused a widening of cases of evidentiary incident (Venturoli 2018) with a limitation of real cross-examination to the advantage of the video-recorded cross-examination and an affirmation of the “meta-immediateness”, calibrated on the fragility of the offended. Paragraph 5-ter, Art. 398, Code of Criminal Procedure has extended the possibility of proceeding to the probatory incident with the “protected” modalities provided for by paragraph 5-bis for minors, also “when among the persons interested in the assumption of the evidence there are adults in a condition of particular vulnerability, inferred also from the type of crime for which they are proceeding”.

The notion of weak subjects has been progressively extended to adult victims who must be removed from the “*strepitus fori*” and expelled from the trial circuit. The need to avoid “secondary victimisation” appeared rational, conventionally oriented and in line with Directive 2012/29/EU.

Here too, the solutions based on the victim paradigm risk emptying the principle of orality-immediateness to the detriment of the trial verification, transforming the evidentiary incident from an exception to a rule in all cases where the subject does not have, presumptively or following an individualised assessment, the relational capacity necessary to face trial.

### 3 The Establishment of National Jurisdiction

Projections of the victim paradigm are also found in the entrenchment of criminal jurisdiction.

In the case of human trafficking, it is extremely difficult to identify the location of commission of the crime. In these situations, the crime may be transnational, but also



involve the trafficking of migrants within the European Union or cases of so-called internal trafficking (i.e. transfer within a State).

The “contact principle” between national authorities of the European Union is intended to avoid parallel criminal proceedings (*ne bis in idem*). Eurojust and EPPO pursue the same objective of coordination in relation to the most serious transnational crimes.

In the background, Article 79 TFEU outlines the adoption of “a common immigration policy to ensure the effective management of migration flows”.

The most extensive jurisprudential interpretation has affirmed national jurisdiction when even only a fragment of the conduct has occurred on the territory of the State which, although lacking the requirements of suitability and unequivocality required for an attempt, is appreciable for the purpose of linking the actions carried out in Italy with those carried out on foreign territory (Cass. 22 December 2015, A).

On the other hand, in the hypothesis of trafficking of migrants by sea, instrumental techniques are recorded, aimed at avoiding subjection to our criminal law, through the use of a “mother” ship that remains in international waters and carries out transshipments on small boats on which, however, the cross-border agents operating find only the victims. For these reasons, the facts of trafficking or smuggling are often combined with the accusation of association, with the possibility of considering the establishment of Italian criminal jurisdiction for cases in which the route followed by the vessel suggests a subsequent landing in Italian territory: the existence of the crime referred to in Article 416, paragraph 6 of the Criminal Code derives from the coexistence of smugglers operating on the mother ship and/or on the smaller boat, with other accomplices in our territory (“*basisti*”) for the various needs arising from the landing. Italian jurisdiction and the consequent exercise of criminal coercive powers have also been affirmed with regard to the crime of aiding and abetting irregular immigration with foreigners rescued in international waters (Cass. 28 February 2014, H; Di Chiara 2016).

Given the transnational nature of the offence, the crime of association is brought under Italian jurisdiction, even if the main part of the offence has not been committed in Italy. The essence of the crime of association, the implementation in Italy of the naturalistic result of individual crimes of aiding and abetting immigration, is suitable to consider that a part of the action constituting a multi-subjective and permanent crime such as Article 416 of the Criminal Code has been committed on the territory of the State and to establish jurisdiction for the conduct of aiding and abetting illegal immigration as well (Cass. 22 November 2017, K.).

The identification of jurisdiction for the hypothesis of aiding and abetting aggravated immigration has seen part of the jurisprudence reaffirm the need for the actual entry of the foreigner into the territory of the State (Cass. 25 March 2014, S.), while from another perspective it would not be necessary to wait for the actual entry to punish the “acts aimed at procuring it” (Constitutional Court 16 December 2011, no. 331; Zirulia 2015). The United Sections have espoused this second orientation and excluded the need for actual entry (Cass., sez. un., 21 June 2018, P.).

The Supreme Court, on the other hand, tends to exclude the existence of the jurisdiction of the Italian judge when the offences are committed by the foreigner to

the detriment of a foreigner and are entirely consumed in the territory of a foreign State, although they are connected with offences committed in Italy (Cass., 17 June 2020, T.).

## 4 Conspiracy and Circumstance of Transnationality

The accusation of the crime of association in conjunction with the trafficking or smuggling of migrants appears in many cases aimed at strengthening criminal control (Conzo and De Marco 2013).

In the charges, the combination of the aggravating circumstance provided for in Article 4 of Law no. 14 of 16 March 2006 with the crime of association or with single offences of trafficking and smuggling of human beings emerges, given that these facts are committed using the contribution of an “organised criminal group”, engaged in criminal activities in more than one State. However, the notions of criminal association under Article 416 of the Criminal Code and of “organised criminal group” provided by the Palermo Convention are not entirely coincident. Although the minimum number of associates is identical, the existence of an “organised criminal group” does not require a criminal programme relating to a number of crimes and does not require a continuous organisational structure, which is always required, albeit in minimum form, for the existence of an association offence. This notion is open to the inclusion of groups, even without a constant aggregation over time, whose purpose can also be the commission of a single serious crime, with the exclusion of nuclei fortuitously constituted for the extemporary commission, and therefore without preparation of such crime. Jurisprudence considers that there is a relationship of continuity between the case of association accepted by our system and the “organised criminal group” defined by the Palermo Convention (Assize App. Palermo, sec. II, 8 October 2019, X). Transnationality condenses a peculiar mode of expression referable to any crime, provided that it, both for objective reasons and for its referability to the sphere of action of an organised group, assumes a cross-border projection aiming at an anticipated protection of legal objects of pre-eminent constitutional importance, not alien to punitive-type criminal-political strategies (see Court of Cassation, 10 May 2019, A.).

## 5 Interception by Routing

The territorial rootedness of facts pertaining to human trafficking has effects on the implementation of interceptions abroad, also by means of the routing technique, today enhanced by the possibility of using “trojans everywhere” (Spangher 2020).

Case law considers that the use of routing, i.e. the conveyance of calls originating abroad to a node in Italy, does not lead to a breach of the rules on international letters rogatory or of the provisions relating to the OIE.

The argumentative stereotypes to which the practice resorts in order to avoid the constraints of rogatory regulations can be briefly summarized as follows: (1) the activity of interception, reception and recording of telephonic communications is completely carried out on Italian territory; (2) the recourse to the procedure of international cooperation, as per Art. 2., recourse to the international cooperation procedure referred to in Articles 727 et seq. of the Code of Civil Procedure is to be considered necessary only when the interception activity is aimed at perceiving the contents of communications passing solely through foreign territory or for the interception of conversations picked up by a foreign operator; (3) in the case of operations concerning mobile telephone users, the nationality of the user and the technical and legal regulations of the State to which the body operating the service belongs are relevant (Court of Cassation, July 2, 2020, N.; July 22, 2020, C.D.).

In fact, it is the very nature of the type of collection and its computerised essence that makes the characteristic of territoriality disappear. The question concerns both the existence of the requirements for the validity of the authorisation measure and the lack of reasoning. In fact, the violation of the rules on judicial cooperation identifies an absolute lack of jurisdictional power that cannot be ignored, and is likely to integrate a hypothesis of nullity of the same acts (Ruggieri 2000). Furthermore, the inexistent, apparent, or illogical motivations posed to justify the technique of interception by routing, determine the unusability of the elements acquired for violation of the combined provisions of Articles 267 and 271 of the Code of Criminal Procedure, insofar as the users who undergo the interception are absolutely undetermined at the moment of the emission of the authorization measure and of the execution of the operations. This makes it easy to challenge (and logically subvert) the arguments used by the case law, reiterating the need to resort to the rogatorial mechanisms and those contemplated by the OIE to avoid arbitrary interference with the freedom of communication of individuals (Maggio 2021a, b).

## 6 From Victim to Offender “and Back”

In proceedings concerning human trafficking (as well as smuggling), it has become difficult to draw a clear line between victim and suspect.

A case in Palermo has caused a stir, with almost Kafkaesque contours, in which, according to the findings of the judgments of first and second instance, there was a macroscopic error of person (Tondo 2019; <https://openmigration.org/tag/medhanie-yedhego-mered>) to the detriment of a young Eritrean defendant, accused of being General Medhanie Yedhego Mered, the absolute head of an organization aimed at trafficking human beings that operated in Libya and trafficked men from the Horn of Africa to Italy. The arrest was the result of a maxi-investigation against irregular immigration, an operation called Glauco, conducted through massive interceptions, also by means of routing, as well as with the use of a collaborator of justice (Tondo 2019). The error of person resulted in an acquittal for the main facts, and a significantly reduced sentence due to the role actually attributable to the accused. What is

most striking in this case is the way in which the subject was identified by using a combination of data deriving from the possession and location of the mobile phone, its use and the contacts recorded on social networks, without a DNA test having been ordered, as requested by the defence. The way in which the facts are realised, including language difficulties, lead the investigators to be satisfied with circumstantial frameworks in which a bare minimum “principle of proof” is offered (Battarino 2018), which then undermines the need to identify the accused.

It is precisely on the complex discernment of subjectivities and legal roles between perpetrator and victim that the European Court of Human Rights has reiterated the “positive” obligations of States in the area of human trafficking, stretching far beyond the mere provision of adequate criminal sanctions for traffickers. In a well-known precedent, the European courts have sanctioned the lack of preparation of Cypriot police officers who, having failed to identify a young woman as a victim of trafficking, had in fact handed her over to her tormentor (ECHR 7 January 2010, *Rantsev v. Cyprus and Russia*, § 285). The definition of trafficking was subsequently extended and further enhanced the standard of protection afforded to the victim in order to guarantee the freedoms protected by Article 4 ECHR, precisely because of her state of vulnerability (European Court of Human Rights, 1 April 2021, *A.I. v. Italy*). The Court has defined the scope of relevance of the so-called non-punishment clause contained in international and European legislation against human trafficking, which requires that States adopt special non-punishment clauses to prevent victims from being convicted for crimes committed as a result of their exploitation (The European Court of Human Rights, 16 February 2021, *V.C.L. and A.N. v. United Kingdom*).

The victim-oriented perspective together with an integrated approach incorporates the non-punishment provision in Art. 4 ECHR as a further conventional standard of protection of victim’s rights, relating to his or her judicial position as a subject on trial (Durante 2021).

## 7 Vulnerable Witness

The general framework of the Palermo Convention and its Protocols place a number of obligations on State parties to adopt specific measures to assist and protect witnesses/trafficked persons from potential retaliation or intimidation. These obligations are accompanied by a vision of the witness evidence in the trial system which is internationally and “conventionally” oriented (Confalonieri 2007), established at the European level in the specific perspective of the protection of victims, although the regulatory consecration of the status of “protected witness”, which is also an expression of the numerous duties of due diligence, leaves a glimpse of many blank clauses both with regard to the “*an*” and with regard to the method of protection.

In this field, canons of “integrated” interpretation also require the summarisation of national provisions with the rules set out in the main international instruments on the protection of human rights. The defence of “weak witnesses” goes beyond the boundaries of individual jurisdictions, so that both the state where the crime is being

prosecuted and the state where the testimony is being taken must take on fragmented and shared obligations of protection. In the coordinated and plural contrast to forms of transnational crime, the individual countries must therefore already identify forms of cooperation during the implementation of the transfers of declarative sources (Salvadeo 2014). In this direction, Art. 6, § 5 of the “Trafficking Protocol” of the Palermo Convention requires that the physical safety of trafficking victims who are in their territory be ensured.

In addition to these forms of joint protection, there is also a “Euro-unitary” procedural consideration of declarative evidence, which is very extensive and often independent of the individual state configurations of “witness”, as it includes the “de relato” witness (European Court of Human Rights, 27 September 1990, *Windisch v. Austria*), the “co-defendant” and the “defendant in related or connected proceedings” (European Court of Human Rights, 27 February 2001, *Lucà v. Italy*). The Italian experience with trafficking and human trafficking cases demonstrates the variability of the declaratory figures, as migrants are sometimes heard as mere witnesses and at other times as defendants in a related crime. This last qualification is based on the teleological connection *ex art.* 371 paragraph 1 letter c) between the crimes committed by the transporters or organisers and art. 10-bis legislative decree no. 286 of 25 July 1998, charged to the migrants, given that the transport activity of the smugglers is aimed at allowing the irregular entry of migrants into the territory of the State (Court of Cassation, section V, 13 June 1998, A.). Equally clear is the evidentiary link under art. 371 paragraph 1 letter b) between the above mentioned offences (Giud. ind. prel, Agrigento, 11th October 2013, B.) Nevertheless, on the subject of clandestine immigration, it is often preferred to opt for mere testimonial status, considering usable statements made spontaneously to the Prosecutor’s Office by migrants against members of the crew who carried out the illegal transport, precisely in light of the exclusion of the crime under Article 10 bis of the Legislative Decree no. 286 of 1998. The choice elides the consequent need for feedback to statements made in the capacity of callers in *correità* or *realità*, considering that the entry into the territory of the State took place as part of a rescue activity and that the attempt of illegal entry is not configurable, since it is a contravention (Cass., sez. un., 28 April 2016, T.M.). The described declaratory regime is full of observable evidentiary effects, due to the lack of the obligation of individualised verification (Cass., sez. un., 30 May 2006, S.). There is a clear need to balance the protection of the witness with the just requirements of respect for the accused’s right of defence and the right to be heard by his accuser by balancing often conflicting interests (European Court of Human Rights, 10 November 2005, *Bocos-Cuesta v. Netherlands* § 69; European Court of Human Rights, 20 December 2001, *P.S. v. Germany*, id., § 22–23; *Ubertis* 2009): the defendant’s guarantees of defence under Article 6 ECHR could be compromised whenever the conviction is based exclusively on the testimony of persons who were not examined in cross-examination either during the investigation or at trial (European Court of Human Rights, 14 December 1999, *A.M. v. Italy*; European Court of Human Rights, 30 November 1997, *Van Mechelen and Others v. the Netherlands*).

When a violation of a right protected by Art. 6.3 ECHR is counterbalanced by the protection of national investigative/repressive interests, “any idea of compensation

falls away” and in fact the very concept of procedural fairness risks being compromised (Kostoris 2020). Precisely with regards to a case of human trafficking, the European Court of Human Rights has recognised the violation of Article 6(1) and (3)(d) of the Convention, because of the fact that it is not possible to establish a fair trial, (d) of the Convention, on the grounds that the applicant’s conviction was based exclusively on the statements of a witness who had not appeared at trial and whom the defendant had not had the opportunity to question in domestic proceedings; nor had the State Court made the necessary efforts to ensure the presence of the witness in court or to offset in some other way the “disadvantageous” situation of the defence (European Court of Human Rights, 21 July 2011, *Breukhoven v. Czech Republic*). These hermeneutical paths inspired by the rights set out in Art. 6 ECHR regarding “fair trial”, also in the fight to contrast serious crimes, show how the “fair” trial can take on the guise of a variable model depending on the protection of the vulnerability of the victims, necessarily taking into equal consideration the protection of the suspect (presumed innocent), who is equally weakened by the very pendency of the trial. This means that any derogation from the usual adversarial hearing of the victims in order to guarantee their right to privacy or to avoid traumas arising from direct confrontation with the accused (especially with regard to particularly harmful criminal phenomena) could never go as far as the total obliteration of the guarantees of the suspect. It is a question of complex balances on which the Court of Justice of the European Union has also dwelt, clarifying how the status of the vulnerable declarative evidence, pursuant to Articles 2, 3 and 8 of the framework decision 2001/220/JHA, imposes the adoption of specific measures to protect victims, without, however, automatically implying the right for them to benefit always and in any hypothesis from a regime, like the Italian one, on the evidentiary incident. In fact, it is always up to the prosecuting authority, on the basis of the assessment of the particular fragility of the victims, to decide whether or not to resort to the early collection of evidence. Judicial assessment has allowed the Italian procedural system to be considered compatible with the Framework Decision, which does not impose an obligation but a mere option to have recourse to the early collection of evidence, even if the request comes from the offended person (ECJ, 21 December 2011, case C-507/10; Nicolichia 2011; Malfitano 2018). In the progressive and constant contamination between universal and regional regulatory instruments (Forlati 2013), multiple safeguards exist in order to foster an evolutionary interpretation of the primary obligations in force, as well as to ensure the operation of procedural mechanisms aimed at verifying their compliance with a perspective capable of reconciling the rights of the victim with those of the accused.

From this perspective, the failure to adopt the measures provided for by the Palermo Convention and its Protocols for the protection of the declarants would indicate the “negligence” of States in fulfilling the positive obligations of due diligence provided for by the Conventions on the protection of human rights (Annoni 2011; Salvadego 2014); on the other hand, there is a constant need to give concrete meaning to the procedural guarantees provided for the protection of the alleged offender (European Court of Human Rights, *Lučić v. Croatia*, 27 February 2014; European Court of Human Rights, *ZdravkoPetrov v. Bulgaria*, 23 June 2011).

This reinforces the conviction that, even in an increasingly heterogeneous and complex global context, the relationship between the criminal model and criminal investigation must inseparably be based on a dual, contextual and integrated view of the rights of the victim and those of the offender.

## References

- Annoni A (2011) La tratta di donne e bambini nella recente giurisprudenza dei diritti dell'uomo. *Depor Esuli Profughe* 16:87
- Battarino G (2018) I campi di raccolta libici. <http://www.questionegiustizia.it>
- Confalonieri A (2007) La prova testimoniale nel sistema processuale «convenzionalmente» orientato In: *Diritto penale e processo*: pp 1240–1249
- Conzo G, De Marco M (2013) Riduzione in schiavitù e tratta degli esseri umani, Il «doppio binario» nell'accertamento dei fatti di mafia. In Bargi A (ed) *Giappichelli*. Turin, p 216
- Di Chiara G (2016) Traffico di migranti via mare, poteri di polizia nelle azioni di contrasto e tutela della dignità: *Diritto Penale Processo* pp 5–9
- Durante M (2021) La non punibilità delle vittime di tratta di esseri umani: la prima pronuncia della Corte europea dei diritti dell'uomo sulla posizione giudiziaria della vittima ai sensi dell'art. 4 CEDU, «Giust. insieme»
- Ferrara C (2019) Il traffico di migranti nel Mediterraneo in un ufficio giudiziario di frontiera. L'esperienza della Procura della Repubblica di Palermo. In: Militello V, Spena A, Mangiaracina A, Siragusa L (eds) *I traffici illeciti nel mediterraneo. Persone, stupefacenti, tabacco*, Giappichelli. Turin, p 107
- Forlati S (2013) I meccanismi internazionali di controllo. La lotta alla tratta di esseri umani fra dimensione internazionale e ordinamento interno, a cura della medesima, *ESI*. Naples, pp 29–ss
- Giolo O, Pastore L (2018) *Vulnerabilità*. Carocci, Bari
- Kostoris R (2020) Per una 'grammatica' minima del giudizio di equità processuale. *Riv It Dir Proc Pen* 63(4):1675–1698
- Maggio P (2021a) Crimmigration e tutela della vittima nel reato di tratta di esseri umani: aspetti processuali. In: De Marzo P, Parisi F (eds) *Diritto e immigrazione, un quadro aggiornato delle questioni più rilevanti*. La Tribuna, Vicenza, pp 426–445
- Maggio P (2021b) Intercettazioni no limits: il captatore informatico “per istradamento”. *Proc Pen Giust*: 448–472
- Malfitano C (2018) La vittima vulnerabile nel diritto internazionale e dell'Unione europea. *Riv It Med Leg* 523
- Nicolicchia F (2011) L'accesso all'incidente probatorio della persona offesa nella giurisprudenza della Corte di giustizia U.E. *Riv Dir Proc* 1223–1232
- Ruggeri A (2015) Crisi dello stato nazionale, dialogo giurisprudenziale, tutela dei diritti fondamentali: notazioni introduttive. In: D'Andrea L, Moschella G, Ruggeri A, Saitta A (eds) *Crisi dello Stato nazionale, dialogo intergiurisprudenziale, tutela dei diritti fondamentali*. Giappichelli, Turin, pp 16–ss
- Ruggeri F (2000) Le intercettazioni “per istradamento” sul canale internazionale: un mezzo di ricerca della prova illegittimo. *Cass Pen* 1062–1071
- Salvadeo L (2014) La normativa internazionale sulla protezione dei testimoni nel contrasto alla criminalità organizzata transnazionale. *Riv Dir Intern* 97(1):132–173
- Spangher G (2020) Cosa prevede il dl intercettazioni, trojan ovunque e articolo 15 della Costituzione calpestato. <http://www.ilriformista.it>
- Spena A (2017) *La crimmigration e l'espulsione dello straniero*. *Mater Cult Giur* 2:495–513
- Tondo L (2019) *Il generale. La nave di Teseo*, Milan

- Ubertis G (2009) La prova dichiarativa debole: problemi e prospettive in materia di assunzione della testimonianza della vittima vulnerabile alla luce della giustizia sovranazionale. *Cass Pen* 49(10):4058–4067
- Venturoli M (2018) Vulnerabilità della vittima di reato quale categoria “a geometria variabile” del diritto penale. *Riv It Med Leg* 2:553
- Vitarelli (2020) Vittime vulnerabili e art. 4 Cedu – la grande camera estende l’ambito di operatività dell’art. 4 Cedu: verso una sempre maggiore tutela delle vittime vulnerabili in contesti di sfruttamento. *Riv it dir proc pen* 2116–2120
- Waisman (2010) Human trafficking: state obligations to protect victims’ rights, the current framework and a new due diligence standard. *Hastings Int Comp L Rev* 33:385–430
- Zirulia (2015) Commento all’art. 12 TU imm: Codice penale commentato, a cura di Dolcini – Marinucci, IV ed., Milano, 2697



# Trafficking in Human Beings: The ECHR and States' Positive Obligations



Lucia Parlato

**Abstract** Positive obligations related to the ECHR provisions play a central role in investigating severe crimes and protecting victims. In the frame of the fight against trafficking in human beings, Art. 4 ECHR is particularly relevant. Among the procedural duties deriving from this article, the analysis focuses on the obligation to not prosecute victims of THB for the minor crimes they were forced to commit. The mentioned obligation—also provided for by other supranational sources—was strongly stressed by a 2021 ECtHR judgment. The latter poses some questions regarding the Italian legal system also in comparison with the German one.

## 1 Introduction

The present paper aims at addressing some significant issues relating to criminal proceedings on trafficking in human beings (hereinafter THB), in the light of the European Convention of Human Rights (hereinafter ECHR).

In this context, victims' protection will be considered as the result of the positive obligations deriving from ECHR guarantees. Art. 4 ECHR will be at the core of the attention, in addressing the main procedural questions about THB. The central role of this norm emerges from an examination of the ECtHR case-law. The analysis will focus on a recent ECtHR judgment, which has the merit of highlighting precise investigative needs in the fight against THB.

Besides the ECHR, other relevant supranational sources will be taken into account, such as the “Warsaw Convention” (the 2005 Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197) (the Warsaw Convention), the Protocol accompanying the so-called Palermo Convention Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, adopted on 15 November 2000 by the General Assembly Resolution 55/25 (so called Palermo Convention), as well as Directive 2011/36/EU, the so called EU

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Trafficking Directive, and Directive 2012/29/EU, the so called EU Victims' Directive (Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing the Council Framework Decision 2002/629/JHA; Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing the Council Framework Decision 2001/220/JHA; Annoni 2013; Venturoli 2013).

Considering a wider legislative scenario, it will be possible to identify some failures in the Italian legal system and carry out a comparison with the German one.

## 2 Positive Procedural Obligations and Victims' Protection

Among the applications submitted to the ECtHR about alleged procedural violations, the broader group concerns Art. 6 ECHR. This Article states the right to a "fair-trial" and it is usually invoked in favour either of the suspected or charged person, or of "civil parties" aiming to obtain damage compensations. Victims hardly ever appeal to this norm. However, in the *Petrella v. Italy* case, the ECtHR recently recognised for the first time a violation of Art. 6 ECHR in favour of a victim, although he still had not appeared as a civil party (plaintiff) in the criminal trial (ECtHR, 18.3.2021, *Petrella v. Italy*). The ECtHR condemned Italy for failing to guarantee the reasonable length of the trial, in breach of Art. 6 ECHR. The peculiarity of this case is that the applicant was a victim regardless of their role as "civil party"/plaintiff.

Besides several cases concerning alleged violations of Art. 6 ECHR, in detriment to the accused's rights, the procedural matter case-law of the ECtHR has been undergoing an evolution towards victims' protection. The Court of Strasbourg has been gradually affirming the role the offended can assume in criminal proceedings. In this context, the main norms can be found in Articles 2, 3, 4 and 8 ECHR: they are frequently invoked before the ECtHR by applicants who allegedly suffered THB.

These Articles are meaningful at least under two perspectives. They originate from the self-evident "negative duty" of the States' authorities to abstain from behaviours that violate the individual rights protected by the Articles themselves. At the same time, they generate several "positive duties", both in the substantial sphere and in the procedural one. On the substantial side, the State is bound to incriminate the conducts that offend the rights protected by ECHR norms.

As far as the procedural sphere is concerned, it is mandatory for the States to ensure the prompt identification and punishment of the perpetrators. A relevant case-law has been developing for the last few years towards this direction. According to this trend, State judicial authorities are bound to conduct complete and effective investigations. They must also guarantee victims and their close relatives the right to participate in criminal proceedings, to be heard and to introduce evidence.

The Court of Strasbourg has repeatedly recognised violations of the above-mentioned ECHR Articles, to point out the duty of the States to carry out efficacious criminal investigations without delay (among others, ECtHR, 20.02.2020, *Y. v. Bulgaria*). In the recent *Teršana v. Albania* case (ECtHR, 4.8.2020, *Teršana v. Albania*), for instance, the ECtHR affirmed the State's authorities failed to conduct prompt and effective investigations in order to identify, prosecute and punish the perpetrator of an acid attack. According to the Court, they did not protect the victim and her right to a private life, in breach of Articles 2 and 8 ECHR. This judgment clearly confirmed a "positive obligation" of the States, namely the "obligation to do", which had already been affirmed in previous cases.

The Court had formerly underlined that the passage of time can compromise investigations, because of the loss of evidence (ECtHR, 2.3.2017, *Talpis v. Italy*). Following these warnings, many countries updated their norms. Among them, the Italian legislator issued a reform (Law no. 69/2019) on gender and domestic violence, the so-called *codice rosso* ("Red Code"). Compared to previous norms, the "Red Code" provides for more severe punishment and establishes that investigations regarding these kinds of crimes should be stringent and rapid. This law assumes relevance in relation to the examined topic, since the conducts that can be labelled as "gender crimes" are often perpetrated in the context of human trafficking and especially in the frame of forced prostitution. For instance, the *Rantsev v. Cyprus and Russia* judgment, originating from a case of THB, recognised the violation of Art. 2 ECHR and condemned the State of Cyprus for not conducting satisfactory investigations (ECtHR, 7.1.2010, *Rantsev v. Cyprus and Russia*).

The above-mentioned interpretative current of the ECtHR is the landmark to guarantee not only the efficiency of investigations and victims' participation, but also their protection. The risk of "secondary victimization" can result from the presence of the accused during the trial, or from the dynamics of the proceedings itself. This tendency expresses the necessity of protecting the victim not only through the judicial system, but also *from it*. Many ECtHR judgments are noteworthy in this regard, but only some of them will be taken into consideration here for lack of space.

This perspective involves also the need to grant the right to legal advice and legal aid to victims. The ongoing evolution of the ECtHR case-law aims at including these support tools among the States' procedural duties in criminal matters. The Court recognised several violations of Art. 2 or Art. 3 ECHR in the procedural sphere. In some cases, the ECtHR stressed that the victim was not allowed to participate in the proceedings in a suitable and effective way (ECtHR, 26.07.2012, *Saviiskyy v. Ukraine*; 7.1.2010, *Rantsev v. Cyprus and Russia*). The ECtHR has also affirmed the importance of granting victims free legal aid and free linguistic assistance, as they both play a central role in enabling the offended people and their close relatives to take part in the investigations and the trial.

It goes without saying that participation and protection of victims' needs are closely connected to each other. The *E.B. v. Romania* case is noteworthy in this regard. It concerns the alleged rape of a person considered particularly vulnerable because of her mental disability. The lack of legal advice and legal aid was strongly stigmatised by the ECtHR, which stressed the risk for the victim of experiencing

further traumas during the proceedings (ECtHR, 19.03.2019, *E.B. v. Romania*). The Court clearly promoted the victims' protection to avoid "secondary victimization", which involves the psychological harm that proceedings themselves can cause to victims.

The *Savitzky v. Ukraine* judgment concerns a case of alleged abuse by the police (ECtHR, 26.07.2012, *Savitsky v. Ukraine*). This judgment summarises the various ways in which legal aid was considered within the ECtHR case-law. The applicant claimed that he was not able to effectively participate in the investigation, as free legal aid was not granted to him. The ECtHR highlighted the core of its usual "finalistic perspective": human rights must be acknowledged in a practical and effective way.

In the above-mentioned *Rantsev v. Cyprus and Russia* case, the State authorities did not provide legal aid to the father of a murder victim. It is true that the applicant did not carry out the right procedure to obtain this kind of assistance. However, the Court stressed the duty of the State to inform the people involved in a trial on the correct protocol, through judicial authorities (ECtHR, 7.1.2010, *Rantsev v. Cyprus and Russia*).

Again, in the context of the European Council sources, both the Istanbul Convention of 2011 and the Lanzarote Convention of 2007 aim to make criminal proceedings a tool to protect the victim. They also aim to shield the victim from the "violence" inherent to the trial itself, which can occur as already pointed out.

In this perspective, victims' protection has to be twofold. Victims might have both a passive and weak role or an active and strong one. On one side, the offended may need assistance, information, and support. On the other side, however, they may want to take an active part in the proceedings. Within both Conventions, a set of dispositions facilitates the exercise of the victim's rights to defence, protection and justice in criminal proceedings.

In this frame, it is appropriate to focus attention on the investigations and trials involving the crimes taken into consideration by the above-mentioned conventions (crimes against women and against children). In these cases, the proceedings should not be in principle subordinated to the victim's complaint or its withdrawal. They must be given priority and must be carried out without undue delay, through appropriate investigative tools. The victims' rights should always be considered, also involving them during the investigation and the trial.

Moreover, it is appropriate to underline how the Committee of Ministers of the Council of Europe affirmed that the States should «have an obligation to exercise due diligence to prevent, investigate and punish acts of violence, whether those acts are perpetrated by the State or private persons, and provide protection to victims» (Recommendation (2002)5 of 30 April 2002 on the protection of women against violence).

Moreover, the attention on victims' needs has been strongly confirmed by Directive 2012/29/UE. Specific norms are also included in Directive 2011/36/EU, which is precisely dedicated to combat THB phenomena.

### 3 Article 4 ECHR and Its Significance for the Fight Against Trafficking in Human Beings

Among the above-mentioned ECHR norms, Art. 4 ECHR occupies an important place in the frame of victims' protection and investigations efficiency. It is noteworthy to stress that this Article is entitled "Prohibition of Slavery and Forced Labour". At first glance, the norm seems to concern an outdated phenomenon. In its first part, Art. 4 ECHR states that nobody "shall be held in slavery or servitude" or "be required to perform forced or compulsory labour". In particular, the norm provides that the term "forced or compulsory labour" shall not include some situations, listed in para. 3: in particular «(a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention; (b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service; (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community; (d) any work or service which forms part of normal civic obligations».

Art. 4 ECHR does not mention trafficking, proscribing "slavery", "servitude" and "forced and compulsory labour" (ECtHR, 7.01.2010, *Rantsev v. Cyprus and Russia*, § 272). Despite its literal content, the norm deserves special attention in relation to the specific context of THB, as the latter shares many features with the conducts expressly considered by the Article. THB aims at exploiting other humans and it is based on the exercise of power. It treats human beings as "commodities" to be traded and put in forced labour, for little or no payment, usually in illegal contexts as prostitution and drugs cultivation, preparation, or marketing. However, in the light of Art. 4, THB can have either a domestic dimension or a transnational one and can be connected with organised crime or not (ECtHR, 7.01.2010, *Rantsev v. Cyprus and Russia*).

In attempting a definition of THB, it is appropriate to underline the difference between two distinct illegal conducts. If illicit behaviours consist in the transportation of illegal immigrants, the gain of the organized criminal group derives from the money obtained for the journey from them. Since the perpetrators have no interest in protecting travellers, the latter often suffer severe harm or even die during the journey itself. In contrast, in the context of THB, criminal groups have an interest in keeping illegally transported immigrants somewhat healthy and capable of working. This is because the criminal conducts aim at exploiting the victims' capacity to work for illegal purposes, underpaying them or for no money at all. The two aims can be interchangeable over time. The perpetrators can change their intentions or get rid of the immigrants by "handing" them over to others who intend to exploit them (Ferrara 2019; Militello 2019).

THB involves the use of violence and threats against victims, who live and work under poor conditions. The criminal behaviour is qualified by the explanatory report accompanying the "Anti-Trafficking Convention" as the "modern form of the old worldwide slave trade" (ECtHR, 7.01.2010, *Rantsev v. Cyprus and Russia*, § 281;

17.12.2012, *M. and Others v. Italy and Bulgaria*, § 151). THB conducts imply close surveillance of the activities of victims, whose possibility of movement is often restricted by traffickers.

The *S.M. v. Croatia* 2020 judgment underlines three constituent elements, in order to define THB, under the Anti-Trafficking Convention and the Palermo Protocol (ECtHR, GC, 25.06.2020, *S.M. v. Croatia*). Firstly, “the recruitment, transportation, transfer, harboring or receipt of persons”. Secondly, the “threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of a position of vulnerability, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”. Finally, «an exploitative purpose (including, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs)» (ECtHR, 7.01.2010, *Rantsev v. Cyprus and Russia*, §§ 281, 290 and 303).

There are no doubts that THB threatens the human dignity and the fundamental freedoms of its victims and cannot be considered compatible in a democratic society and the values expressed by the “Palermo Convention” (ECtHR, 7.01.2010, *Rantsev v. Cyprus and Russia*, § 282).

Even if THB crimes usually fall under Art. 4 ECHR, specific conducts may rise other issues within the meaning of further ECHR Articles. Due to the specific circumstances of a case, it may fall under Art. 6 ECHR. The question whether a particular situation involves additional ECHR violations is a factual one and must be examined in the light of all relevant circumstances of the case itself (ECtHR, GC, 25.06.2020, *S.M. v. Croatia*).

#### **4 Positive Obligations Deriving from Article 4 ECHR in the Frame of Trafficking in Human Beings**

Article 4 ECHR plays a multifaceted role in the fight against THB. The positive obligations deriving from this norm affect criminal proceedings in several ways. From their side, the “Palermo Protocol” and the “Anti Trafficking Convention” stress the need for a comprehensive approach, including measures to prevent trafficking and to protect victims, in addition to measures to punish traffickers (ECtHR, 7.01.2010, *Rantsev v. Cyprus and Russia*).

Therefore, States have positive obligations to act against THB: by not doing so, when there are clear indicators, they violate Art. 4 ECHR. These positive obligations include safeguarding the “practical and effective protection of the rights of victims or potential victims of trafficking” and a specific field is relevant to compensation. Among these obligations, the following ones deserve to be discussed in more detail.

(A) Firstly, from a substantive point of view, Art. 4 ECHR generates the States’ positive obligation to put in place a suitable legislative and administrative

framework. In this context, the States Parties are bound to effectively prosecute slavery, servitude or forced and compulsory labour. They are also required to establish a diversified set of legislative and administrative tools, in order to prohibit and punish such illegal conducts (ECtHR, 7.01.2010, *Rantsev v. Cyprus and Russia*, § 285).

Besides ECHR, other sources are significant in this context. The above-mentioned “Protocol to the Palermo Convention” and “Warsaw Convention” stress the need for an integrated approach in fighting THB. As already said, such a “comprehensive” effort should result not only in the traffickers’ punishments, but also in measures to prevent the crimes and to protect the victims.

- (B) Secondly, procedural obligations bind the States to carry out prompt and effective investigations under Art. 4 ECHR. In this frame, delays must be avoided, in order to prevent the loss of evidence or even the perpetration of more severe crimes.
- (C) A further category of duties includes the positive obligations to take operational measures. In general, it means that States’ authorities are bound to protect those who may be considered as victims or potential victims of offences in breach of Art. 4 ECHR (ECtHR, 7.01.2010, *Rantsev v. Cyprus and Russia*, § 286; 13.11.2012, *C.N. v. U.K.*, § 67). Each State party is bound to prevent trafficking and protect victims’ rights through the coordinated effort of all domestic anti-trafficking bodies.

## 5 The Obligation to Not-Prosecute Trafficking Victims for Minor Crimes: The Main ECtHR Judgments

Among the above-mentioned positive and operational duties deriving from Art. 4 ECHR, one is of particular significance, namely the States’ authorities’ obligation to abstain from prosecuting the minor crimes THB victims were forced to commit, when they were subjected by their tormentors.

The very fact of being victims of THB often means they are compelled to perform behaviours that result in criminal acts, especially in the frame of prostitution or drug-trafficking, as well as in the context of illegal migration.

As it has already been highlighted, THB offences can result in other criminal activities. The latter may be directly committed by the victims of THB and included in the overall plan of the traffickers. Among these illegal conducts, some are related to the migration status of the victims (or of other people). Further offences—always referred to the migration frame—are connected to the possession or production of false identity documents or not having a work permit (Noordzij 2022). It can also happen that the victims are forced by their perpetrators to assume a role in managing human trafficking towards other victims. Overall, a broad range of unlawful acts can be identified. “Liberation offences”—i.e., behaviours put in place to escape a situation of human trafficking—are included as well (Jovanovic 2017; Schloenhardt Markey-Towler 2016).

Due to this overlapping of illegal conducts—suffered and perpetrated by the same subject—the victims may simultaneously hold legal positions that are in conflict with each other. Such a situation causes a complicated question concerning the relationship between these status: not only on a theoretical level, but also on a practical one (Jovanovic 2017; Schloenhardt Markey-Towler 2016).

Consequently, it may occur that victims do not submit a report to the judicial authorities, because they are ashamed or even scared to be considered themselves as crime perpetrators. They do not confide in their dear ones and hesitate to submit reports to judicial authorities, because they are afraid of being accused in turn.

In this regard, not prosecuting THB victims means protecting them and making them free to report and testify against their tormentors. Therefore, the States Parties in the ECHR are bound to avoid incriminating offended people.

Ensuring non-punishment of victims means avoiding prosecution of the weak and more effectively prosecuting criminal organizations for their serious crimes. Among other things, the application of this principle actually has a double effect. Not only the latter increases the reporting by victims of trafficking, as it has already been stated. Moreover, the above-mentioned “non-punishment principle” ensures that the victims of trafficking—not being accused—can fully be heard as witnesses: they would be required to answer and answer truthfully. Otherwise, if they too were considered as accused persons, they would be entitled not to answer due to the guarantee of the rights of defence. In particular, these reflections are appropriate taking into account the context of the Italian legal system (Ferrara 2020; Nicodemi 2015).

This kind of positive obligation to not-prosecute victims for their minor offences will be at the core of the following considerations.

The principle in question was clearly acknowledged by the ECtHR, in the judgment related to the *V.C.L. and A.N. v. U.K.* case (ECtHR, 16.02.2021, *V.C.L. and A.N. v. U.K.*). The main points of this judgment revolve around the positive obligation to take operational measures, namely to not prosecute victims of THB.

The alleged fact concerned two Vietnamese children who were discovered by police officers while working in cannabis crops. They were arrested on charges of infringing drug legislation, pleaded guilty and were detained in young offender’s institutes. A competent authority subsequently recognised them as victims of trafficking. However, the public prosecutor concluded that they were not THB victims and the national Court of Appeal found that the decision to prosecute them had been justified.

Following this, the defense of the two children turned to the ECtHR, focusing on Articles 4 and 6 § 1 ECHR. In particular, both the applicants argued that their prosecution violated Art. 4 ECHR, because of the failure in identifying them as trafficking victims. The Government intervened in the trial before the ECtHR, affirming that the applicants could not claim to be “victims” of the alleged violation, since the domestic courts decided to exclude that they were credible offended persons relating to THB.

In this frame, the European Court acknowledged that the involved State was bound by the cited positive obligation to take operational measures. It recognised the



failure of the judicial authorities to protect the two applicants and stated the lack in respecting the duty to guarantee their needed protection.

Besides the violation of Art. 4 ECHR, the applicants claimed a further infringement, related to Art. 6 § 1 ECHR. This violation was argued by the applicants from their point of view as accused people. They argued that a guilty plea did not extinguish their fair trial rights. For its part, The Government affirmed that the proceedings had been fair, since the applicants—in the context of plea bargains—waived their right to an assessment of guilt or innocence by the domestic courts. However, following several remarks, the ECtHR also declared a violation of Article 6 § 1 of the Convention.

## **6 The Normative Background: The Non-Incriminating Principle and Its Several Supranational Sources**

The principle which leads to not punishing the criminal conduct committed by victims of THB arises not only in the frame of the ECHR, but also from further normative sources.

Firstly, this principle is affirmed by the “Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children”, supplementing the United Nations “Convention against Transnational Organized Crime”, the so-called Palermo Convention of 15 November 2000.

Secondly, it is recognised by Art. 26, 2005 of the Warsaw Convention: Council of Europe “Convention on Action against Trafficking in Human Beings”. According to this Article, «each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so».

The above-mentioned principle is also acknowledged by Art. 8 of Directive 2011/36/EU, on preventing and combating trafficking in human beings and protecting its victims. In the light of this Article, «Member States shall [...] take the necessary measures to ensure that competent national authorities are entitled not to prosecute or impose penalties on victims of trafficking in human beings for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being subjected to» THB.

It is noteworthy that the same principle is stated also in the frame of Art. 4, No. 2 of the 2014 Protocol to the 1930 ILO Forced Labour Convention. Similarly to Directive 2011/36/EU, the cited Article affirms that «each Member shall, in accordance with the basic principles of its legal system, take the necessary measures to ensure that competent authorities are entitled not to prosecute or impose penalties on victims of forced or compulsory labour for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced

or compulsory labour» (P029 - Protocol of 2014 to the Forced Labour Convention, 1930).

A further affirmation of the principle in question can be found in the ASEAN Convention binding the Member States of the Association of Southeast Asian Nations (ASEAN Convention against Trafficking in Persons, especially Women and Children, 23.11.2015). Under Art. 14, titled “Protection of Victims of Trafficking in Person”, No. 7, it is stated that «each Party shall, subject to its domestic laws, rules, regulations and policies, and in appropriate cases, consider not holding victims of trafficking in persons criminally or administratively liable, for unlawful acts committed by them, if such acts are directly related to the acts of trafficking».

The fact that the non-incriminating principle is stated by so many supranational sources testifies its great importance to fight THB and protect victims.

## 7 A Comparative Analysis: Failures of the Italian Legal System and Legislator’s Efforts in the German One

The above-mentioned *V.C.L. and A.N. v. U.K.* ECtHR judgment deserves particular attention, in so far as it highlights the States’ duty to not prosecute victims of THB for the minor crimes they may have committed against their will.

Since in this case the victims were subjected to criminal proceedings for such crimes, the ECtHR condemned the involved U.K. for not complying with Art. 4 ECHR. The reasoning of the European Court raises some central issues. In this regard, it will be appropriate to examine the position of other States—in particular, the Italian and the German ones—with respect to this obligation.

It may be questioned whether or not—in order to comply with the considered obligation—it is enough for a State legislation to provide for the “state of necessity”, in order to avoid punishing victims of trafficking for minor crimes they have committed. The tool of the “state of necessity” represents the main available one which can be found in the Italian system in this regard (the Court of Cassation, Section VI, 16.11.2023, no. 2319, [www.sistemapenale.it](http://www.sistemapenale.it), 1.2.2024, recognised the “state of necessity” under Article 54 Ital. CC (Criminal Code), with respect to the victims of trafficking in conditions of servitude to drug trafficking organizations).

At first glance, the solution based on the “state of necessity” seems to be suitable. However, this initial impression is not valid as it is considered that the “state of necessity”, under Art. 54 Ital. CC, represents a cause of justification which must be proved in the criminal trial by whoever puts it forward. It is important to highlight that demonstrating the existence of the “state of necessity” is far from easy. Many victims are not even aware of their own status and may not be able to recognise that they are or were subjected to their tormentors. UNHCR guidelines stress that the victim can be so manipulated by their abusers and that they are not able to realise their subservient position (L’identificazione delle vittime di tratta tra i richiedenti protezione internazionale e procedure di referral, Linee Guida per le Commissioni Territoriali per

il riconoscimento della protezione internazionale, Commissione nazionale per il diritto di asilo, 30.11.2016; Guidelines on International Protection: The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked, 7.4.2006, [www.unhcr.org](http://www.unhcr.org)). Therefore, for an early and prompt identification of trafficking victims, it may be important to rely on the criteria established by the UCHR and totally disregard the allegations and qualifications of the facts by the people directly concerned.

In this frame, it may be enlightening to mention two judgments of the Italian Court of Cassation, which relieved some protection and asylum seekers of the burden of providing the requested information or proof (in particular, Court of Cassation, Section II, 27.01.2021, n. 1750, Rv. 660228, related to international protection issues; subsequently, along the lines of the cited judgment, see Court of Cassation, Section I, 12.01.2022, no. 676, Rv. 663487, in the field of humanitarian protection and asylum applications). This approach has specifically lightened the burden of trafficking victims to “qualify” facts they generically alleged.

It should be clear by now that something different from, and more incisive than, the “state of necessity” is needed. The above-mentioned judgment of the ECtHR *V.C.L. and A.n. v. U.K.* underlines that the State’s abstention from proceedings must be guaranteed even in a preventive way. This judgment affirms that the State is obliged not to persecute the «potential victims» of THB. As a consequence, if the authorities are aware (or they should be aware) of a potential THB victim status, they must submit the case to a qualified assessment: they may opt to prosecute the involved person, only if the result of this evaluation excludes such a status. In other words, a specific and automatic *non-lieu* (dismissal) rule is needed. Such a solution—as it has been stated—may be included in the frame of the above considered duties to protect victims through operational measures.

Returning to the Italian system, a possible (though limited) alternative exists, namely the “particular tenuity of the fact”, which can be invoked under the conditions set out in Art. 131-*bis* Ital. CC. Since the “particular tenuity of the fact” corresponds to *non-lieu* grounds, it could be possible to employ it in order to comply with the non-prosecuting obligation.

A principle worthy of note, in the Italian legal system, is the “mandatory prosecution”, enshrined in the Constitution itself. This provision is very significant and can be considered as the expression of further fundamental principles, namely legality and equality (Parlato 2012). However, in practice it strongly reduces the possibility of having recourse to forms of dismissal for reasons of discretion.

In contrast, in the German system, the principles of “mandatory prosecution” and “legality of prosecution system” (*Legalitätsprinzip*) coexist with the principle of “discretionary prosecution system” (*Opportunitätsprinzip*). This justifies the presence in the system of numerous grounds of dismissal for reasons of discretion. Among these grounds, one was created by the German legislator, precisely with reference to THB, namely § 154c, II, German CPC (Criminal Procedure Code, StPO). § 154c German CPC is entitled “Refraining from Prosecuting the Victim of Coercion or Extortion”. It initially contained only one section (RGBl. 1935, 846, and

1940, 754; Siebenunddreißigstes Strafrechtsänderungsgesetz—§§ 180b, 181 StGB—(37. StrÄndG), 11.02.2005, BGBl I 239). The latter establishes that «if coercion or extortion (§§ 240, 253 German CC, Criminal Code, StGB) has been committed by threatening to disclose a criminal offence, the public prosecutor’s office may refrain from prosecuting the act whose disclosure was threatened», unless the seriousness of the act requires punishment. Later, a second section was added to the norm precisely in relation to THB. It states that if the victim of coercion, extortion or trafficking in human beings (§§ 240, 253, 232 German CC) reports the crime (§ 158 German CC) and, as a result, an offence committed by the victim becomes known, the public prosecutor’s office may refrain from prosecuting this offence, unless the seriousness of the act requires punishment (§ 154c German CPC): Gesetz zur Verbesserung der Bekämpfung des Menschenhandels und zur Änderung des Bundeszentralregistergesetzes sowie des Achten Buches Sozialgesetzbuch, 11.10.2016, BGBl 2016 I 2226). In this regard, it has been observed that it is as if the victim benefits from a sort of immunity (Ruggieri 1998; see also: Haverkamp 2018; Ofosu-Ayeh 2020; Parlato 2012; Renzikowski 2020).

## 8 Concluding Remarks

In conclusion, it may be appropriate to add some considerations on the particular vulnerability of THB victims. Most times, their status falls under the provisions of Directive 2012/29/EU and of Art. 190-*quater* Ital. CPC (implementing the above-mentioned Directive).

Victims often refuse to rise up against their abusers and report crimes. However, in some cases, the offended persons do not recognise their subordinate role, because they were lured into forced labour through “too good to be true” offers. Victims, who often come from dysfunctional environments, want to believe such proposals to be true.

The particular vulnerability of THB victims, together with the violence and threats they are subjected to, often results in them committing crimes they would have avoided, if they had been free. Many of these conducts are in themselves punishable, depending on domestic law. As most of the time, they are connected to the person’s intimacy and sexuality, the victim may feel too guilty and ashamed to report the crime.

Therefore, the fight against THB has to be twofold, when it involves prostitution or drug marketing. Preventive action should be taken, also through proper and diffused information, so that potential victims do not fall into the trap of appealing job offers or sentimental proposals that promise financial stability and welfare (e.g. the so-called “lover boys”). At present, this is particularly true for people fleeing their countries because of war. For instance, an increase of THB cases has been recently recorded in relation to Ukraine’s conflicts. The risk of becoming THB victims is now higher than before, as many people have become impoverished as a consequence of the pandemic and are likely to fall into the hands of criminal groups.

Thus, it is imperative to avoid persecuting THB victims for the minor crimes they have committed because of their subservient status. Paying more attention to these specific issues would certainly strengthen the fight against the most severe cases of THB. Avoiding to persecute THB victims can result in a significant advantage of justice over criminal groups.

## References

- Annoni A (2013) Gli obblighi internazionali in materia di tratta di esseri umani. In: Forlati S (ed) *La lotta alla tratta di esseri umani fra dimensione internazionale e ordinamento interno*. ESI, Napoli, pp 1–28
- Ferrara C (2019) Prime applicazioni giurisprudenziali in tema di tratta di esseri umani. <http://www.giustiziainsieme.com>. Accessed on 11 Oct 2019
- Ferrara C (2020) Il traffico di migranti nel Mediterraneo in un ufficio giudiziario di frontiera. L'esperienza della Procura della Repubblica di Palermo. In: Militello V, Spena A, Mangiaracina A, Siracusa L (eds) *I traffici illeciti nel mediterraneo. Persone, stupefacenti, tabacco*, Torino, Giappichelli, pp 193–218
- Haverkamp R (2018) Evidenzbasierte kriminalprävention im bereich menschenhandel. In: Walsh M, Armbrorst A Pniewski B, Kober M (eds) *Evidenzorientierte Kriminalprävention in Deutschland: ein Leitfaden für Politik und Praxis*, Springer, Cham, pp 777–801
- Jovanovic M (2017) The principle of non-punishment of victims of trafficking in human beings: a quest for rationale and practical guidance. *J Traf Hum Exploit* 1:41–76
- Militello V (2019) Trafficking in human beings vs. migrant smuggling: a dangerous relationship. In: Militello V, Spena A (eds) *Between criminalization and protection. The Italian way of dealing with migrant smuggling and trafficking within the European and international context*, Leiden, Boston, Brill, pp 55–78
- Nicodemi F (2015) La tutela delle vittime della tratta di persone in Italia oggi. Riflessioni sulle capacità di risposta del Sistema italiano alle vittime del trafficking rispetto alle evoluzioni del fenomeno. *Dirit Immigrazione e Cittadinanza* 2:83–108
- Noordzij DM (2022) Victim-centred approaches to investigations and prosecutions. In: *Protecting victims during judicial proceedings and ensuring maximum penalties for perpetrators, presentation carried out in the context of the seminar entitled trafficking in human beings: countering impunity enhancing investigations and prosecutions*, ERA, Vienna, 1–2 December 2022
- Ofosu-Ayeh O (2020) Die strafbarkeit des menschenhandels und seiner ausbeutungsformen: §§ 232–232b StGB, Nomos, Baden-Baden
- Parlato L (2012) *Il contributo della vittima tra azione e prova*, Torri del Vento, Palermo
- Renzikowski J (2020) Die menschenhandelsdelikte nach der reform. In: KOK (ed) *Menschenhandel in Deutschland—rechte und schutz für betroffene*. Berlin, KOK e V, pp 62–74
- Ruggieri F (1998) *Introduzione al sistema processuale penale Tedesco*. In: Galantini N, Ruggieri F (eds) *Scritti inediti di procedura penale Dipartimento di Scienze Giuridiche dell'Università di Trento*. Trento, pp 87–157
- Schloenhardt A, Markey-Towler R (2016) Non-criminalisation of victims of trafficking in persons—principles, promises, and perspectives. *Groningen J Int Law* 4:10–38
- Venturoli M (2013) La direttiva 2011/36/UE: uno strumento “completo” per contrastare la tratta degli esseri umani. In: Forlati S (ed) *La lotta alla tratta di esseri umani fra dimensione internazionale e ordinamento interno*. ESI, Napoli, pp 47–68

# The Rights of Unaccompanied Migrants from Their Arrival to the Adulthood



Iolanda Roberta Sollima

**Abstract** This chapter is aimed at examining, in a critical perspective, the current situation about unaccompanied migrants, in the light of International legislations as well as national and European case law. First, it will be introduced the topic departing from International provisions on reception and protection of unaccompanied minors, also analysing some ECtHR pronouncements regarding refoulement and detention. Then, it will be examined the living conditions of minors and the related problems in the context of the “best interest of the child”. It will be focused also the matter of transition to adulthood and the main problems faced by young migrant. Therefore, in analysing Italian legislation it will be highlighted the introduction of the volunteer guardians and the new protocol for the age assessment.

## 1 Introduction

According to the last Eurostat Report,<sup>1</sup> in 2020, the estimated number of first-time asylum applicants—having the status of unaccompanied migrants—was about 13,600.<sup>2</sup> This value constituted 10% of all the applicants aged less than 18, who were 31.1% of all the claimants.<sup>3</sup>

These values, analysed within the trend registered in the decade 2010–2020, are the consequence of a decrease registered since 2015 (after the migration crisis), but it is far from the lowest value observed in 2010. Regarding the share of unaccompanied migrants in the total number of minors claiming asylum, the trend during the decade

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<sup>1</sup> [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Children\\_in\\_migration\\_-\\_asylum\\_applicants#Main\\_features\\_at\\_EU\\_level\\_in\\_2020](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Children_in_migration_-_asylum_applicants#Main_features_at_EU_level_in_2020).

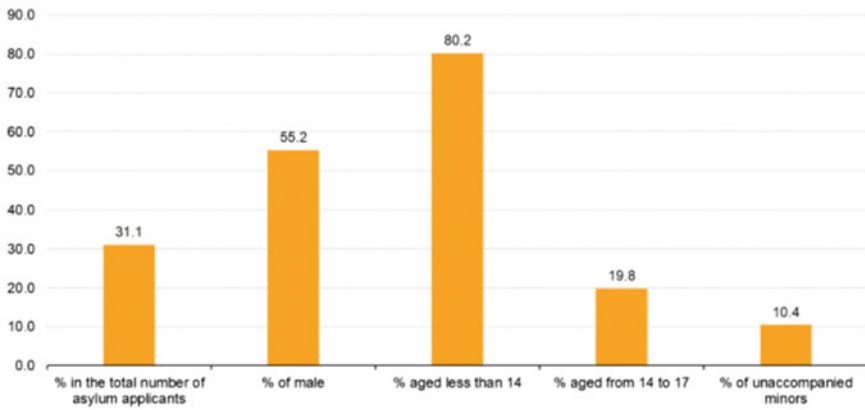
<sup>2</sup> Monthly reports on unaccompanied migrant seeking asylum are available at [https://ec.europa.eu/eurostat/databrowser/view/migr\\_asyumactm/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/migr_asyumactm/default/table?lang=en).

<sup>3</sup> According to the mentioned statistics, in 2020 the 55.2% were males, the 80.2% were aged less than 14 and the 19.8% were aged from 14 to 17.

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**Main characteristics of the first-time asylum applicants aged less than 18 in 2020, EU (%)**



Source: Eurostat (online data codes: migr\_asyappctza, migr\_asyunaa)



**Fig. 1** Main characteristics of the first-time asylum applicants aged less than 18 in 2020 in the EU (Eurostat)

2010–2020 fluctuated around 10–15%, with two exceptions: the maximum value of 25% in 2015 and the minimum value of 7.9% in 2017 (Fig. 1).

It is to clarify that the statistics do not include the number of “minors in transit”, considering that thousands of minors disappear after their arrival in Europe and before being registered. This happens if they are victims of trafficking or if they prefer, following recommendations of friends or relatives, do not have access to health and welfare services. For the length of the bureaucratic procedures and the lack of adequate information, the reception system is considered as an obstacle to their route, a waste of time and opportunities, so they prefer to hide from the system and continue the migration in risky and unsafety conditions.<sup>4</sup>

The mistrust of the system and the desire for profits bring also unaccompanied migrants already registered to abandon the reception system for irregular or illegal

<sup>4</sup> COM/2017/0211 final. <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:52017DC0211>.

work, becoming untraceable.<sup>5</sup> It is considered that between 2018 and 2020 approximately 20,000 unaccompanied migrants disappeared in Europe, with the reasonable risk of becoming victims of abuse, exploitation and trafficking.<sup>6</sup>

The UN Committee on the Rights of the Child reported, as the main reasons to migrate, the need to escape from wars and conflicts, poverty or natural catastrophes, discrimination or persecution, but also the desire to access to education and welfare, to join family members or the fact of being victim of exploitation.<sup>7</sup> Young migrants move to Europe motivated by the family or by their own willingness. For the families, sending the child abroad is an investment, an opportunity for his/her life but also for obtaining an economic support. The decision depends not only on the living conditions in their Country of origin, but also on the vision of the “European dream” provided from social media or acquaintances.

Both the Dublin III Regulation<sup>8</sup> and the Return Directive<sup>9</sup> consider unaccompanied migrants as particularly vulnerable persons, who need specific procedural guarantees.

They are not only minors, coming in Europe for the above-mentioned reasons but they also experienced the migration alone, and are particularly exposed to traumatic experiences, abuses and trafficking.

Nevertheless, their situation poses some concerns. On the one hand, they are minors, and this status requires the recognition of specific rights and guarantees, but on the other hand they are also migrants, who are subjected to the laws regarding public security and border defence, needing a proper balance.

At the international level the definition of unaccompanied migrants is provided by the UN General Comment no. 6 on Treatment of Unaccompanied and Separated Children and the Dublin III Regulation.<sup>10</sup> Both documents define the figure of a children, aged less than 18, not cared by parents, relatives or by any adult responsible for his/her care. The Comment also stated that the provided guarantees and rights are not limited to young citizens of the State Parties, but also available to «asylum-seeking, refugees and migrant children, irrespective of their nationality, immigration status or statelessness».

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<sup>5</sup> UNCHR, UNICEF(2014) Sani e Salvi. Posizione UNCHR sul superiore interesse del minore. [https://www.unhcr.org/it/wp-content/uploads/sites/97/2020/07/Safe\\_and\\_sound\\_final.pdf](https://www.unhcr.org/it/wp-content/uploads/sites/97/2020/07/Safe_and_sound_final.pdf). For deepening the topic: EUROPEAN MIGRATION NETWORK, How do EU Member States treat cases of missing unaccompanied minors?: EMN Inform, 8 April 2020. [https://emn.ie/wp-content/uploads/2020/04/EU\\_Inform\\_Unaccompanied\\_Minors\\_2020.pdf](https://emn.ie/wp-content/uploads/2020/04/EU_Inform_Unaccompanied_Minors_2020.pdf).

<sup>6</sup> The Guardian, Nearly 17 child migrants a day vanished in Europe since 2018. <https://www.theguardian.com/global-development/2021/apr/21/nearly-17-child-migrants-a-day-vanished-in-europe-since-2018>.

<sup>7</sup> UN Committee on the Rights of the Child (CRC), General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, 1 September 2005, CRC/GC/2005/6. <https://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>.

<sup>8</sup> Considerandum n. 13, Regulation (EU) No 604/2013. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013R0604-20130629>.

<sup>9</sup> Art. 3 co. 9, Directive 2008/115/EC. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32008L0115>.

<sup>10</sup> Regulation No. 604/2013, *ibid.*, Art. 2 j).



The Convention on the Rights of the Child<sup>11</sup> (hereinafter UNCRC), adopted by the General Assembly of the United Nations on the 20th of November 1989, stated the main principles to follow regarding unaccompanied migrants: the principle of non-discrimination (art. 2), the best interest of the child (art. 3), the right to life, survivor and development (art. 6) and the right of every child to freely express her or his views (art. 12).<sup>12</sup>

The best interest of the child is also echoed in the European Charter of Fundamental Rights<sup>13</sup> and, as it will be clarified, in all the legislative acts of the Common European Asylum System. For a better understanding of the rights and guarantees of unaccompanied migrants it is also necessary to refer to the European Convention of Human Rights<sup>14</sup> and the Convention on Action Against Trafficking in Human Beings,<sup>15</sup> especially for what concerns right to life, prohibition of torture and inhuman or degrading treatments, prohibition of slavery and forced labour, right to liberty and security, right to respect for private and family life.

## 2 The Reception Procedure and the Rights of the Child

Since the first encounter with the child, the main principles to be considered are: the child's best interest and the principle of non-discrimination.

The principle of non-discrimination establishes that children's rights must be protected and guaranteed without any discrimination and the Comment no. 6 to the UNCRC recommended, specifically for unaccompanied migrants, to act in various ways depending to the specific needs of children, also addressing specific issues or stigmatisations connected to their status. For this purpose, it is necessary to detect

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<sup>11</sup> UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol 1577, p 3. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

<sup>12</sup> The Convention and the enshrined principles are completed by the following comments: UN Committee on the Rights of the Child (CRC), General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, 1 September 2005, CRC/GC/2005/6. <https://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>; UN Committee on the Rights of the Child (CRC), General comment No. 12 (2009): The right of the child to be heard, 20 July 2009, CRC/C/GC/12. <https://www2.ohchr.org/english/bodies/crc/docs/advanceversions/crc-c-gc-12.pdf>; UN Committee on the Rights of the Child (CRC), General comment no. 5 (2003): General measures of implementation of the Convention on the Rights of the Child, 27 November 2003, CRC/GC/2003/5. <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsiQql8gX5Zxh0cQqSRzx6Zd2%2FQRsDnCTcaruSeZhPr2vUevjbn6t6GSi1fheVp%2Bj5HTLU2Ub%2FPZZtQWn0jExFVnWuhiBbqgAj0dWBoFGbK0c>.

<sup>13</sup> Art. 24 co. 2, Charter of Fundamental Rights of the European Union (2007/C 303/01), 14 December 2007, C 303/1. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012P%2FTXT>.

<sup>14</sup> European Convention for the Protection of Human Rights and Fundamental Freedoms. [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf).

<sup>15</sup> Convention on Action Against Trafficking in Human Beings, 16 May 2005, CETS 197. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012P%2FTXT>.

conditions of vulnerability of each child, in a case-by-case assessment, conducted through interviews in a child-sensitive, fair, culturally and gender-oriented manner.

Regarding “the best interest of the child”, the General Comment no. 14 to UNCRC specified that it has to be taken into account during all the steps of the displacement and for each fundamental decision, defining it after proper assessments based on the identity and history of the child. Moreover, it stated that “the concept of the child’s best interest is aimed at ensuring both the full and effective enjoyment of all the rights recognised in the Convention and the holistic development of the child”.

The concept is considered threefold, representing:

- the substantive “right of the child to have his/her best interest assessed and taken as a primary consideration” in order to make a decision;
- an interpretative legal principle to follow when there are more possible interpretations;
- a procedural rule to consider when a decision should be taken, being necessary explain why is considered the best interest of the child and due to what factors.

## ***2.1 Prohibition of Refoulement and Expulsion***

With regard to return and expulsion of migrant children, General Comment no. 6 to UNCRC affirmed the non-refoulement obligations, according to art. 33 of the 1951 Refugee Convention<sup>16</sup> and art. 3 of the Convention against Torture.<sup>17</sup>

The provision is extended to all the cases where “there are substantial grounds for believing that there is a real risk of irreparable harm to the child” in the country where is to be taken or where it could be subsequently removed. It comprehends not only direct harms but also indirect, and it prescribes the need of an assessment conducted in an age and gender-sensitive manner, considering also “the particularly serious consequences for children of the insufficient provision of food or health services”. In presence of conflicts or war in the country where the child is to be removed, States should value the return if there is a possibility of recruitment, “not only as a combatant but also to provide sexual services”, or of a direct or indirect participation in the conflict.

Despite that, the ECHR condemned some practices put in place by some EU Member States like Belgium and France, having considered them a clear violation of the prohibition of degrading treatments (art. 3), of right of liberty (art.5) and of right to respect for private and family life (art. 8).

Some important principles are provided by the following cases law: *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*<sup>18</sup> and *Moustahi v. France*.

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<sup>16</sup> Convention Relating to the Status of Refugees, 28 July 1951. <https://www.unhcr.org/3b66c2aa10>.

<sup>17</sup> Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984. <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>.

<sup>18</sup> *Mayeka and Kaniki Mitunga v. Belgium*, Application no.13178/03, ECHR, 12 October 2006. <https://hudoc.echr.coe.int/fre?i=002-3083>.

In the first case, Belgian authorities detained for two months a five years old child in a centre designed for adults, not considering that had arrived in Belgium with her uncle. Additionally, notwithstanding that the mother gained the status of refugee in Canada and started there the procedure for obtaining a VISA for the daughter, the Belgium authorities deported the child. For the Court it is manifest the lack of humanity and the distress caused to the minor, having Belgium violated its positive obligations deriving from art. 8, namely taking care of the child and facilitating the family reunification.

In the case *Moustahi v. France*,<sup>19</sup> the French authorities detained and deported two minors, considering them being cared by a migrant who arrived at the same time, even though their father reached the Police station declaring they were his sons and showing the birth certificates. The Court underlined a practice used in Mayotte, for which minors are often arbitrarily considered being cared by some adults arrived at the same time, for making possible the detention and the expulsion. The fact that the authorities arbitrarily established a relation between the children and another migrant, although their father went at the Police Station, and the fact that the father was prevented from meeting his children are evaluated as violations of art. 8, not being in the best interest of the minors.

## 2.2 Identification and Age Assessment

From the first encounter with a migrant child, it is necessary to adopt the necessary protection measures and satisfy the primary needs, detecting specific vulnerabilities and distresses. It is also essential to understand if the minor is accompanied or not, determining the two situations different procedures.

Since this preliminary phase, aimed at securing children and providing health measures, the actors involved should take any decision with the aim of guaranteeing the best interest of the child.<sup>20</sup>

The Dublin III Regulation<sup>21</sup> stated that accompanied minors should be assisted or represented by a representative who has to take into account the best interest of the child during the procedures for the asylum claims.<sup>22</sup> This person will assist the child for all his/her stay, since the identification to the majority, acting in accordance with child's best interest, properly assessed in relation to his/her own identity, traumas and background.

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<sup>19</sup> *Moustahi v. France*, Application no. 9347/14, § 64, ECHR, 25 June 2020. <https://hudoc.echr.coe.int/fre?i=001-203163>.

<sup>20</sup> Considerandum no. 9, Directive 2013/33/EU (recast). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033>.

<sup>21</sup> Regulation (EU) No 604/2013, *ibid.*, Art. 6 co. 2.

<sup>22</sup> Art. 13 co. 2. Directive 2011/36/EU. <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32011L0036>.

The main issue at this phase is the evaluation of the age, relevant for defining the rules about procedure and treatment. Indeed, the recognition of some rights and liberties is strictly connected to the *status* of minor and it is crucial avoid depriving a child of this right. Furthermore, for warding off risks of abuses, trafficking and re-trafficking, minors should be separated from adults as soon as possible.

The main sources for detecting the age are identity documents, but often migrants lose theirs during the route or hide them, so it is necessary the reference to other methods.

As the procedure is considered intrusive and could constitute a new trauma, it should be executed only if there is a reasonable doubt on the age of the child and according to his/her best interest.

The representative should supervise the procedure and the law should provide the right to an effective remedy<sup>23</sup> for challenging the age assessment decision.<sup>24</sup> It is important conducting the evaluation in a safe, child-sensitive, gender and culture-oriented manner, preserving the integrity of the child, explaining clearly what will happen and why and, also, that he/she can refuse the examination.

In case of doubts about the child's age, different measures could be put in practice, prioritising the less intrusive, according to a case-by-case assessment based on the history, the identity and the migration experience.

The first measures that should be used, as less intrusive, are: analysis of identity documents and evidence collected, general interview and psychological assessment. The procedure should be continued only if persists, after the previous methods, a reasonable doubt about the age of the child.

Only in this case, it should be practiced medical exams and EASO recommended first the less intrusive (dental observation, MRI, exams on physical development) and, only as measure of last resort, the medical exams including X-rays (carpal, collar, bone, pelvic or dental). When the assessment becomes intrusive and stressful for the child, it should be stopped, regardless of its accuracy.

The mentioned exams do not provide precise and accurate results and consequently it is preferable talking about "evaluation" of the age, rather than "determination". Moreover, for the same reason, it should be considered the possibility of mistakes, giving the benefit of the doubt. Actually, the benefit of the doubt is not always respected and, sometimes children are detained in inhuman conditions while they wait for the results and, sometimes, also after it is assessed they are minors.

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<sup>23</sup> It seems useful highlight that in France it is possible appeal the decision. Nonetheless, during the process of appeal, it is not possible to take the person into care, and more young migrants start to live up on the street. More information available on OXAM, Teach us for what is coming—The transition into adulthood of foreign unaccompanied minors in Europe: case studies from France, Greece, Ireland, Italy, and the Netherlands, 2021. <https://www.oxfamitalia.org/wp-content/uploads/2021/06/Teach-us-for-what-is-coming-report.pdf>.

<sup>24</sup> EASO, Practical Guide on Age Assessment—Second Edition, 2018. <https://www.easo.europa.eu/sites/default/files/easo-practical-guide-on-age-assessment-v3-2018.pdf>

This happened in the case *Abdullahi Elmi and Aweys Abubakar v. Malta*,<sup>25</sup> where two minors were detained in Malta for months waiting for the results of a medical examination (X-rays of the bones of the wrist). One of them claimed difficult conditions of detention, without adequate information and basic facilities, also manifesting difficulties to meet a doctor. They were detained with adults in an overcrowded centre where fights often occurred. The ECHR condemned Malta, stating the existence of a violation of art. 3 for degrading and inhuman treatments, especially for the minor age of the children and their status of asylum seekers.

### 2.3 Detention of Minors

As a general principle, children cannot be detained for the reason of being unaccompanied or for the irregular entry or permanence in a State. Detention is allowed only for specific exceptionally justified reasons and as a measure of last resort, according to the principle of proportionality and only for the shortest period of time and following the best interest of the child.

The General Comment no. 6 to UNCRC stated that the approach should not be of detention, but “care”, children should be separated from adults unless it is their best interest. «They should also be provided with the opportunity to receive all basic necessities as well as appropriate medical treatment and psychological counselling where necessary. During their period in detention, children have the right to education which ought, ideally, to take place outside the detention premises in order to facilitate the continuance of their education upon release. They also have the right to recreation and play as provided for in article 31 of the Convention.

In order to effectively secure the rights provided by article 37 (d) of the Convention, unaccompanied or separated children deprived of their liberty shall be provided with prompt and free access to legal and other appropriate assistance, including the assignment of a legal representative».

Art. 37 of the UNCRC stated that «No child shall be deprived of his/her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time».

It is worth also mentioning art. 5 of the ECHR, which remarks the right of liberty unless the deprivation is circumscribed to specific situations and executed according to a lawful procedure.<sup>26</sup>

Despite of this normative frame, some States systematically detain children in police stations as highlighted by NGO’s reports and by some ECHR case law.

In this regard, it is worth a reference to *H.A. v. Greece and Sh.D. v. Greece*, where the Court condemned Greece for having detained minors in police cells not

<sup>25</sup> *Abdullahi Elmi and Aweys Abubakar v. Malta*, Applications no. 25794/13 and 28151/13, ECHR, 22 November 2016. <https://hudoc.echr.coe.int/FRE?i=001-168780>.

<sup>26</sup> ECHR, *ibid.*, art. 5.



Fig. 2 Life in and after detention (<https://www.hrw.org/node/375270/printable/print>)

considering their vulnerabilities and causing feeling of distress, isolation and fear and, consequently, putting in place degrading and inhuman treatment prohibited by art. 3 of the Convention.

Several reports of NGOs and of the Council of Europe<sup>27</sup> remarked that Greek Police regularly detained minors through the concept of the “protective custody” (προστατευτική φύλαξη) until a shelter placement was available and that minors were detained with adults and without adequate security measure, in “an oppressive and prison-like atmosphere”.

This situation persisted also in 2020, aggravated by the COVID-19 pandemic and the diffusion of contagious between the detainees (Doshi and Goyal 2020) but on December 2020 Greece finally abolished the legal provision of the protective custody (Barn et al. 2021), operating the relocation of unaccompanied migrants in other EU Member States (Fig. 2).

The ECtHR, in the above mentioned *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium* case, also stated a violation of art. 3 and 5 (right to liberty), considering that Belgium has not provided adequate protection to liberty. Additionally, it remarked the absence of an effective remedy to detention “with a view to that person obtaining speedy judicial review of the lawfulness of the detention capable of leading, where appropriate, to his or her release”.<sup>28</sup> Indeed, the Belgian law provides the appeal to the *Chambre du conseil*, but in the specific case the deportation of the child was

<sup>27</sup> Council of Europe, Committee for the Prevention of Torture, Concluding observations on the seventh periodic report of Greece, 3 September 2019, p 5. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fGRC%2fCO%2f7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fGRC%2fCO%2f7&Lang=en).

Council of Europe, Committee for the Prevention of Torture, Report to the Greek Government on the visits to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 18 April and 19 to 25 July 2016, 26 September 2017. <https://rm.coe.int/pdf/168074f85d>.

<sup>28</sup> ECHR, *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, *ibid.*, § 122.

organised without waiting for a decision after the application for the release to the *Chambre* and, without waiting the expiration of the term for the appeal. Consequently, notwithstanding Belgian law provided a specific remedy, in the specific case it was ineffective.

## ***2.4 Accomodation and Search of a Durable Solution***

Once the age of the children is estimated, each State Party has to provide a proper accommodation, facilities, health services and rehabilitation, taking care of their physical and psychological integrity and considering their particular vulnerabilities, case by case. The provided standard of living must be adequate to the physical, mental, spiritual, and moral development of the minor.

After the child moves to the facility, it should be provided, in a child-oriented manner, information about procedures for asylum, reunification and other kind of protection measure for victims of trafficking. The information provided by the child could also activate procedures for tracing the family as soon as possible.

At this stage, it should be defined a durable solution considering all the possibilities, according to the best interest of the child, the tracing of family, the situation in the Country of origin and his/her health and development.

This solution shall consist of reunification in the Country of origin, reunification in the State of arrival or another State where the family is, providing asylum or a legal status which permits them to live and be integrated in the State, resettlement.

The return in the Country of origin is excluded if would lead a risk for the minor that can imply a breach of his/her rights, according to the principle of non-refoulement and expulsion. It is allowed only if considered in the best interest of the child.

If the best option for the child is to remain in the local community, the actors involved and the competent authorities will assess the adequate long-term measures for the integration.

Meanwhile, it should be provided access to education, training, health care and social services as enjoyed by national children, respecting the principle of non-discrimination and providing also professional training for the adolescents.

The child has always to be properly informed, also with the assistance of a cultural mediator, in a comprehensible language and child sensitive.

It must be pointed out that, once again, the real situation differs from the legal background.

The *Khan v. France*<sup>29</sup> case gives a suitable demonstration of the failure by the States to protect children, particularly related to the positive obligations deriving from art. 3 of ECHR.

The Court of Human Rights highlighted also that art. 3 does not imply only the prohibition to put in place some conducts, but also to engage specific actions to

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<sup>29</sup> Khan v. France 12267/16, ECHR, 28 May 2019. <https://hudoc.echr.coe.int/eng/?i=001-191277>.



provide the effectivity of human rights and, specifically, the prohibition of torture and degrading treatments.

The specific case regarded a 12 years child, living in the *Calais* heath, in precarious conditions, with serious risks for his physical and mental health. The Court considered that the situation in the Calais zone was inhuman and that the State failed in his positive obligation to protect and take care of unaccompanied children. Especially because the Country intervened only after an order of the Youth Judge, but nothing was provided before this decision, notwithstanding the number of migrants and the inappropriate living conditions of all these people.

## 2.5 *Transition to Adulthood*

While for accompanied migrants the majority means the automatic conversion of their residence permit, the situation changes in respect of unaccompanied migrants.

Reaching the 18 means loss of accommodation, protection, contacts with the social workers, health services, guarantees and rights they were used to in the previous years. This situation causes a huge trauma, distress and fears, sometimes leading the young migrants to escape from the facilities, living in risky and unsafety conditions.

Young migrants with psychological traumas who had started a therapy should break off at 18, because costs for therapies are not covered by the State and usually, they are not able to afford it.

Moreover, when there is not a transition period, migrants have to search another accommodation, facing challenges such as lack of affordable housing, impossibility to afford the costs and also discrimination in the housing market. Sometimes they become homeless and start to live in precarious situations.

All these challenges, analysed with the generated distress and the break of the integration could represent the ineffectiveness of what has been done during their minor age.

Consequently, the UN High Commissioner for Refugees and the Council of Europe sustained the need of proper integration for facilitating the transition to adulthood.<sup>30</sup> Integration means, in this sense, not the simple learning of the language, but an “ongoing process through educational or professional participation in a society, but also through engagement and support”.

The Council of Europe, in a specific recommendation,<sup>31</sup> encouraged the States to improve their legal frameworks regarding the transition, ensuring welfare benefits and accommodations in this period, but also protection, adequate educational opportunities and social integration, including in family or community-based accommodation,

<sup>30</sup> UN High Commissioner for Refugees (UNHCR), Unaccompanied and Separated Asylum-seeking and Refugee Children Turning Eighteen: What to Celebrate? March 2014. <https://rm.coe.int/16807023ba>.

<sup>31</sup> Council of Europe, Supporting Young Refugees in Transition to Adulthood—Recommendation CM/Rec(2019)4. <https://rm.coe.int/recommendation-cm-2019-4-supporting-young-refugees-transition-adulthoo/168098e814>.



if this is appropriate and in accordance with the wishes of all parties involved. It also highlights the importance of youth work, non-formal education learning and the support of migrants' competences and aspirations.

What has been reported about EU Member States is that often the best practices are limited to local experiences or carried out by NGOs. There is not a legal framework that coordinates both political and public administration sectors which are supposed to help minor until autonomy.<sup>32</sup>

The situation is very unequal from one Country, or one municipality, to another and led the European Commission to manifest its concerns about suggesting a new strategy for the Member States for the next years.<sup>33</sup>

### 3 Italy: Strengths and Weaknesses of the Legislation on Unaccompanied Migrants

The report of the Ministry of Labour and Welfare for the month of November 2021 reported 11,159 unaccompanied migrants registered in Italy, the majority of whom are males and 17 years old, mainly located in Sicily (Fig. 3).

Currently Italy is one of the first countries in Europe to have adopted an organic law specifically thought for unaccompanied migrants. It is the Law no. 47 of 2017,<sup>34</sup> called "Zampa Law", by the name of the senator who firming the act, that represents a milestone in the area of reception system for unaccompanied migrants.

This paragraph is aimed at analysing the some provisions of Law no. 47/2017 as well as other Italian rules governing the situation of unaccompanied migrants, to ascertain if Italy is in line with the international prescriptions and if there are critical issues.

Art. 2 of Law no. 47/2017 defines as unaccompanied minor a foreign minor, not being Italian or EU citizen, that for any reason is in the national territory or that is in any way subjected to the Italian jurisdiction, not being cared and represented by parents or adults legally responsible according to Italian laws.

One of the main aspects of the law is the expressed parification of unaccompanied foreign minors to Italian or EU citizens, recognising their specific vulnerability.

Another relevant statement is constituted by art. 3, that modifies Art. 19 of Legislative Decree 286/98 (TUI)<sup>35</sup> and sets the prohibition of refoulement and expulsion of children, according to the international prescriptions.

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<sup>32</sup> For more information: Integrating young refugees in the EU - Country, 20 October 2020. <https://fra.europa.eu/en/publication/2020/integrating-young-refugees-eu-country-information#publication-tab-1> .

<sup>33</sup> See: COM/2021/142 Final. <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:52021DC0142>; COM/2020/758 final. <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52020DC0758>.

<sup>34</sup> Law 7 April 2017 no. 47. <https://www.gazzettaufficiale.it/eli/id/2017/04/21/17G00062/sg> .

<sup>35</sup> Legislative Decree 25 July 1988 no. 286. <https://www.gazzettaufficiale.it/eli/id/1998/08/18/098G0348/sg>.

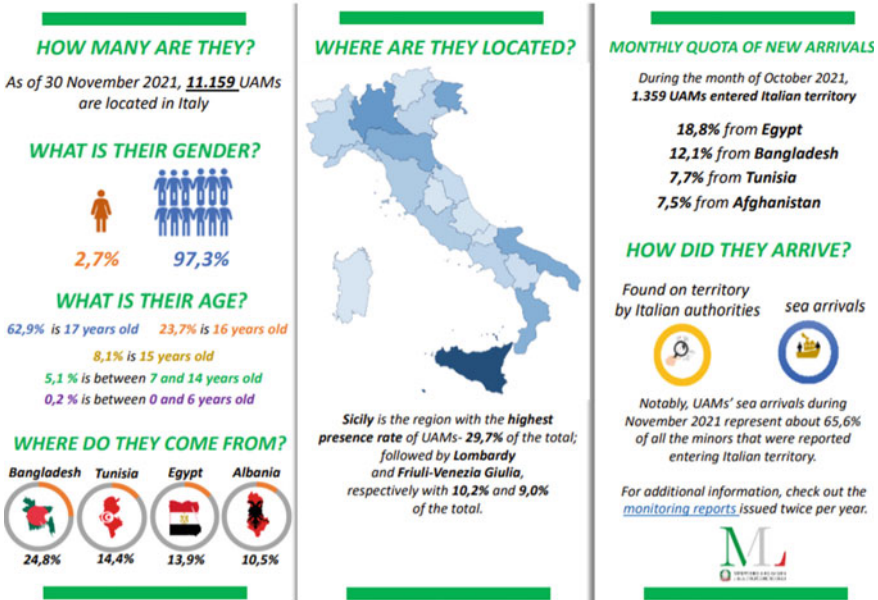


Fig. 3 Migrants in Italy (<http://www.lavoro.gov.it>)

This clearly reveals that children’s rights prevail on public order and border defence, as the only exception provided regards the situation in which parents or custodians are expelled.

It is also remarkable the provision concerning the national informatic system for migrant minors (SIM), for monitoring the children and registering the “social folder” with all the useful information for designing a durable project of life for the minor.<sup>36</sup>

### 3.1 The Volunteer Guardian

The presence of an unaccompanied minor should be immediately noticed to the competent authorities and then he/she should be conducted in an adequate accommodation. The facility manager should ask the Juvenile Court to nominate a guardian within 30 days,<sup>37</sup> meanwhile the manager eventually decides according to the child’s best interest.

For overcoming a situation of distress of the system, the Law 47/2017 introduced the role of volunteer guardians, instead of professional guardians.<sup>38</sup>

<sup>36</sup> Art. 9, L 47/2017, Ibid.

<sup>37</sup> Art. 19, Legislative Decree 18 August 2015, no. 142.

<sup>38</sup> Art. 11, L. 47/2017, Ibid.

The volunteer guardians are private citizens, properly trained, registered in specific lists at each Juvenile Court, for exercising the legal guardianship of unaccompanied migrants.

A critical point of this innovative figure is the average between the number of volunteers and the unaccompanied minors but also the fact that guardians are generally distributed around the State, while most minors are located in Sicily.<sup>39</sup>

The State is acting to enhance this role and the Budget Law for 2020 adopted specific measures for promoting this activity and making it more effective. Indeed the Budget Law 2020 provided an increase of one thousand euros for: actions in favour of the volunteer guardians; compensation for the businesses, for covering the permits for the reimbursement for the costs incurred by guardians.

### 3.2 *Age Evaluation*

As said before, the age evaluation is the main issue to address at the arrival of a young migrants. The procedure for the age evaluation in Italy must be activated within three days since the request of the competent judicial authorities and should be concluded within 10 days preferably, 20 at most.

The first step is the gathering of identity document, eventually with the assistance of diplomatic authorities,

According to International statements and recommendations, it is established to proceed with further measures only if there are reasonable doubts and it is not possible to define the age by using identity documents. Consequently, the Attorney of the Juvenile court will order for medical examinations.

It is provided a multidisciplinary analysis through various steps: social interview, psychological or neuropsychiatric evaluation, paediatric auxological consultation and specific medical exams. All these consultations must be carried on in a respectful and not invasive way, preserving the psychological and physical integrity of the minor.

It seems relevant to consider that the report on the psychological exams has a specific part referred to vulnerabilities that recommend not to execute an exam of the pubertal development.

Only after the mentioned consultations it is possible, eventually, to proceed with X-rays exams.

The procedure is stopped when there are clear results about the age; if it ends without a clear evaluation, the minority is presumed, respecting the benefit of the doubt, as internationally prescribed.

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<sup>39</sup> In 2019 the number of unaccompanied minors was estimated around 7000, and the number of registered guardians was 2960. For more information: Report on the volunteer guardianship, First semester 2019. <https://tutelavolontaria.garanteinfanzia.org/sites/default/files/2021.05/Rapporto%20monitoraggio%20QUANTITATIVO%20sistema%20tutela%20volontaria%201%20sem%202019.pdf>.

The legislation strongly recommends an adequate communication with the children, providing adequate information in a comprehensible language and according to their maturity, about the assessment, the reason, the possibility to refuse it and results and consequences. All the exams and interviews are executed with the consent of the minor or the guardian, adequately informed, who can also assist taking care of the minor and protecting his/her rights.

In July 2020, it was signed a *Multidisciplinary Protocol for the age assessment of unaccompanied minors*<sup>40</sup> for promoting a common national procedure for the age assessment of unaccompanied children and avoiding different procedures at the local level.

The Law no. 47/2017 and the new protocol underlined the importance of the holistic and multidisciplinary evaluation, carried out by various experts that will write a report, indicating the risk of mistake and clear indication about the used methods.

After the report, which the minor is informed about, the Juvenile Court adopts the order of age attribution, giving proper notice to the minor and the guardian, the Police and the Ministry of Labour and Welfare. The order can be appealed within 10 days from the notification and the Judge should decide within 10 days: in the meantime, any administrative or criminal statement deriving from the assessment of majority is suspended.

The Supreme Court of Cassation,<sup>41</sup> criticising a frequent praxis, remarked that the age assessment is not valid if medical examinations prevail on documents provided, if the assessment is based on a unique exam and not on a multidisciplinary evaluation and if it is not specified the margin of mistake, for eventually applying the presumption of minor age.<sup>42</sup>

### 3.3 *Reception and Permits*

The Italian law stated two level of reception:

- the first level is constituted by governmental child-designed centres that should be used only for the identification and for no longer than 30 days<sup>43</sup>;

<sup>40</sup> Presidenza del Consiglio dei Ministri—Conferenza Unificata, Accordo, ai sensi dell'articolo 9, comma 2, lett. c) del decreto legislativo 28 agosto 1997, n. 281, tra il Governo, le Regioni e le Autonomie locali, sul documento recante "Protocollo multidisciplinare per la determinazione dell'età dei minori stranieri non accompagnati, 9 July 2020. <https://www.simmweb.it/images/proTOCOLLOdeterminazione/p3-cu-atto-rep-n-73-9lug2020.pdf>.

<sup>41</sup> Corte di Cassazione, Sez. I Civile, 03 March 2020, no. 5881.

<sup>42</sup> Similarly Consiglio di Stato, Sez. III, 10 May 2021, no. 3668. [https://www.giustizia-amministrativa.it/portale/pages/istituzionale/visualizza/?nodeRef=&schema=cds&nrg=202007098&nomeFile=202103668\\_11.html&subDir=Provvedimenti](https://www.giustizia-amministrativa.it/portale/pages/istituzionale/visualizza/?nodeRef=&schema=cds&nrg=202007098&nomeFile=202103668_11.html&subDir=Provvedimenti).

<sup>43</sup> These facilities are funded by the European Funding Asylum, Migration, Integration (FAMI).

- the second level facilities are constituted principally by the SAI system<sup>44</sup> but, for the increasing number of arrivals they result insufficient and, consequently, are supported by communities managed by the municipalities and eventually by the extraordinary reception centres for minors (CAS).<sup>45</sup>

Notwithstanding this frame, usually minors are accommodated in the hotspot centres, often overcrowded and without sufficient spaces and hygienic conditions, with adults.

Moreover, the COVID-19 pandemic got worse the conditions of arrival, causing the displacement in quarantine boats after the first identification in the hotspot. Even if at the legal level minors should not be placed in the quarantine boats with adults, some NGOs reported that after their arrival they are often registered as adult in the hotspot, even if they declare to be minors (Nicolosi 2021, Anderlini and Meo 2021).

While the facilities of first level are designed only for the identification and the evaluation of the age, for limited period, the second level structures are organised for various activities related to inclusion and integration of the children: support of cultural and linguistic mediators, definition of a durable project of life, learning of the Italian language, access to education and training courses and also registration for the health cover.<sup>46</sup>

Despite of that, as noted by scholars, the two levels are not clearly separated, for the inadequate capacity of the second level structures, usually overcrowded and that, sometimes the reception facilities strengthen the dependence from the system instead of the process of integration and autonomy (Di Rosa 2019).

Regarding the possible residence permits for minors, they have three options: applying for international protection,<sup>47</sup> obtaining a permit for family reason (if they live in foster families, with their parents or with custodians), obtaining the permit for minor age (if they live in reception facilities).

### ***3.4 Transition to Adulthood***

Focusing on the residence permits for family reasons and for minor age, it is relevant to highlight the different endpoints when the children reach 18.

The permit for family reasons guarantees 18 years old the automatic renewal of their stay and the right to obtain a permit for study, access to work, job, health necessities and care.

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<sup>44</sup> System Acceptance Integration.

<sup>45</sup> Even if thoughts for extraordinary reception situation, nowadays the CAS structures are ordinary used for the reception of migrants.

<sup>46</sup> Art. 14 of L. 47/2017 stated that unaccompanied minors can be registered in the National Health Service. [https://www.gazzettaufficiale.it/atto/stampa/serie\\_generale/originario](https://www.gazzettaufficiale.it/atto/stampa/serie_generale/originario).

<sup>47</sup> It needs to be remarked that Law 1 December 2018 no. 132 (Security Decree) abolished the humanitarian protection, that was re-introduced by the Legislative Decree 21 October 2021, no. 130.

Conversely, this does not happen for the unaccompanied migrants living in the reception facilities, who consider the reach of 18 as a break with their rights and protection, feeling the distress for the renewal of the permit and the possibility of refusal, but also for the loss of an accommodation and the connected relationships.

They can apply for the “administrative continuity”, which can allow them to benefit of the services and facilities for at least three years more, under specific conditions. Indeed, they need a valid passport or another equivalent document and to demonstrate the attendance of courses of study, an employment contract and a positive evaluation from the General Directorate of Immigration of the Ministry of Labour and Welfare.<sup>48</sup> Furthermore, they must have been staying in Italy for minimum three years and have participated in social and civil integration programmes for no less than two years.

It seems appropriate a focus on the concept of integration and its relationship to the job. In some International recommendations, as mentioned, it is pointed out the need of youth work as way for better integrating the minors in the society. Nonetheless, Italy could not be perfectly in line with these provisions, because it is not allowed unaccompanied migrants to work, differently from accompanied migrants or Italian citizens.

The Ministry of Labour clearly established that the residence permit for minor age does not allow to unaccompanied minors to work.<sup>49</sup>

The situation changes considering the possibility of work for accompanied minors and Italian minors, who are equally treated: they can work since the 16 years old respecting specific conditions, and before, with the guarantees provided for the employment of children (Cavaleri 2019).

Regarding this provision, the Italian Constitutional Court<sup>50</sup> pointed out some key points in relation to the conversion of the residence permit for minor age into a permit for work, required by a migrant subjected to guardianship. The Court remarked that art. 32 of Legislative Decree 286/1988 has to be interpreted in an extensive and constitutional-oriented way, in the sense that it allows the conversion of the permit for family reason to accompanied migrants and unaccompanied migrants living in foster families, but also for unaccompanied migrants subjected to guardianship.

It is unquestionable that permitting the youth work could enhance the integration and inclusion in the community and help minors to be more independent, representing a possible durable solution for their independence. Additionally, legalising the work for unaccompanied migrants could avoid illegal entry or irregular work.

Unfortunately, the Zampa Law did not solve this problem and lose the opportunity to fix this leak in the system. It revealed to be a family-oriented law, undermining the

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<sup>48</sup> Art. 32 D. Lgs. 286/1998, *ibid*.

<sup>49</sup> Ministry of Interior, Department of Public Security, Circolare n-300/C/2000/785/P/12-229.28/1^DIV, Permessi di Soggiorno per minore età rilasciati ai sensi dell’art. 28, comma 1 lettera a) del D.P.R. 394/99, 13 November 2000. [https://www2.immigrazione.regione.toscana.it/?q=norma&doc=/db/nir/DbPaesi/circolari/\\_circolare-300-2000.xml&datafine=20211009](https://www2.immigrazione.regione.toscana.it/?q=norma&doc=/db/nir/DbPaesi/circolari/_circolare-300-2000.xml&datafine=20211009).

<sup>50</sup> Corte Costituzionale, 23 May 2003, no. 198. <https://www.giurcost.org/decisioni/2003/0198s-03.html>.

guarantees for unaccompanied migrants in transition and preferring the automatic renewal for children with a family connection.

## 4 Final Considerations

International provisions analysed reveal a complete framework for protecting unaccompanied children under 18 years, being a duty on national authorities to consider all their needs and the different conditions of each child, taking into account that case-by-case assessments are always necessary.

The European laws also echoed the principles enshrined at the International level and particularly the best interest of the child. By contrary, NGOs' reports and cases law reveal a gap between the legal prescriptions and the realm.

It is undoubtful that the migration crisis in 2015 and the current migratory movements pose the system of each Country, especially the front-line States under stress, but this cannot justify the violation of fundamental human rights, as demonstrated by ECHR case law.

Detention, refoulement and expulsions are the main concerns, and it is advisable the cease of all these practices, as happened in Greece, with the abrogation of the protective custody.

Moreover, the presumption of the minor age, as well as the benefit of the doubt should be strengthened, avoiding abuses and diminution of guarantees. As correctly affirmed by the Italian Court of Cassation, it should not be considered valid an assessment based only on one exam, avoiding the multidisciplinary approach and not indicating the margin of mistake for applying the presumption of minor age.

It would be desirable a major attention on the transition to adulthood, for integrating in an effective manner minors in the communities, also through youth work and removing the divergent treatment between the status of migrant minors for the renewal and access to work.

Minors should experience the community in all aspects for growing and be independent, in a process of ongoing integration. In some States, there are some projects, at the local level, aimed at creating training courses and traineeships for migrants, but these actions should be promoted at the national level, preventing different situations depending on the living place.

The discipline has clearly some good basis and some good practices have been developed, but also some critical aspects, as highlighted in the ECHR cases law.

Even if International laws designed a system where rights and guarantees of minors prevail on public security and border defence, this is not always put in practice by public authorities.

In the future, it will be desirable not only for an homogeneous legal framework in all the States, but also an equal level of application in practice as a consequence of the concrete effort for implementing an equal treatment and equal rights for EU and foreign children.

## References

- Anderlini J, Di Meo S (2021) Le politiche confinarie europee ai tempi della pandemia stanno mettendo in luce tutti i limiti di un sistema inadeguato e foriero di problemi e, soprattutto, disumanità. <https://www.rivistailmulino.it/a/approccio-hotspot-e-navi-quarantena>
- Barn R, Di Rosa RT, Kallinikaki T (2021) Unaccompanied minors in Greece and Italy: an exploration of the challenges for social work within tighter immigration and resource constraints in pandemic times. *Soc Sci*. <https://www.mdpi.com/2076-0760/10/4/134/htm>
- Cavaleri V (2019) La disapplicazione del principio di “non discriminazione” nell’integrazione lavorativa del minore straniero non accompagnato. In: Duran Ruiz FJ, Martinez Chicon R (eds) *Migrantes Menores y Juventud Migrante en España y en Italia*. Granada, Comares, pp 219–230
- Di Rosa RT (2019) I minori stranieri non accompagnati in Italia: accoglienza, protezione, inclusione. In: Duran Ruiz FJ, Martinez Chicon R (eds) *Migrantes Menores y Juventud Migrante en España y en Italia*. Granada, Comares, pp 166–186
- Doshi H, Goyal R (2020) The plight of unaccompanied migrant minors in Greek detention system: a national and international perspective. <https://europeanlawblog.eu/2020/07/08/the-plight-of-unaccompanied-migrant-minors-in-greek-detention-system-a-national-and-international-perspective>
- Nicolosi V (2021) L’odissea dei minori stranieri non accompagnati nell’accoglienza italiana. <https://www.micromega.net/odissea-minori-migranti>



# Issues at Stake in Plural Societies: The Case of Muslim Migrant Women's Religious Freedom



Barbara Giovanna Bello

**Abstract** Newcomers' social inclusion poses the question of their religious freedom at the workplace and in public spaces. In contemporary EU plural societies, the friction between fundamental principles seems to particularly affect Muslim women wearing headscarves and full-face veils. Though the judgements adopted by the European Union Court of Justice and the European Court of Human Rights have taken a blind eye to gender-religion based differential treatment or restrictions, this chapter aims to delve into two prominent scholarly debates on and the legal response to the quest for wearing religious symbols. It suggests shifting the focus of the "veiling" and "not veiling" discourse from the dichotomous arguments sustained so far (universal rights *vis a vis* minority rights; gender rights *vis a vis* religious rights) to a "both/and" approach, hopefully allowing Muslim female newcomers' effective moral equality and freedom in Europe

## 1 A Tale of Two Approaches

The recognition of newcomers' religious freedom belongs to the plethora of challenges of contemporary plural societies. While the issue concerns both women and men of all religions and beliefs,<sup>1</sup> old and new migration flows to the "Western World" have particularly affected Muslim women's and girls' religious norm-following behaviours.

Limiting the analysis to the European Union (EU) context, the rise in legislation banning headscarves and/or full-face veils prevents Muslim women and girls from

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<sup>1</sup> Men belonging to the Sikh communities also face challenges in plural societies; the secular neutrality principle concerns also wearing the Christian cross at work: see ECtHR, *Eweida and Others v. The United Kingdom* (Applications nos. 48420/10, 59842/10, 51671/10 and 36516/10), 15 January 2013 (27/05/2013).

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accessing workplaces, education, public institutions, public spaces, and ultimately from social inclusion in many countries. Different rationales justify the prohibition, on the one hand, of headscarves and, on the other hand, of full-face veils (see Para. 2 and Para. 3 of the present chapter). However, they originate from the same othering process distinguishing between “us” and “them”. To be sure, in the present article, I don’t intend to deny that there are Muslim women forced to wear these pieces of clothing, nor to underestimate their struggles to not wear them; here I want to refer to those who freely choose to adhere to religious norms and decide to express their faith through symbols in European plural societies. Particularly concerning full-face veils, though, I agree with Dolores Morondo Taramundi that the issue goes well beyond the wide dichotomous view “agency/emancipation and oppression/coercion” (Taramundi 2015, 60), as I’ll explain at the end of this paragraph.

The last largest survey on Muslim minorities across Europe, published by the European Union Fundamental Rights Agency (EUFRA) in 2017,<sup>2</sup> highlights that only Muslim women (not men) feel discriminated against in healthcare (EUFRA 2017, 33). These women also declare that they feel discriminated against to a larger degree than men in employment—both in the job search and at the workplace in particular because of their clothing (Ivi, 24; cf. 11). Collected data show that Muslim women who don’t wear a headscarf or niqab in public are employed to a larger extent (Ivi, 30) and are less likely to face bias-motivated harassment (Ivi, 41) than those who do.

On the contrary, Muslim women appear less exposed than men to being stopped by the police (Ivi, 15).

These results are not surprising and may be explained by the representations of “Muslim-looking” women and men in European societies. While the former are perceived as oppressed, the latter ones are portrayed as dangerous.

Extensive scholarly literature has addressed the topic from two prominent perspectives.

One body of literature frames the subject within the *liberal feminism vis a vis multiculturalism* debate. Susan Moller Okin’s essay “Is multiculturalism bad for women?” raised a wide range of replies by scholars holding diverging views on recognising or accommodating “others” practices and beliefs, collected in the eponymous book of 1999 (see also Okin 1998).

The friction within the debate is clearly visible concerning identity politics acknowledged to communities perceived as oppressive towards their members (“minorities within minorities”, Eisenberg and Spinner-Halev 2005), e.g., women, children, gender non-conforming individuals. By focusing on inter-group moral equality, multiculturalism scholars have been criticised for overlooking intra-group inequalities. Furthermore, politics based on group rights entail the risk of reproducing an essentialist, static and monolithic view of minorities as immune to intra-group contentions or evolving dynamics.

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<sup>2</sup> The survey gathered information on discrimination, Islamophobia and police stops from 10,527 respondents with different ethnic and migrant backgrounds who identified themselves as ‘Muslim’ when asked about their religion.

Liberal feminists don't seem reassured even by the liberal theory of multiculturalism, based on equality and inclusive justice for groups' members, elaborated by Will Kymlicka (1999; cf. Kymlicka 1989, 1995a, b, 1995a)<sup>3</sup>: he maintains that claims of "external protections" from majority society's economic and political power should go hand in hand with and reject "internal restrictions" to group members (1999, 31). This conceptualisation should, at least potentially, reconcile the respect for universal human rights inspired by liberalism—including gender equality—, that cannot be renounced, and the sense of belonging to own communities.<sup>4</sup>

However, the liberal feminist critique of multiculturalism extends well beyond identity politics. It raises the radical question of the primacy of universal human rights and freedoms over cultural, religious or other minorities' norms, practices or beliefs, leading to a potential or actual infringement on them. The feminist liberal approach taken towards Muslim women's wearing headscarves—and more so—full-faced veils questions the effective exercise of their free choice and autonomy: in this sense, oppression equates coercion by one or more members of the family/community by reproducing the stereotype of inherently violent communities. Furthermore, even when they are not forced to use religious symbols by men (or women) of their family or community under the threat of social sanctions, they are conceived as lacking choice on the assumption of their full internalisation of patriarchal norms and "false consciousness", or "deceitful awareness" or "*servitude volontaire*" (Edwards 2012; Lépinard 2011; Nussbaum 2010; Taramundi 2015). Being unaware victims, they need to be saved.

The "double standard" used to assess Muslim women's and—loosely said—non-Muslim women's autonomy not only reproduces stereotyped representations about them but, even unintentionally, delegitimises their own choices. In more recent times, the hypervisibility of Muslim women in the public discourse has been analysed in relation to femonationalism (Farris 2017), i.e., the "instrumentalisation" of migrant women's rights in Europe by different but intertwining social actors (e.g., right-wing nationalists, neoliberals and some women's equality bodies/groups) to pursue their political agenda, by portraying Muslim communities as intrinsically patriarchal and oppressive.

The second body of studies relies on intersectionality, defined by Black legal scholar and activist Kimberlé W. Crenshaw (1989) as a heuristic device (Crenshaw 2011) to bring forward criticism of the liberal principle of formal equality and related paradigm of sameness/difference used by North American courts of the time to rule on discrimination cases concerning Black women. For instance, by applying a mono-categorical approach—based on either race or gender—and comparing the treatment of Black female workers separately with that of *either* Black male *or* White female workers, the specific gender-race violation of rights was overlooked.

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<sup>3</sup> Other conceptualisations of multiculturalism belong, *ex plurimis*, to Charles Taylor ([1992] 1994; 1995), focused on recognition; Skinner (1998), referring to freedom of domination: in this perspective, concerning the "headscarve case" see Lovett (2010); Eisenberg and Spinner-Halev (2005).

<sup>4</sup> On the debate on liberalism *vis a vis* sense of belonging, see Gianfrancesco Zanetti's reply (2020) to Seligman and Montgomery (2020).

Intersectionality has travelled across disciplines and borders ever since and has been largely applied to analyse Muslim women's religious freedom in Europe, making them "the privileged subjects for European intersectional analysis" (Davis 2019, 116; cf. Bilge 2010; Chapman 2016; Davis and Zarkov 2017) and as "epitomizing intersectionality" (Schiek 2018, 84).

Wearing the headscarf or the full-face veil makes the experience of Muslim women (ontologically) "qualitatively different"—a crucial characteristic of intersectionality—from both Muslim men and non-Muslim women or Muslim women who don't use religious symbols. This specific type of discrimination can be uncovered by considering jointly gender and religion.

Dagmar Schiek (2018, 96) pointedly suggests considering the process of racialisation of Muslim women in European societies as well, recalling that the affiliation to a religious group often becomes a proxy for ethnicity and otherness (see also McColgan 2014; cf. CIJ 2019; on the "racialization of religion", see Meer 2012). To be clear, not all Muslim women have a migration background, but the legal status of many of them—e.g., permit to stay as Third Country Nationals (TCNs) and/or their citizenship—intersects the gender-religion-ethnicity lines, challenging their chances to meet the requirements to access a more stable legal status in EU countries.

Differently from liberal feminists (Okin 1999), scholars (feminists or not) relying on intersectionality depart from liberalism and identify its very flaws, namely the primacy of formal equality—following Aristotle's principle of treating like cases alike—over substantive equality; and the adoption of universal, abstract and neutral criteria that are blind to differences, especially to those generated by intersecting categories of identity, and have a disparate impact on specific human beings.

In fact, even when legislation or policies don't refer to any specific religion or belief and are framed in neutral terms based on secularism, Muslim women wearing a headscarf (at the workplace) or a full-face veil in public spaces are disproportionately impacted, and their substantive equality is affected (CIJ 2019, 29).

Concerning the full-face veil, Taramundi suggests departing from the focus on intersectional discrimination against women who voluntarily wear the face-veil and delving into intertwining oppressive systems and structures in relation to which women can freely decide. Relying on Iris Marion Young's (1990) concept of oppression, Taramundi's view implies two shifts: from oppression as coercion to oppression as "practices, norms and values of societies and societal groups, as well as their structural and institutional characteristics" (Taramundi 2015, 61); from intersectional identities to interlocking power relations and the decision-making space Muslim women concretely enjoy expressing their will, which is not "contingent on a woman's consent" (*Ibidem*).

Following Kimberlé W. Crenshaw's idea of intersectionality, I suggest that both subjective and structural dimensions, as well as dynamic interactions between them, should be taken into account. An intersectional perspective may then shed light on (a) how Muslim women are perceived and "socially constructed" (see "representational intersectionality", Crenshaw 1991); (b) intragroup and intergroup relations in contemporary societies; (c) as well as normalised intertwining norms at the structural level.

## 2 The Muslim Veil at the Workplace

The right to work and non-discrimination belong to the fundamental principles of the EU: apart from the EU Treaties (Art. 2 and 3 of the TEU and Art. 10, 19 and 48 of the TFEU), the EUCFR provides that “[n]ationals of third countries who are authorised to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union” (Art. 15(3)) “and any discrimination based on, *inter alia*, sex, race, colour, ethnic or social origin, religion or belief shall be prohibited” (Art. 21).

Antidiscrimination Directives<sup>5</sup> have led EU Member States to adopt national legislation or adapt them consistently to prevent and sanction discrimination at work and, limited to specific grounds, in other spheres (Havelková and Möschel 2019). The legal, socio-legal, and legal philosophy interest in intersectional discrimination in Europe has been boosted by the non-binding Preambles of Directives 2000/43/EC and 2000/78/EC, which suggest to “promote equality between men and women, especially since women are often the victims of multiple discrimination” (respectively, Whereas 14 and Whereas 3) in implementing the principle of equal treatment.

For clarity’s sake, it is worth mentioning that “multiple discrimination” (also “discrimination on multiple grounds”) is a different factual experience and legal category from “intersectional discrimination”, but the former term has prevailed for a long time in the EU context, notwithstanding legal scholars’ commitment in raising awareness of the relevance to distinguish between them in terms of legal protection (Makkonen 2002; Fredman 2016; in Italian, see Bello 2020).

The specific focus on intersectionality/intersectional discrimination concerning Muslim women can be found in the recently adopted European Parliament Resolution of July 6, 2022, though this is only soft law. However, this text deserves attention for the subject of the present essay for three reasons. First, it marks a departure from the terminology used in previous soft law documents addressing minority women, including migrant women and mentioning Muslim women via multiple discrimination (see European Parliament Resolution of 2003, Para 11). Secondly, it can be considered the first legal text in the EU to clarify the difference between intersectional and multiple discrimination (Whereas B). Last, it takes a step forward in the intersectional approach to Muslim women if compared with the EU Court of Justice (EUCJ)’s judgements, as I’ll explain below.

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<sup>5</sup> Council Directive 2000/43/EC on Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin, 29 June 2000 (OJ L 180, 19 July 2000); Council Directive 2000/78/EC on Establishing a General Framework for Equal Treatment in Employment and Occupation, 27 November 2000 (OJ L 303, 2 December 2000); Council Directive 2004/113/EC on Implementing the Principle of Equal Treatment between Men and Women in the Access to and Supply of Goods and Services, 13 December 2004 (OJ L 373, 21 December 2004); Directive 2006/54/EC of the European Parliament and of the Council on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (recast), 5 July 2006 (OJ L 204, 26 July 2006). This body of legislation is complemented by the “nondiscrimination clause” provided by Art. 11 (Equal treatment) of the EU Directive 2003/109/EC, as amended by the Directive 2011/51/EU.

In fact, it underlines how policies concerning religious symbols and clothing are rooted in prejudices and “trigger unequal treatment and multiply the related barriers, which have a particularly negative impact on Muslim women when accessing the labour market and housing and excluding them from the public space and any form of meaningful participation in societal processes and decisions, thereby keeping them in a precarious socio-economic situation” (Whereas S). To provide evidence about their specific conditions, it also recalls the EUFRA’s data of 2017 (Whereas AC).

The distance from the Resolution of 2003 is visible from another perspective too. At the time, the recommendation to Member States was to particularly consider.

Muslim women and adopt measures to protect them “against violation of their human rights, in religious communities, and against practices that hinder their education, training, employment, advancement and, above all, integration in the host countries” (Para. 15). In other words, the concern seems to have shifted from intra-group relations in 2003 to societal stereotypes that prevent them from accessing rights in different areas of their life in 2022.

However, the reasoning of the EUCJ has not endorsed an intersectional perspective in any of the four judgements ruled on wearing religious symbols at the workplace so far: *Achbita v. G4S Secure Solutions NV* and *Bougnaoui v. Micropole SA*, 14 March 2017; *IX v. WABE eV* and *MH Müller Handels GmbH v. MJ*, 15 July 2021. All cases referred to the Luxembourg Court by national judges concern Muslim female workers who, in different moments of their life and work experience, didn’t comply with the employer’s neutrality policy.

Although concrete facts and requests for a preliminary ruling by the EUCJ differ from case to case, the legal issues raised by the Islamic headscarf are well explained by the Opinions of Advocates General (AG). It is well-known that these documents usually offer a more thorough analysis of the cases if compared to the conciseness of the judgements. In 2017, AG Juliane Kokott (*Achbita* case) considered that the.

Islamic headscarf is “symbolic of the more fundamental question of how much difference and diversity an open and pluralistic European society must tolerate within its borders and, conversely, how much assimilation it is permitted to require from certain minorities” (Para. 3 of the Opinion). In 2021, AG Athanasios Rantos (cases of 2021, considered jointly) urged the Court to provide a “uniform interpretation of the principle of non-discrimination when applying Directive 2000/78/EC and the need to afford discretion to the Member States, given the diversity of their approaches as regards the place of religion in a democratic society” (Para. 4 of the Opinion).

All in all, a balance must be found between employees’ fundamental principle of religion freedom, expressed through symbols (*forum externum*), and the principle of freedom to conduct a business (Art. 16 EUCFR), which allows imposing neutrality policies on employees.

The Opinions of the *Achbita* and *Bougnaoui* cases are also worth mentioning because the AGs take different stances regarding “religious identity”, although the suggested solutions for both cases are similar. In the former case, AG Kokott maintains that “[w]hile an employee cannot ‘leave’ his sex, skin colour, ethnicity, sexual orientation, age or disability ‘at the door’ upon entering his employer’s premises, he may be expected to moderate the exercise of his religion in the workplace, be

this in relation to religious practices, religiously motivated behaviour or (as in the present case) his clothing” (Para. 116). In the latter case, AG Eleanor V.E. Sharpston disagrees with this view and considers “religious identity [as] an integral part of that person’s very being. The requirements of one’s faith—its discipline and the rules that it lays down for conducting one’s life—are not elements that are to be applied when outside work (say, in the evenings and during weekends for those who are in an office job) but that can politely be discarded during working hours” (Para. 118).

She also recalls the variety of views surrounding the headscarf. These views could vary from being a “feminist statement [...] to be a Muslim who wishes to manifest her faith in that way” (Para. 75) or “a symbol of oppression of women” (*Ibidem*), suggesting that the EUCJ should not conclude that the wearing of the headscarf is an inherently oppressive practice just because it might be so on some occasions.

For the purpose of this chapter, I’ll focus here directly on the decisions adopted by the EUCJ on neutrality policies only (more in detail, see Protopapa 2017; Schiek 2018). In the Achbita case, it was to the national court to ascertain whether the employer’s neutrality rule did amount to indirect discrimination, i.e., which would occur when “the apparently neutral obligation imposes results, in fact, in persons adhering to a particular religion or belief being put at a particular disadvantage, unless it is objectively justified by a legitimate aim, *such as the pursuit by the employer, in its relations with its customers, of a policy of political, philosophical and religious neutrality*, and the means of achieving that aim are appropriate and necessary” (Para. 45 Achbita, emphasis added). In the Bougnaoui case, this point was not the core issue, but the Court aligned to the Achbita case (Para. 33 of the Judgement).

I agree with Filip Dorssemont (2022) that in 2021 the EUCJ seems to take some further steps regarding neutrality policies if compared to 2017, by more clearly articulating when a differential treatment that is *indirectly based* on religion or belief—provided for by an employer’s policy pursuing a policy of political, philosophical and religious neutrality and hindering workers from wearing “any visible sign of political, philosophical or religious beliefs in the workplace” (Para. 92(2))—may be justified. It also clarifies that a provision that prohibits only the wearing of “conspicuous, large-sized symbols of political, philosophical or religious beliefs” is likely to account for direct discrimination on the grounds of religion or belief and cannot be justified by any means (Para. 92(3)).

Interestingly, the referring court in the *Wabe* case frames the questions concerning indirect discrimination “against a female employee who, due to her Muslim faith, wears a headscarf” by recalling both “religion and/or gender” (Para. 34(2)), opening room for intersectional reasoning. However, the case was not approached from a gender perspective because this type of discrimination is covered by Directive 2006/54/EC rather than by Directive 2000/78/EC (covering, *inter alia*, religion or belief), regarding which the interpretation of the Court is asked by the national judges.

In all judgements, the EUCJ takes an “intersectionality-blind” eye to the cases, raising criticisms by scholars and part of the civil society (*ex plurimis*, Schiek 2018; Šeta 2016; cf. Bello 2020; Jackson 2021). Overall, the Court does not delve into Muslim women’s specific needs by affirming that neutrality policies equally target all

religions and beliefs. This “overtly westernised concept of secularism” (Jackson 2021) overlooks the “cultural space” (*Ibidem*) of the Islamic headscarf.

Firstly, it does not ensure protection for the “whole” person (Moon 2011; cf. in Italian see Ferrari et al. 2022). By comparing the concrete situations on the basis of *either* gender or *religion*, the Court fails to grasp the full expression of Muslim women’s identity to decide to wear the headscarf. If the comparison had jointly occurred on gender-religion, then the peculiar differential treatment would have emerged.

Secondly, it does not consider the condition of Muslim women from a lower socioeconomic background, who face the extra dilemma of choosing between following their own religion in the way they want to (with the consequence of losing their job) and keeping their work by being denied a fundamental part of their identity, feeling that they are not following religious norms important to them and, possibly, facing isolation in their own communities (Jackson 2019).

In the light of the above, a binding provision on intersectional discrimination could have hopefully led to different reasonings and judgements.

In my view, AG Sharpston’s suggestion that “employer and employee will need to explore the options together in order to arrive at a solution that accommodates both the employee’s right to manifest his religious belief and the employer’s right to conduct his business” (Para. 128) appears more like a wishful thinking that underestimates the asymmetric power relations characterising labour contracts and the representation of Islam/Muslim women in European societies. It is not a case that the needs of those who want to wear a veil at the workplace are often accommodated in alternative job tasks that do not involve face-to-face contact with the public: they are hidden and made invisible (see also Para. 108 of AG Kokott’s Opinion). While this solution ensures they maintain their job, it is far from recognising their moral equality in society.

### 3 Covering Own’s Face in Public Spaces

Wearing a full-face veil in public spaces raises different concerns from those analysed in the previous paragraph. The notion of “public space” can undergo conceptual stretching: the wider it is understood, the narrower Muslim women’s opportunities to move outside their homes. Inspired by Jurgen Habermas’s distinction between the political and institutional public spaces (Habermas 2006), Silvio Ferrari (2012 and 2013) tries to deconstruct this concept and rearticulates it around the different functions of three kinds of public spaces in contemporary social interactions, namely “common spaces”, “political spaces” and “institutional spaces”.

The first (common space) covers streets, squares and other areas that every person has to enter to carry out basic activities of daily life; therefore, they should be as accessible as possible without restrictions, having the effect of marginalising all those people who wouldn’t feel at ease to move through it if their overt cultural norms are not allowed.



The second one (political space) is the *locus* of debate and discussion, where public discourse is framed: e.g., old and new media and political meetings. According to the scholar, these spaces should also be free and plural in democratic societies. The only places that could have prohibitions are institutional ones, embodying coercive deliberations: e.g., public administration, parliament, and law courts. However, this is not what occurs in common and political spaces in many European countries (Mancini 2018), and this situation has led to defining Islamophobia as “respectable racism” (Khemilat 2021, 214).

While some national legislation invokes secularism (e.g., France) to prohibit this clothing in public spaces, other legislation does not address religion per se; however, it can justify restrictions to preserve public security. One example is Art. 5 of the Italian Law “Provisions to Preserve the Public Order” n. 152 of 24 May 1975. It was adopted during the Seventies due to internal terrorism, prohibiting people from covering their faces with full-face helmets or masks in public to protect public order. In Italy, being a country of *emigrants* rather than *immigrants* at the time, this provision did not aim to target Muslim women, but it has been largely used by regional/local authorities to address them in more recent times (Mancini 2013, 2018, 2017). Such “policies”—here understood loosely to encompass both interventions and discursive practices—stem from the “threat” of Islamic radicalisation, representing itself as a menace to European/national identity (Inglis and Almila 2020) and Muslim communities as “enemies to fight”, by overshadowing religious identity and freedom. Public and media discourses are often framed as concerning Muslim women’s oppression and rights. From a purely Western perspective, it may be difficult to understand why women should freely opt to wear this clothing.

Lastly, the role of face-to-face interaction in “our” societies is at the centre of the well-known case of *S.A.S v. France* before the European Court of Human Rights (ECtHR),<sup>6</sup> which also has turned a blind eye to intersectionality when dealing with this clothing. In its landmark judgement, the Court of Strasbourg ruled that there was *no violation* of Art. 8 (“Right to respect for private and family life”), Art. 9 (“Freedom of thought, conscience and religion”), Art. 10 (“Freedom of expression”), and Art. 14 (“Prohibition of discrimination”) taken in conjunction with Art. 8, Art. 9 or Art. 10, by the French bill banning a full-face veil in public.

The explanatory memorandum accompanying this bill focuses on the relevance of “living together”, which the ECtHR carefully examines (Para. 121), based on the consideration that “face plays an important role in social interaction” (Para. 122) and that a full-face veil may hinder interpersonal socialisation. In other words, wearing this clothing would breach “the right of others to live in a space of socialisation which makes living together easier” (*Ibidem*).

Several third-party interventions explained why the impact of banning a full-face veil on Muslim women could be entirely grasped only by considering gender-race jointly (CIJ 2019, 23).

For instance, Amnesty International’s intervention shows that Muslim women “might experience a distinct form of discrimination [intersectional discrimination]

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<sup>6</sup> See also *Belcacemi and Oussar v. Belgium* and *Dakir v. Belgium*.

due to the intersection of sex with other factors such as religion, and such discrimination might express itself, in particular, in the form of stereotyping of sub-groups of women [...] [and] restrictions on the wearing of headscarves or veils might impair the right to work, the right to education and the right to equal protection of the law, and might contribute to acts of harassment and violence” (Para. 90).

In the same manner, the association “Article 19” recalls the United Nations Special Rapporteur on freedom of religion or belief in his 2011 interim report, according to which “the prohibition on sex-based discrimination was often invoked in favour of banning the full-face veil, whereas such prohibitions might lead to intersectional discrimination against Muslim women” (Para. 93). The organisation further explains that legislation banning a full-face veil may have the unintended effect to confine and isolate the women who wear it to their homes and exclude them from public life. It also highlights that “the Parliamentary Assembly of the Council of Europe, in particular, had recently recommended that Member States should not opt for general bans on the wearing of the full-face veil in public” (*Ibidem*).

Also, the Human Rights Centre of Ghent University reiterates that “in addition to constituting a disproportionate interference with freedom of religion, the ban generated indirect and intersectional discrimination on grounds of religion and sex, endorsed stereotypes and disregarded the fact that veiled women made up a vulnerable minority group which required particular attention” (Para. 97).

Differently from the majority of the judges in the *S.A.S. v. France* case, the Joint Partly Dissenting Opinion of Judges Nussberger and Jäderblom finds a violation of both Art. 8 and Art. 9 and explains how individual rights are sacrificed to abstract principles in this case. The criminalisation of the wearing of a full-face veil touches upon “the right to one’s own cultural and religious identity, is not necessary in a democratic society” (Para. 1) and is deemed.

“disproportionate to the aim of protecting the idea of “living together”—an aim which cannot readily be reconciled with the Convention’s restrictive catalogue of grounds for interference with basic human rights” (Para. 25).

Interestingly, the unexpected experience of wearing a sanitary mask generated by the COVID-19 pandemic has shown that, despite all challenges, we can still “live together” in public spaces—namely in common, political and even in institutional places, as Ferrari puts it. To be sure, the obligation to wear it was an emergency and temporary measure to protect public health but, not surprisingly, the coexistence of bans on a full-face veil worn for religious purposes and duties to wear the mask for public health reasons has stimulated a vivid debate around the world. Mario Ricca (2020, 1124; cf. Inglis, Almila 2020) pointedly underlines the social paradox raised by the fact that “covering one’s own face, simultaneously, turns out to be an obstacle against ‘living together in public spaces’ and an essential tool ‘to live together in public spaces’” in many countries (e.g., France, Austria; to a certain extent Germany, Luxembourg, Spain). By allowing, encouraging or making mandatory face masks in public spaces, where a full-face veil was forbidden, “unveils” “a societal-level hypocrisy” (Inglis and Almila 2020, 256) to say the least, and the “real intentions behind the ban” (El Morabet 2020) even in cases in which legislation prohibiting it is phrased in neutral and general terms.

The difference in either legislation's rationale—banning the full-face veil and imposing the sanitary mask—has been used as a counter-argument to this only apparent paradox since wearing the mask concerns “us all” (women and men worldwide), collectively and universally, in order to prevent and tackle the spreading of COVID-19, while wearing the full-face veil regards just a narrow subset of people in “our societies” driven by their own religion.

In my view, from a human rights perspective, this counter-argument does not suffice because health and religious freedom are two fundamental rights per se, independent from the number of people concretely affected. More profound reasons need to be explored, which are linked with conscious and unconscious biases and forged by Western-centric discourses. For this purpose, it has been underlined that face covering is “a multilayered signifier due to its different functions” (Taleb 2020, 743). COVID-19 has shown that perceptions of this practice as acceptable or not may change over time, depending on the “who” and the “why” it occurs and, ultimately, on the stereotypes about certain communities in our societies.

Furthermore, as far as religious symbols as the full-face veil are concerned, they show “a complex reality embodying a plurality of meaning [...] that, on a case-by-case basis, depend on the person who displays the symbol and the person who views it” (Ferrari 2013, 14).

During the pandemic, some Muslim women pointed out that they felt less targeted for personal attacks (Inglis, and Almila 2020, 256) and hoped that people could even sympathise with them, having experienced the need to cover their faces in public (Fareed 2020). The question of Muslim women's “need” to wear a full-face veil remains an open question, but a look at “the intersectional positioning of Muslim women [...] on axes of power” (Khemilat 2021, 223) may at least help to shed light on the impact of abstract gender-religion blind policies/legislations, concretely racialising and othering them.

## 4 Reimagining Muslim Women and Their Rights

Following Georg Simmel's intuition on the “stranger” (Simmel 1908, 509; cf. Rigo 2020, in a gender perspective), newcomers in EU societies are persons “who come today and stays tomorrow. [They are] fixed within a particular spatial group, or within a group whose boundaries are similar to spatial boundaries. But [their] position in this group is determined, essentially, by the fact that [they have] not belonged to it from the beginning, that [they] import qualities into it that do not and cannot originate from the group itself” (my translation). Newcomers' distance from “us” is emphasised by their nearness to “us” (*Ibidem*). Muslim female migrants travel with their beliefs, norms, values, traditions and, therefore, confront contemporary societies about our “distance” and “nearness” in daily interactions. The baggage that travels with them, however, should not be caged in assumedly homogeneous boxes but rather be intended as plural themselves. As far as religion is concerned, when opening this luggage, we will find many different clothes and garments, among which headscarves

and full-face veils amount to just part of the whole. Religion freedom in all its forms (including atheism or agnosticism) shapes people's identity and *Weltanschauung*. The way how certain groups and symbols are represented in public discourse and incessantly mediated hinders *both* a human rights approach that jointly considers gender-religious needs as well as intragroup/intergroup relations, *and* tackling the racialisation/othering of women belonging to religious groups perceived as a threat to "our" identity. At this point in our history, we need to stop imagining Muslim women through paternalistic and colonial repertoires and re-imagining them starting from the rich variety of instances they bring to our society.

## References

- Bello BG (2020) *Intersezionalità. Teorie e pratiche tra diritto e società*. Franco Angeli, Milan
- Bilge S (2010) Beyond subordination vs. resistance: an intersectional approach to the agency of veiled Muslim women. *J Intercult Stud* 31(1):9–28
- CIJ-Center for Intersectional Justice (2020) *Intersectional discrimination in Europe: relevance, challenges and ways forward*. European Network Against Racism (ENAR), Brussels
- Chapman M (2016) Feminist dilemmas and the agency of veiled Muslim women: analysing identities and social representations. *Eur J Women's Stud* 23(3):237–250
- Crenshaw KW (1989) Demarginalizing the intersection of race and sex: a black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. *Univ Chicago Legal Forum* 140:139–167
- Crenshaw KW (1991) Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color. *Stanford Law Review* 43:1241–1299
- Crenshaw KW (2011) Postscript. In: Lutz H, Herrera Vivar MT, Supik L (eds) *Framing intersectionality. Debate on a multi-faceted concept in gender studies*. Ashgate, Farnham, Surrey, pp 221–233
- Davis K (2019) Who owns intersectionality? some reflections on feminist debates on how theories travel. *Eur J Women's Stud* 27(2):113–127
- Davis K, Zarkov D (2017) EJWS Retrospective on Intersectionality. *Eur J Women's Stud* 24(4):313–320
- Dorssmont F (2022) From Achbita to WABE, 15 January 2022. <https://www.italianequalitynetwork.it/category/teoria-della-discriminazione>
- Eisenberg A, Spinner-Halev J (2005) *Minorities within minorities: equality, rights and diversity*. Cambridge University Press, Cambridge
- Edwards S (2012) For her own good! criming the Niqab. *Int Family Law* 2:203–208
- El Morabet I (2020) The ban on full-face veils and the covid-19 pandemic, 12 June 2020. <https://equineteurope.org/the-ban-on-full-face-veils-and-the-covid-19-pandemic/>
- Ferrari D, Valenzi I, Palazzo N (2022) *L'intersezionalità come approccio giuridico: una prospettiva multilivello tra diritto internazionale, diritto europeo, diritto italiano e prospettive di comparazione*, Centro per le Scienze Religiose della Fondazione Bruno Kessler (FBK-ISR), Trento
- Ferrari S (2012) Religion in the European public spaces: a legal overview. In: Ferrari S, Pastorelli S (eds) *Religion in public spaces a European perspective*. Routledge, London and New York, pp 139–156
- Ferrari S (2013) State-supported display of religious symbols in the public space. *J Catholic Legal Stud* 52(1–2):7–22
- EUFR (2017) *Second European Union minorities and discrimination survey muslims—selected findings*. Publications Office of the European Union, Luxembourg

- Fareed BA (2020) Being muslim in a global pandemic: reflections of a former Niqabi. *J Islamic Faith Pract* 3(1):121–122
- Farris S (2017) *In the name of women's rights. the rise of femonationalism*. Duke University Press, Durham, NC
- Fredman S (2016) *Intersectional discrimination in EU gender equality and non-discrimination law*. Publication Office of the European Union, Luxembourg
- Habermas J (2006) Religion in the public sphere. *Eur J Philos* 14(1):1–25
- Havelková B, Möschel M (eds) (2019) *Antidiscrimination law in civil law jurisdictions*. Oxford University Press, Oxford
- Khemilat F (2021) Excluding veiled women from french public space: the emergence of a 'respectable' segregation? *J Gend Stud* 30(2):214–226
- Inglis D, Almila A-M (2020) Un-masking the mask: developing the sociology of facial politics in pandemic times and after. *Società Mutamento Politica* 11(21):251–257
- Jackson E (2021) Cases C-804/18 and C-341/19—the false neutrality of anti-intersectional interpretation, tCLR online. <https://trinitycollegelawreview.org/cases-c%E2%80%9191804-18-and-c%E2%80%9191341-19-the-false-neutrality-of-anti-intersectional-interpretation/>
- Kymlicka W (1989) *Liberalism, community, and culture*. Oxford University Press, Oxford
- Kymlicka W (1995a) *Multicultural citizenship: a liberal theory of minority rights*. Oxford University Press, Oxford
- Kymlicka W (ed) (1995b) *The rights of minority cultures*. Oxford University Press, Oxford
- Kymlicka W (1999) Liberal complacencies. In: Cohen J, Howard M, Nussbaum MC (eds) *Is Multiculturalism bad for women?* Princeton University Press, Princeton, pp 31–34
- Lépinard E (2011) Autonomy and the crisis of the feminist subject: revisiting Okin's Dilemma. *Constellations Int J Crit Democr Theory* 18:205–221
- Lovett F (2010) Cultural accommodation and domination. *Polit Theory* 38(2):243–267
- Makkonen T (2002) Multiple, compound and intersectional discrimination: bringing the experiences of the most marginalized to the fore. Abo Akademi University, Turku, Finland
- Mancini L (2013) Burqa, Niqab and women's rights. In: Ferrari A, Pastorelli S (eds) *The Burqa affair across Europe. between public and private space*. Ashgate, Farnham, Surrey, pp 25–36
- Mancini L (2018) *La diversità culturale tra diritto e società*. FrancoAngeli, Milan
- Mancini S (2017) Gender and religious symbols in the European public sphere: unveiling the paradoxes of italian toleration. In: Olivito E (ed) *Gender and migration in Italy: a multilayered perspective*. Routledge, London and New York, pp 177–194
- McColgan A (2014) *Discrimination, equality and the law*. Hart, Oxford
- Meer N (2012) Racialization and religion: race, culture and difference in the study of antisemitism and islamophobia. *Ethn Racial Stud* 36(3):385–398
- Moon G (2011) Justice for the whole person: the UK's partial success story. In: Schiek D, Lawson A (eds) *European union non-discrimination law and intersectionality investigating the triangle of racial, gender and disability discrimination*. Ashgate, Farnham, Surrey, pp 157–173
- Nussbaum M (2010) Veiled threats? *The New York Times*, 11 July 2010. <https://archive.nytimes.com/opinionator.blogs.nytimes.com/2010/07/11/veiled-threats/>
- Okin SM (1998) Feminism and multiculturalism: some tensions. *Ethics* 108(4):661–684
- Okin SM (1999) Is multiculturalism bad for women? In: Cohen J, Howard M, Nussbaum MC (eds) *Is Multiculturalism bad for women?* Princeton University Press, Princeton, pp 9–24
- Protopapa V (2017) I casi Achbita e Bougnaoui. Il velo islamico tra divieto di discriminazione, libertà religiosa ed esigenze dell'impresa. *Argomenti di diritto del lavoro* 4–5:1079–1099
- Ricca M (2020) Don't uncover that face! covid-19 masks and the Niqab: ironic transfigurations of the ECtHR's intercultural blindness. *Int J Semiot Law* 35:1119–1143
- Rigo E (2020) La straniera. Mobilità, confini e riproduzione sociale oltre lo straniero di Simmel. *Teoria Politica. Nuova Serie Annali* 10:263–275
- Schiek D (2018) On uses, mis-uses and non-uses of intersectionality before the court of justice (EU). *Int J Discrim Law* 18(2–3):82–103

- Seligman AB, Montgomery DW (2020) The tragedy of human rights: liberalism and the loss of belonging. *reset dialogues*, 19 May 2020, <https://www.resetdoc.org/story/tragedy-human-rights-liberalism-loss-belonging/>
- Šeta D (2016) Forgotten women: the impact of Islamophobia on Muslim women. European Network against Racism (ENAR), Brussels. <https://www.enar-eu.org/Forgotten-Women-the-impact-of-Islamophobia-on-Muslim-women>
- Simmel G (1908) Exkurs über den Fremden. In: Simmel G, *Soziologie. Untersuchungen über die Formen der Vergesellschaftung*. Duncker & Humblot, Berlin, pp 509–512
- Skinner Q (1998) *Liberty before Liberalism*. Cambridge University Press, Cambridge
- Taleb BE (2020) The anthropology of the face mask: rethinking the history of face covering controversies, bans and covid-19 context. *J Xi'an Univ Archit Technol* XII(V):741–751
- Taramundi DM (2015) Between islamophobia and post-feminist agency: intersectional trouble in the European face-veil bans. *Fem Rev* 110:55–67
- Taylor C [1992] (1994) The politics of recognition. In: Gutmann A (ed) *Multiculturalism: examining the politics of recognition*. Princeton University Press, Princeton, pp 25–73
- Taylor C (1995) Irreducibly Social Goods. In: Taylor C (eds) *Philosophical arguments*. Harvard University Press, Cambridge, MA, pp 127–145
- Young IM (1990) *Justice and the politics of difference*. Princeton, Princeton University Press
- Zanetti Gf (2020) Human rights and the need for belonging, 18 June 2020, <https://www.resetdoc.org/story/human-rights-need-belonging/>

# The Right of Migrant Women to a Life Free from Gender-Based Violence in Europe



María Teresa Alemany Jordán

**Abstract** This is a legal reflection on migrant women's right to a life free from violence in the European context. This brief study identifies the hard law and soft law legal mechanisms at the European level related to the protection of migrant women from gender-based violence, pointing out the progress and setbacks in this area.

## 1 . Introduction, Context, and Data

Gender inequality, discrimination, and gender-based violence constitute not only a violation of human rights, but also an obstacle to development, especially for migrant women, girls, and the LGTBIQ + population. About half of the estimated 258 million international migrants are women, and there are approximately 66.6 million women migrant workers worldwide.<sup>1</sup> Furthermore, there is a lack of sex-disaggregated data and gender statistics on migration and violence against migrant women is unseen and unheard by data sources.

Gender violence is one of the most under-reported and under-prosecuted crime affecting women and especially migrant women and minors. It is important to emphasize the interaction between migration and gender that not only has to do with the increased number of women in migration or refugee flows, but also it is gender that affects the causes, processes, and policies of migration, which has been called the feminization of migration. Consequently, studying women's migration connected to gender violence means considering two important elements: a first element is the study of the causes that provoke women to leave their homes, fleeing situations of discrimination and violence that they suffer due to the predominant patriarchal culture in their countries of origin, such as sexual and gender violence, persecution

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<sup>1</sup> Report of the UN Secretary-General: Violence against women migrant workers. General Assembly, United Nations 2019.

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on the grounds of their sexual orientation and gender identity and harmful practices such as child, early and forced marriage and female genital mutilation. In addition, women migrate because of the lack of education and decent work opportunities, human rights violations, environmental degradation, disasters, and armed conflict.

A second element to consider is that the consequences of migration will be different for women and men, the gender category will also have an impact from the moment of displacement until the arrival in the destination countries, causing women to suffer more violence, abuse, rape, and humiliation of all kinds in the clandestine routes. Migrant women and girls, those with irregular migration status, are at an increased risk of trafficking. In its *Global Report on Trafficking in Persons 2020*, UNODC found that in 2018, for every 10 victims detected globally, about five were adult women and two were girls. About one-third of the overall detected victims were children, both girls (19 percent) and boys (15 percent), while only 20 percent were adult men. In 2017, IOM launched the Counter-Trafficking Data Collaborative, data show that women are more victims of trafficking in domestic servitude (88 percent).<sup>2</sup>

Some other general data on migration in Europe indicates that 1.82 million illegal border crossings were recorded at the EU external border at the peak of the refugee crisis in 2015 by 2019 this had decreased to 142 000. Mixed flows of refugees and migrants have meant increased complexity and an intensified need for coordination and solidarity mechanisms.<sup>3</sup> In relation to the refugee's context, Germany was the second-largest hosting country in Europe, with 1.2 million refugees (5 percent) considering Turkey the first largest refugee-hosting country in the world, accounting for nearly 3.7 million refugees, or 15 percent of all people displaced across borders globally. Overall, the number of refugees hosted in Europe rose by 3 percent. This was mainly due to the granting of international protection to over a quarter of a million people (284,900) within the region, almost half in Germany (83,700) and Spain (46,500) alone.<sup>4</sup>

However, as the European Network of Migrant Women reported Europe has never been a safe place for migrant women, not even refugee camps dominated by men where gender violence against women and girls and sexual harassment increased in the camps due to the lack of security and lighting conditions, overcrowding without sex-segregated spaces or basic hygiene units for women and girls. Migrant women regularly end up in situations of exploitation, with forced marriage, domestic servitude, and prostitution being the most severe forms.<sup>5</sup>

In addition, migrant women suffer not only from sexual exploitation but also from labor exploitation. As indicated by the ILO in 2021 there is a total of 75.6

<sup>2</sup> UNODC: *Global Report on Trafficking in Persons 2020* (United Nations publication, Sales No. E.20.IV.3). Page 9.

<sup>3</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0609>. 18th of December 2021.

<sup>4</sup> UNHCR: *Global Trends. Forced Displacement in 2020*. United Nations High Commissioner for Refugees 2021. Page 14.

<sup>5</sup> European Network of Migrant Women (ENoMW), Zobnina A., *Women, Migration, and Prostitution in Europe: Not a Sex Work Story, Dignity*, January 2017, vol. 2, no. 1. <https://digitalcommons.uri.edu/dignity/vol2/iss1/>



million domestic workers of which 76.2% are women.<sup>6</sup> Comparing the proportion of domestic workers in Europe, we can say that out of the 20 countries reporting to Eurostat, 28% work in Spain. Italy and Spain concentrate 61.5%.<sup>7</sup> To give an example, in Spain, the study by Asociación Pa'lante (Silvia Bofill and Norma Véliz, 2019) shows that out of a total of 80 women domestic workers surveyed, 41% have suffered from vulgar comments, advances, propositions, or remarks of a sexual nature; 28% have suffered from excessive touching or approaches; 10% have suffered from requests for sexual relations and 10% have also suffered from sexual violence.<sup>8</sup> The conditions of sexual abuse and labor exploitation worsened with the pandemic, especially for household or care workers who live in the same house as their employers around the world. Also, domestic and care workers who do not have a residence permit in Europe are more vulnerable and with more possibilities to suffer from abuse, labor and sexual exploitation, and especially labor harassment situations that remain in impunity.

## 2 The Right of Migrant Women to a Life Free from Gender Violence in the European Legal Context

The European Union has a legal framework that obliges it to respect and promote gender equality and human rights in its internal and external policies. The European Union is bound by various legal instruments on the promotion of equality, and the fight against discrimination and violence against women. The Council of Europe signed the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and 1961 European Social Charter (revised) of 1996. In relation to other European Union treaties in this area, the 2007 Lisbon Treaty, which came into force in 2009, enshrined respect for human rights as one of the values on which the European Union is based and recognized the Charter of Fundamental Rights of the European Union of 2000 (CFR).

ECHR is a key instrument for the Council of Europe to establish a real system for the protection of human rights but not especially for migrant women. Nevertheless, the entire focus of the article 14 of ECHR provides “the enjoyment of the rights and freedoms set forth in the European Convention on Human Rights and the Human Rights Act shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”. In addition, the article 21 of the 2016 Charter of Fundamental Rights of the European Union broadens the concept of discrimination forbidding discrimination on all the grounds listed in the

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<sup>6</sup> <https://www.ilo.org/global/topics/domestic-workers/who/lang--en/index.htm>. December 2021.

<sup>7</sup> Oxfam: Esenciales y sin derechos o cómo implementar el Convenio 189 de la OIT para las trabajadoras del hogar, 2021. Page 5 and 10.

<sup>8</sup> Poch et al. (2019) Una violència oculta. Assetjament sexual en dones migrades treballadores de la llar i les cures, p 33.

ECHR and on grounds of ethnic or social origin, genetic features, disability, age, or sexual orientation. Migration status could be recognized as adding another axis of discrimination for migrant women, exposed to xenophobia and discrimination, coexisting cultural, religion, and language barriers, with the lack of recognition of legal and labor rights. Istanbul Convention 2011 recognizes that discrimination status as we will study later. In addition, because of sex or gender makes women more vulnerable and with more possibilities to suffer from abuse, labor and sexual exploitation, and especially labor harassment. Therefore, it would be necessary a consideration of the relation between different grounds of discrimination and to apply an intersectional perspective to these conventions that encompasses all these categories of inequality.

Clearly the detailed provision of article 3 ECHR and article 4 CFR contain an abstract right to a life without violence when it states “no one shall be subjected to torture or to inhuman or degrading treatment or punishment” although does not refer specifically to women and neither to migrant women. We could consider that it imposes a positive obligation on States Parties to protect from ill-treatment any person under their jurisdiction, as indicated by Jean-Yves Carlier “l’article 3 est défini comme étant un droit intangible, absolu, participant du noyau dur la Convention et ne pouvant souffrir d’aucune exception.”<sup>9</sup>

Besides, article 4 ECHR and article 5 CFR proclaim prohibition of slavery and forced labor, requiring that member states penalize and prosecute effectively any act aimed at maintaining a person in a situation of slavery, servitude or forced or compulsory labor, generating positive obligations for the member states: to put in place a legislative and administrative framework to prohibit and punish such acts and investigate them.<sup>10</sup> These provisions are addressed for men and women in a situation of slavery, servitude or forced labor but could be addressed for domestic and care workers migrant women in Europe whose proportion is higher<sup>11</sup> and often suffer from this evil. The European Social Charter recognizes in the article 19 the right of migrant workers and their families to protection and assistance, the right to family reunion, treatment not less favorable than that of their own nationals in respect of remuneration and employment and working conditions, accommodation, simplification of immigration formalities, among others.

In relation to human trafficking, article 4 ECHR makes no mention of trafficking but human trafficking falls within the scope of article 4 and article 5 CFR already

<sup>9</sup> Immigration and asylum law of the EU: current debates. Actualité du droit européen de l’immigration et de l’asile. Jean-Yves Carlier et Philippe De Bruyckers (directeurs). Belgique, Bruylant 2005. Pag.14.

<sup>10</sup> Guide on Article 4 of the Convention—Prohibition of slavery and forced labour. European Court of Human Rights. 31 August 2021.

<sup>11</sup> Comparing the proportion of domestic workers in Europe, while the percentage that domestic work represents with respect to the total number of women’s jobs in the Union as a whole is 1.9% (2,024,700 jobs), this percentage rises to 6.3% in Spain, only surpassed by Cyprus (6,86) and Italy (6,79). Source: UGT (2019), “Trabajo doméstico y de cuidados para empleadores particulares”, based on European Labour Survey, 2018. [https://www.ugt.es/sites/default/files/informe-trabajo-domestico-y-de-cuidados-para-empleadores-particulares-ugt\\_0.pdf](https://www.ugt.es/sites/default/files/informe-trabajo-domestico-y-de-cuidados-para-empleadores-particulares-ugt_0.pdf). Accessed Dec 2021.

prohibits trafficking in human beings.<sup>12</sup> It is important to prohibit trafficking in women and girls because it is one of the most serious manifestations of gender violence with the singularity that the victims are chosen because of their sex or gender, because they are women, and because of their migrant status they are more vulnerable to suffer trafficking. In terms of refuge, the 2006 UNHCR Guidelines on Trafficking in Persons for Exploitative Purposes states that women and children may be particularly susceptible to serious reprisals by traffickers as a result of their flight or subsequent return, as well as facing a real possibility of being re-trafficked or suffering severe ostracism or discrimination by the family or community<sup>13</sup> and we can include migrant women in this group. The legal framework for combating this crime was developed at European level, first by the Council of Europe with the Convention on Action against Trafficking in Human Beings of 2005 (also Known as Warsaw Convention) and later by the EU through diverse directives framework.

The fundamental legal problem for migrant women is that to have the protection of European protection mechanisms,<sup>14</sup> they must have exhausted domestic remedies in the national courts of the various countries in which they reside, and migrant women do not normally file complaints for fear of being expelled from the countries where they work, losing their jobs, being stigmatized, etc. Even though, the European Court of Human Rights is the guarantor of the European Convention on Human Rights, and the Court of Justice of the European Union shall be the guarantor of respect for the Charter of Fundamental Rights in the interpretation and application.

In the field of violence against women in the context of Europe we also have to mention the Council of Europe Convention on preventing and combating violence against women and domestic of 2011 (also Known as Istanbul Convention of 2011)

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<sup>12</sup> The concept of trafficking in persons is a broad concept that addresses not only trafficking in women, but includes all persons, this concept is contained in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children, also known as the Palermo Protocol of 2000, which complements the United Nations Convention against Transnational Organized Crime. From this definition of the Palermo Protocol of 2000, we can understand that trafficking in women refers to three fundamental elements: the first refers to the action, which is the recruitment, transportation, transfer, harboring or receipt of women; the second is the means, which in the Protocol refers to the threat or use of force or other forms of coercion; and the third is the purpose or end of the action, which is the sexual or labor exploitation of women and girls, among others. All three elements must be present for trafficking in persons to exist under international law. The only exception is that when the victim is a child, the “means” is not part of the definition. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, also known as the Palermo Protocol of 2000. Article 3.

<sup>13</sup> UNHCR: Guidelines on International Protection and the Application of Article 1A(2) of the 1951 Convention relating to the Status of Refugees and/or its 1967 Protocol concerning Victims of Trafficking in Persons and Persons at Risk of Being Trafficked, paragraph 19. Geneva, 2006.

<sup>14</sup> Protocol 12 to the ECHR encouraging States to accept the jurisdiction of the European Court of Human Rights to hear applications brought by individuals, non-governmental organisations or groups of individuals, as provided for in Article 34 of the Convention, in respect of Article 1 of the Protocol. Any person whose rights have been violated by a State party to the Convention may bring his or her case before the European Court of Human Rights, and judgements finding violations are binding on the countries concerned.

which is the first European convention that refers to domestic violence, sexual harassment, rape, forced marriages, female genital mutilation and crimes committed allegedly in the name of “honor”<sup>15</sup> which means that the manifestations of gender-based violence are broadened in their definition for the European regional level and for the States Parties to this regional instrument. Consequently, by acceding to the 2011 Istanbul Convention in 2023, the European Union reaffirms its commitment to end violence against women and to address all forms of gender-based violence for all women. As well as ensuring complementarity between the national and regional levels, by promoting the criminalization of various forms of violence against women that are not covered by all European national legislations, such as forced marriage or marital slavery, female genital mutilation, forced abortion, trafficking, crimes allegedly committed against honor, and other forms related with women and especially migrant women. In addition, article 4.3 of Istanbul Convention, states that the implementation of the right to live free from violence and to protect the rights of victims shall be secured without discrimination on the ground migrant or refugee status, or other status. As Sosa and Mestre (2021), points out the article 4, paragraph 3 and 14 of ECHR together with Protocol No 12 to the ECHR and article 21 of CFR, “provides an open-ended list of discrimination grounds”.

We could also point out that there is an intrinsic relationship between the Istanbul Convention and European Convention on Human Rights as Professor Sara de Vido has pointed out at the European, national, and jurisprudential level, being an important instrument for the interpretation of the European Convention on Human Rights under the umbrella of the Vienna Convention on the Law of Treaties (art. 31.3c). In this way, De Vido states, “the provisions of the Istanbul Convention can constitute relevant rules of international law under article 31(3)(c) Vienna Convention on the Law of Treaties (VCLT) that the European Court of Human Rights (ECtHR) should use in order to interpret the provisions of the European Convention on Human Rights, in particular articles 2, 3, 8 and 14 (namely the right to life; the prohibition of torture, inhuman or degrading treatment; the right to respect for private and family life; and non-discrimination)”.<sup>16</sup>

Besides, Istanbul Convention recognizes the right to live free from violence in both the public and the private sphere and condemns all forms of discrimination against women and recommends the Parties of the Convention to take without delay, the necessary legislative and other measures to prevent discrimination against women.<sup>17</sup> It also indicates that this right to a life free from gender violence together with its protective measures shall be secured without discrimination on any ground migrant or refugee status which means migrant women should be included in this protection framework. In the same vein, other regional instrument as the Inter-American

<sup>15</sup> Art. 36 y 35 Council of Europe Convention on preventing and combating violence against women and domestic violence, número 210, Estambul 2011.

<sup>16</sup> De Vido (2020) The Istanbul Convention as an interpretative tool at the European and national levels. In: Niemi J, Peroni L, Stoyanova V (eds) *International Law and Violence Against Women. Europe and the Istanbul Convention*. Routledge, p 57.

<sup>17</sup> Art. 4. Council of Europe Convention on preventing and combating violence against women and domestic violence, número 210, Estambul 2011.

Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará 1994) established the right to be free from violence previously.<sup>18</sup>

### 3 Contributions of the 2011 Istanbul Convention for Protection of Migrant Women

Continuing with the 2011 Istanbul Convention it is worth highlighting other elements, initially, it recognizes that violence against women constitutes a serious violation of women and girls' human rights and a form of discrimination against women based on the category of gender. Starting from the first connotation, violence as a grave violation of human rights refers to the violation of different human rights of women such as the right to life, liberty and security, the right to non-violence (against torture, ill-treatment, inhuman and degrading treatment), human rights violations that are aggravated in the case of migrant women. We can understand in the words of Professor Maria Jose Añón, in relation to violence against women, that the denial of these rights creates the conditions for violence against women<sup>19</sup> and especially for migrant women.

On the other hand, starting from the second category of gender-discrimination, it is important to note that gender is defined in article 3c) of the 2011 Istanbul Convention as “the socially constructed roles, behaviours, activities and attributions that a particular society considers to be those of women or men” and art. 3d) “gender-based violence against women shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately”. Based on this definition, we can consider that sex differs from gender because it is not only the biological considerations that define a person, but we also have to take into account the social, psychological, and cultural attributions that affect us from birth, the historical context, the roles in society that show the differentiation between men and women and other gender categories or identities. In this consideration, migrant women suffer gender violence based on the asymmetrical power relations, the subordination to men or employees. And it is this conceptualization of gender that is both fundamental and controversial, because it is the origin of the discussions of the States that have not ratified this European instrument, such as Bulgaria, Hungary, Czech Republic, Slovakia, Latvia, Lithuania, Poland, and which has led to the withdrawal of Turkey itself from the 2011 Istanbul Convention.

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<sup>18</sup> Art. 3. Every woman has the right to be free from violence in both the public and private spheres. Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women

(Convention of Belém do Pará), 1994.

<sup>19</sup> Añón (2016) *Violencia con género. A propósito del concepto y la concepción de la violencia contra las mujeres*. Cuadernos Electrónicos de Filosofía del Derecho 33:5.

The Bulgarian Constitutional Court has declared in 2018 that the Istanbul Convention is incompatible with the Bulgarian Constitution given that the Bulgarian Constitution and legislation is based on the existence of the binaries of the species, understanding that only men and women can be considered in Bulgarian legislation, not other gender identities, which in the opinion of the Constitutional Court would be proclaimed by the Istanbul Convention. The Hungarian Parliament has also expressed itself negatively in this sense by not ratifying the Convention and preventing ratification by the European Union on the grounds that the Hungarian Constitution is based on marriage as a union between a man and a woman and not on persons of the same sex.<sup>20</sup> In my opinion, this consideration does not make much sense, given that the Istanbul Convention, although it bases violence based on “gender”, by the mere fact of defining the concept of “gender” (art.3) or alluding to it, does not mean that other gender identities are directly proclaimed, nor does it conceptualize or develop them.

In the same vein against Istanbul Convention are the positions of Poland<sup>21</sup> and Turkey, which are currently withdrawing from the Convention on the grounds that it goes against the concept of the traditional family. Besides, the gender concept alluded to is unfounded because if we review the Istanbul Convention from its inception to its finalization, we see that all references throughout this international instrument are binary, allusions are to men and women, and in my opinion no family model is advocated. Furthermore, although gender is mentioned as a basis for violence, the Istanbul Convention does not develop gender identities other than those of men and women, nor even when it criminalizes forced marriages does it define marital union so as not to enter controversy with the domestic or national legislation of each country.

In addition, Istanbul Convention provides special protection for migrant women especially in its Chapter VII dedicated to migration and asylum. In this way, article 59.1 establishes State Parties’ obligation to ensure access to an autonomous residence permit for victims whose residence status depends on that of the spouse or partner but states that the conditions to the granting and duration would be established by internal law. This provision and art. 59.2 and 59.3<sup>22</sup> are an important progress in the protection

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<sup>20</sup> Chamon, Merijn: Accession of the EU to the Istanbul Convention and Opinion 1/19 of the CJEU. Current Reflections on EU Gender Equality Law. Online Seminar for University Professors and Law Lectures. Academy of European Law Trier, 7–8 June 2021.

<sup>21</sup> Resistance to the Istanbul Convention continued in Poland where a GREVIO delegation subsequently visited Poland and has observed high-ranking politicians continued to challenge the Convention as “gender gibberish” and “neo-Marxist propaganda”, and as being “a Convention that makes a number of extreme leftist assumptions”, according to media reports. European Union Agency for Fundamental Rights: Fundamental Rights Report, 2021. Page 258.

<sup>22</sup> The article 59.2 provides parties shall take the necessary legislative or other measures to ensure that victims may obtain the suspension of expulsion proceedings initiated in relation to a residence status dependent on that of the spouse or partner as recognised by internal law to enable them to apply for an autonomous residence permit. And the article 59.3 provides that State Parties must issue a renewable residence permit to victims of violence when national authorities assess that their stay is necessary owing to their personal situation or for the purpose of their cooperation in investigations or criminal proceedings. In the same vein Article 14 of the Council of Europe Convention on Action against Trafficking in Human Beings 2005.

of the European human rights system but focus on recognition of the internal law or national authorities. As Fulvia Staiano (2020) has noted the establishment of a special residence permit for victims of violence is an important but insufficient remedy to such vulnerability. It is certainly crucial to ensure that migrant women are given the possibility to report abusive employers to the authorities of their host country without fear of jeopardizing their residence status or of exposing their irregular status.<sup>23</sup>

On the other hand, it is important to point out in the complexity of migratory and refugee situations, people who flee for fear of being persecuted for reasons of race, religion, nationality, or membership of a particular social group or political opinion, as established in the 1951 Convention relating to the Status of Refugees and the 1967 Protocol. However, the 1951 Convention relating to the Status of Refugees, nor its 1967 Protocol contains any specific article on the protection of migrant women or girls who are refugees for fear of being persecuted for reasons of sexual violence or for other manifestations of gender-based violence. Only soft law instruments<sup>24</sup> improve the protection of refugee women for gender-based asylum claims in the universal context.

However, in the European regional context, Istanbul Convention provides Article 60 to ensure that gender-based violence against women should be recognized by the Parties as a form of persecution within the meaning of Article 1, A (2), of the 1951 Convention relating to the Status of Refugees and as a form of serious harm giving rise to complementary or subsidiary protection. It also establishes specific protection mechanisms that will allow women from the States that have signed this regional instrument to make asylum applications based on gender-based violence against women and ensure a gender-sensitive interpretation to each of the Convention grounds.<sup>25</sup> It also establishes specific protection mechanisms that will allow women from the States that have signed this regional instrument to make asylum applications based on gender-based violence against women.<sup>26</sup>

The factual reality demonstrated that sexual and gender-based violence is a condition that forces a large number of women and girls to leave their countries, and that

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<sup>23</sup> Staiano (2020) Protection beyond victimization. The significance of the Istanbul Convention for migrant women levels. In: Niemi J, Peroni L, Stoyanova V (eds) *International Law and Violence Against Women. Europe and the Istanbul Convention*. Routledge, p 228.

<sup>24</sup> The soft law instruments are the following: 2002 UNHCR Guidelines on International Protection: “persecution on grounds of gender” and “membership of a particular social group” in the context of Article 1A (2) of the 1951 Convention relating to the Status of Refugees, and/or its 1967 Protocol. In addition, this soft law will need to be applied in conjunction with the 2006 Guidelines on Trafficking in Persons for Exploitative Purposes and the 2012 Guidelines on Persecution on the Grounds of Sexual Orientation or Gender Identity which protect persons who suffer serious human rights abuses and other forms of persecution based on their actual or perceived sexual orientation and/or gender identity.

<sup>25</sup> Article 60.2 of the Council of Europe Convention on preventing and combating violence against women and domestic violence, also known as the Istanbul Convention, Council of Europe, Council of Europe Treaty Series, Number 210, Istanbul 2011.

<sup>26</sup> Article 60.3 and article 61 of the Council of Europe Convention on preventing and combating violence against women and domestic violence, also known as the Istanbul Convention, Council of Europe, Council of Europe Treaty Series, Number 210, Istanbul 2011.



they continue to suffer from it during displacement and upon return to their countries. It is for this reason that article 61 of Istanbul Convention promotes the principle of non-refoulement to ensure that victims of violence against women who are in need of protection, regardless of their status or residence, shall not be returned under any circumstances to any country where their life would be at risk or where they might be subjected to torture or inhuman or degrading treatment or punishment.

In sum, despite the relevance of these standards in the Istanbul Convention for the protection of migrant women who suffer gender-based violence, they are set out as mere recommendations to States. Although some of them refer to a specific legal framework, the 1951 UNHCR Statute Convention, to apply the gender perspective and it is a relevant juridical progress for the protection of refugee women. In practice, there is a lack of resources, staff training, and sufficient means for the implementation of existing regulations and to exercise real protection for migrant women.

These provisions have generated opposition among the signatory states such as Hungary with its anti-migration policy which conflicts with the Convention's provisions on asylum. European Union Agency for Fundamental Rights (2021) has pointed out that Hungary's declarations for not ratifying the convention because "support migration and maintains that people are not born as men or women, as there also social genders", the provisions of the Istanbul Convention, however, seek to ensure that women in migration, just like all other women and girls irrespective of their status and irrespective of their gender identity and sexual orientation, receive the necessary protection and support for experiences of gender-based violence.<sup>27</sup> In my opinion, this anti-migration argument from Hungary is against not only from the Istanbul Convention itself but also from other European treaties and the international human rights protection system. In addition, we could state as CEDAW Committee (2020) mentions "gender-neutral provisions in States' migration policies contribute to limiting women's access to safe and regular migration pathways and to regular and decent job opportunities in transit and destination countries".<sup>28</sup>

Finally, other important contribution of Istanbul Convention for women protection, and victims of gender-based violence is the four pillars of Istanbul Convention that establish different measures about: prevention of violence against women (I) protection of victims of violence against women (II), prosecution of perpetrators of violence against women (III) and coordinated and coordinating policies (IV). In the first pillar about prevention, Istanbul Convention develops different measures that a State Party should take: awareness-raising gender-based violence campaigns, teaching material on gender equality, gender based-violence, challenging gender stereotypes, promoting women's empowerment, programs for perpetrators, training professionals (art. 12–17). These measures are intended to protect all women and girls in general although they do not specify for migrant women. It would be important that Istanbul Convention also promote the recognition of basic labor and socio-economic rights for migrant women as a way of prevention of violence. For example,

<sup>27</sup> European Union Agency for Fundamental Rights: Fundamental Rights Report, 2021. Page 248.

<sup>28</sup> General Recommendation No. 38 (2020) on trafficking in women and girls in the context of global migration. Committee on the Elimination of Discrimination against Women. CEDAW 2020.



promoting economic rights mentioned in other instruments as ILO Convention 189, ILO Conventions (156, 181), and other ILO recommendations.

In the second pillar about protection, Istanbul Convention includes: information on the rights of the victims, women's support services, rape crisis or sexual violence centers, support in the report system, shelters, telephone helplines, and others (art. 18–28). In these protection services are included migrant women but not including all their specific needs. In the third pillar prosecution is included all the law enforcement and judicial proceedings with a gender perspective (art. 29–59) and in the fourth pillar develops all the coordinated policies (art. 62–65) to protect women in general including migrant women. In this context, the international cooperation and monitoring mechanism of GreVio can play an important role in comparing policies of the different countries implementing Istanbul Convention and developing recommendations for specific measures to protect migrant women from gender violence.

#### **4 Agenda for Sustainable Development, Global Compact for Safe, Orderly and Regular Migration 2018, European Pact on Migration and Asylum 2020, and Other Soft Law Instruments Related to Migrant Women Rights**

The European Union is also bound by various soft law instruments on the promotion of migrant rights, equality, prevention of discrimination, and violence against women. In alignment with the 2030 Agenda and the principle of leaving no one behind we have to mention the following Sustainable Development Goals (SDGs) related to migrant women and a life free from gender-based violence: SDG 5.1 about the commitment of the States for ending all forms of discrimination against all women and girls everywhere and SDG 5.2 for eliminating all forms of violence against all women and girls in the public and private spheres, including trafficking, sexual and other types of exploitation and SDG 16.1 for reducing all forms of violence and related death rates everywhere and ending abuse, exploitation, trafficking and all forms of violence against and torture of children (SDG 16.2). In addition, SDG 8.8 promotes the labor rights protection and safe and secure environments for all workers, including migrant women, in particular women migrants and those in precarious employment.

Furthermore, SDG 10.7 refers to the commitment of the States to facilitate orderly, safe, regular, and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies. SDG 10.7 deals with the conflict between state sovereignty and the people-centred management of safe migration. Migration management should be based on the needs of migrants and not on their legal categories, whether they are refugees, displaced persons, or humanitarian migrants.

In this sense, Global Compact for Safe, Orderly and Regular Migration 2018 refers to migration in all its dimensions including refugees and migrants who are

entitled to the same universal human rights and fundamental freedoms, which must be respected, protected, and fulfilled.

The Global Compact is rooted in the 2030 Agenda for Sustainable Development and builds upon its recognition that migration is a multidimensional reality of major relevance for the sustainable development of countries of origin, transit, and destination, which requires coherent and comprehensive responses. The Global Compact has a human rights approach, gender-responsive, child-sensitive and also reaffirmed the commitment to eliminate all forms of discrimination, including racism, xenophobia, and intolerance against migrants and their families.<sup>29</sup>

We could consider that there is “dissensus” that arises between “border norms” that do not protect migrants and human rights law as Siobáhn Mulally has stated.<sup>30</sup> The Global Compact promotes broad multi-stakeholder partnerships to address migration in all its dimensions by including migrants, diasporas, local communities, civil society, academia, the private sector, parliamentarians, trade unions, national human rights institutions, the media, and other relevant stakeholders in migration governance. In any case, there is a distinction between what the standard proclaims and its enforcement.<sup>31</sup>

The other relevant soft law instrument is the new European Pact on Migration and Asylum adopted on 23 September 2020. It aims to reduce unsafe and irregular routes and promote sustainable and safe legal pathways for those in need of protection. It reflects the reality that most migrants come to the EU through legal channels, which should be better matched to EU labor market needs. The New Pact recognizes that no member state should shoulder a disproportionate responsibility and that all member states should contribute to solidarity on a constant basis. It provides a comprehensive approach, bringing together policy in the areas of migration, asylum, integration and border management, recognizing that the overall effectiveness depends on progress on all fronts.<sup>32</sup> However, as Cristina Churruca has noted the European Pact on Migration and Asylum 2020, unlike the Global Compact 2018, focuses more on return migration policies than on migrants themselves as development opportunities for countries of origin, transit, and destination. The European Pact does not focus as much on migrants and their human rights, it does not strike a balance between human security and national security and it does not establish a common European migration policy.<sup>33</sup>

<sup>29</sup> [https://refugeesmigrants.un.org/sites/default/files/180713\\_agreed\\_outcome\\_global\\_compact\\_for\\_migration.pdf](https://refugeesmigrants.un.org/sites/default/files/180713_agreed_outcome_global_compact_for_migration.pdf). 19th December 2021.

<sup>30</sup> *Care Migration and Human Rights: Law and practice*. Edited by Siobáhn Mulally. Routledge. London 2015, page 4.

<sup>31</sup> [https://refugeesmigrants.un.org/sites/default/files/180713\\_agreed\\_outcome\\_global\\_compact\\_for\\_migration.pdf](https://refugeesmigrants.un.org/sites/default/files/180713_agreed_outcome_global_compact_for_migration.pdf). 19th December 2021.

<sup>32</sup> [https://eur-lex.europa.eu/resource.html?uri=cellar:85ff8b4f-ff13-11ea-b44f-01aa75ed71a1.0002.02/DOC\\_3&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:85ff8b4f-ff13-11ea-b44f-01aa75ed71a1.0002.02/DOC_3&format=PDF). 19th December 2021.

<sup>33</sup> Churruca, Cristina “El Pacto de la UE sobre Migración y Asilo a la luz del Pacto Mundial de las Naciones Unidas sobre los Refugiados. Una visión crítica desde las relaciones internacionales y los derechos humanos”. XXIX Jornadas de la Asociación Española de Profesores de Derecho Internacional y Relaciones Internacionales. La Comunidad Internacional ante el desafío de los

Although, all these soft law instruments are set out as mere recommendations to States they are not a source of hard law and are non-legally binding. There is a moral commitment to solidarity with humanity in their enforcement, responsibility-sharing, non-discrimination, human rights, and recognizes that a cooperative approach is needed to optimize the overall benefits of migration.

Finally, we can mention other soft law European instruments such as: Action Plan for Gender Equality and the Empowerment of Women, which is the EU's roadmap for promoting gender equality in its policies. The Action Plan is aligned with the latest Strategy for Gender Equality (2020–2025) and presents political objectives and actions to achieve considerable progress by 2025 toward a Europe with gender equality from a focus on intersectionality and integration. Key objectives include tackling gender-based violence, combating gender stereotypes, closing gender gaps in the labor market, achieving equal participation in different sectors of the economy, reducing the gender gap in care responsibilities, and achieving gender balance in decision-making and political activity. There are also important financial measures for equality and the prevention of violence. We can mention the Spotlight Initiative that is a global, multi-year initiative of the European Union and the United Nations aimed at eliminating all forms of violence against women and girls with special attention to migrant women. The Initiative is called Spotlight because it draws attention to violence against women, “bringing it into the spotlight” and making it the focus of all efforts to fulfill gender equality and women's empowerment, in line with the 2030 Agenda for Sustainable Development, highlighting the importance of investing specifically in women and girls to achieve sustainable development and making visible the commitment of the European Union and the United Nations to achieving equality and combating violence.

Spotlight is an important initiative because it supports civil society organizations and women's organizations to put women at the centre of responses, to ensure that women's voices, needs, and rights are reflected and especially in the context of migration. UNHCR recognizes the importance of partnerships with local civil society and community groups, refugee and internally displaced people and migrant women to strengthen national systems to address gender-based violence. In sum, a comprehensive approach is therefore needed which acknowledges collective responsibilities, a common European framework and better governance of migration and asylum management, as well as improving solidarity and awareness mechanisms to prevent and address violence against migrant women and girls in recovery and response plans through holistic and multisectoral measures that are fully integrated within national and local policies.

## References

- Añón MJ (2016) Violencia con género. A propósito del concepto y la concepción de la violencia contra las mujeres. *Cuadernos Electrónicos de Filosofía del Derecho* 33:5
- Churruga C (2021) El Pacto de la UE sobre Migración y Asilo a la luz del Pacto Mundial de las Naciones Unidas sobre los Refugiados. Una visión crítica desde las relaciones internacionales y los derechos humanos. XXIX Jornadas de la Asociación Española de Profesores de Derecho Internacional y Relaciones Internacionales. La Comunidad Internacional ante el desafío de los Objetivos de Desarrollo Sostenible. El papel de la Unión Europea. Universidad Rovira i Virgili, Tarragona, 15 a 17 de diciembre de 2021
- De Vido S (2020) The Istanbul convention as an interpretative tool at the European and national levels. In: Niemi J, Peroni L, Stoyanova V (eds) *International law and violence against women*. Routledge, Europe and the Istanbul Convention, p 57
- Poch SB, Torresano NV, Irla FJ (2019) Una violència oculta. Assetjament sexual en dones migrades treballadores de la llar i les cures, p 33
- Sosa L, Mestre R (2021) Ensuring the non-discriminatory implementation of measures against violence against women and domestic violence: article 4, paragraph 3, of the Istanbul Convention. A collection of papers on the Council of Europe Convention on preventing and combating violence against women and domestic violence, Council of Europe, p 7
- Staiano F (2020) Protection beyond victimization: the significance of the Istanbul Convention for migrant women levels. In: Niemi J, Peroni L, Stoyanova V (eds) *International law and violence against women*. Routledge, Europe and the Istanbul Convention, p 228

# **The Linguistic Representation of the Urban Space**

# Ex-British Europeans and Their Stories



Katarzyna Molek-Kozakowska

**Abstract** This contribution seeks to explore selected discourses related to motivations either to return or to stay in the UK, as voiced by EU nationals, particularly Poles, following post-Brexit economic, political and social changes. The study traces (self)identifications and the representations of “modes of being/belonging” of individuals considering whether to leave the UK and resettle in Poland between 2017 and 2020. These representations are mapped on the basis of stories from a triangulated dataset: official discourses of governmental agencies supporting returnees, semi-public discourses of below-the-line comments to a popular forum’s article dealing with “Brexodus,” and private Facebook support group’s posts devoted to sharing experiences and advice in the resettlement process. Rather than mapping a polarized community, the study reveals a spectrum of identifications that range from self-proclaimed transnational, cosmopolitan “citizens of Europe,” through community-oriented “British Poles,” to more ethnocentric, even patriotic, “Polish migrants.”

## 1 Introduction

The 2016 Brexit referendum and the preceding campaign conjured up the image of Central/Eastern European immigrants in the UK as a major threat to British national identity, sovereignty and prosperity. In the following months, the insecurity regarding resident status in the UK must have made many of those EU citizens reconsider the future of their businesses, employment and family there. The possibility of “no-deal”, hard Brexit, and the looming economic crisis following it, have motivated some EU nationals to arrange a return to their homelands. After a prolonged stay in the UK, in the case of citizens from A10<sup>1</sup> countries, such as Poland, this could not have been

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<sup>1</sup> Ten accession countries that entered the EU in 2004: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

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an easy decision and a simple process. Yet, signs of a phenomenon that was hyped by the press as “Brexodus” have not been observed. According to data from January 2020, 80% of Poles residing in the UK applied for “settled” or “pre-settled” status; only every fifth person considered the possibility of returning to Poland or resettling to another EU country (Babakova 2020).

This contribution seeks to explore discourses related to motivations to return or resettle by EU nationals, particularly Poles, who considered leaving the UK between 2016 and 2020 due to the political and economic pressures following Brexit. It adopts a qualitative perspective to identify Poles’ migration motivations (first to and then from the UK), the tensions between their national and European identifications and subjective “modes of being” or belonging to migrant communities (Krzyżanowski 2010; Zappettini 2019). It is assumed, that such inferences can be made on the basis of publicly available stories, comments and survey reports. The textual dataset for such analysis has been triangulated and includes: (1) “official” discourses of government campaigns encouraging Poles to return to Poland, (2) a sample of users’ comments posted in relation to selected media articles covering “Brexodus” in Polish online media outlets, and (3) community media and Facebook support groups featuring individual stories and personal advice related to various resettlement issues.

This qualitative content analysis is meant to determine how the notion of post-national or transnational European identity has been reconfigured as a result of EU-internal migrations sparked by Brexit. Relevant questions pursued include: How did the change in legal status and loss of access to facilities or benefits affect migrants? Did any specific experiences motivate the return or stay? How supportive was the home country of the return? What were the main dilemmas or obstacles in the process of resettlement? In the course of the qualitative content analysis of available narratives, it has been possible to identify a range of patterns of (self)identifications and representations, as well as arguments that warranted them and emotional stances (if any) that accompanied them. This can lead to a more nuanced understanding of recent intra-European collective migratory experience.

## 2 Historical and Demographic Context

With Poland’s admission to the European Union in 2004, the number of Polish residents in the UK has been steadily increasing. In various surveys and Home Office reports, at least since 2008 “Polish” has been the most common non-British nationality, with some estimates of Polish-origin residents and temporary workers reaching up to one million. The influx was not reversed during the years of the economic downturn in 2008–2010, even though fewer Poles tended to arrive in the UK. However,

2018 saw the largest annual decrease in the Polish-born population in the UK, dropping by 90,000 to 832,000, according to data from the Office for National Statistics.<sup>2</sup> Such intensified emigration from the UK was likely to be the result of economic and status uncertainty for British Poles brought by the post-Brexit political and social crises, as well as an apparent growth of the economy back in Poland,<sup>3</sup> which created a demand for workers in many crafts and professions.

Demographically, the current Polish community in the UK is a distinct ethnic minority, whose economic influence and cultural trace has been noted in both positive and negative light (Rabikowska 2010). The backbone of the community is the post-WW2 Polish diaspora in Britain (e.g. military personnel that did not return to communist-controlled Poland after 1945), and other political exiles and their families. After 2004 that community was enriched by Polish professionals in the IT and medical sectors, as well as a large influx of low-skilled hospitality, transportation, building and farming workers. A number of Polish organizations and local media channels have been helping the most recent Polish migrants to accommodate to the British economic and social context, to keep in touch with the news from Poland, and to integrate better as a community (Molek-Kozakowska 2014, 2017).

Yet, following the 2008–2010 economic crisis and ensuing social resentments that resulted from the British governments' austerity plans and benefit-cutting, British Poles were subjected to some workplace discrimination (Fitzgerald and Smoczynski 2015). This was sometimes fueled by derogatory media coverage that spilled over into negative stereotyping and moral panics (Portas 2018), as well as a spike in hate crime against Poles (Home Office 2019). Although Polish migrants were first welcomed in the UK workforce to fill the gaps in the labor force, they soon started to be perceived as possible "job stealers" and "benefit tourists" (Fitzgerald and Smoczynski 2015), which was often exaggerated by mainstream British tabloids (Fomina and Frelak 2008; Spigelman 2013) or other popular media productions (e.g., a documentary by Samuels 2013 for the BBC). Studies on Polish migratory narratives indicate that, despite having ventured to seize the opportunity to change their lives for the better, Poles in the UK have been branded as opportunistic or materialistic both at home and in their host countries (Molek-Kozakowska 2017). This had to breed a sense of anomie and the perpetuation of imagined divisions between migrants and their significant others (i.e., Poles in Poland and the British) that was counterproductive to further integration.

Prior to the Brexit referendum, the vociferous LEAVE campaigners fostered highly Eurosceptic attitudes, often scapegoating Central/Eastern European migrants for many social ills. As a result, a sense of undeserved stigmatization could be seen as expressed in the Polish-language community media in the UK (Molek-Kozakowska 2019). Increasingly hostile attacks on Poles, who were blamed for anything from the

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<sup>2</sup> Overview of the UK population: August 2019. <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/articles/overviewoftheukpopulation/august2019>.

<sup>3</sup> IMF's references for GDP. [https://www.imf.org/external/datamapper/NGDP\\_RPCH@WEO/OEMDC/ADVEC/WEOWORLD](https://www.imf.org/external/datamapper/NGDP_RPCH@WEO/OEMDC/ADVEC/WEOWORLD).



collapse of the British welfare state to the rising crime rate and cultural pollution, were reported throughout late 2010s, possibly as a spin-off of the angry and divisive rhetoric of the LEAVE campaign (Rzepnikowska 2019, Molek-Kozakowska 2024).

### 3 Identification Through Narratives in Migrant Communities

It is generally accepted that, if diasporic ethnic groups are to become integrated into larger communities, they require the rituals of their collective identity to be repeatedly performed in order to forge and confirm the sense of belonging together (Anderson 1991). The literature on minority collective identities in multicultural societies stresses the fact that community media, currently often online—glocal<sup>4</sup>—outlets, are essential to maintaining and reproducing a sense of identity of diasporic communities (Ogunyemi 2012). Nevertheless, the process of identification in the context of European migratory experience has been demonstrated as laced with insecurity and alienation with respect to some less integrated communities whose “modes of being/belonging” (Krzyzanowski 2010) do not comply with political or economic goals or social expectations that prevail in the host country. Although the sense of culture shock and anomie should not be so stark when it comes to Central/Eastern Europeans migrating to Western Europe, it can be magnified and perpetuated with continuous “othering” in the public sphere construed by both official and media discourses and semi-public spheres of online and social networking sites (Chovanec and Molek-Kozakowska 2017).

In the mediatized public sphere, the task of capturing, narrating and temporarily “fixing” collective identities is one of the main functions of the official discourses emanating from the institutions of government and elite media (Wodak et al. 2009). Whereas institutions tend to construct and reproduce hegemonic identities (often ethnocentric), it is community media (including online fora or social platforms hosting thematic groups) that often become the “sites of identity struggle.” They provide space for resisting dominant identifications, producing alternative narratives and hosting inconsistent discourses (Blackledge 2005, 36–38). Engaging with multi-variate mediated content enables the tracing of self-characterizations used publically so far, to foreground new qualities, motivations and identifications. These identifications, as regards this study, can possibly range from self-proclaimed transnational, cosmopolitan “citizens of Europe,” to community-oriented “British Poles,” to more ethnocentric, even patriotic, “Polish migrants” (Zappettini 2019; Molek-Kozakowska 2019).

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<sup>4</sup> The term is a blend of “global” and “local” and stands for online/social media, which, even if produced locally, are available globally through the world-wide web, and where information is shared among geographically dispersed communities.

## 4 Study Design

The present study is not focused on determining whether the identifications of the current Polish residents in Britain bear more traces of transnationalism or nationalism (Madianou 2012). Rather, it maps the range of discursive practices of rationalizing staying in Britain or leaving it in the context of post-Brexit political, economic and social arrangements, when transposed from official to semi-public and even private or individual contexts of story-telling. The study design was initially focused on exploring the contents of below-the-line discussions related to media coverage of “Brexodus” (in semi-public discourse). However, for triangulation, two other sources of story-yielding material were used: advice and recommendation sections of an official governmental portal encouraging Poles to return to Poland (public/institutional discourse), and a closed support and advice Facebook group for people who consider returning or have returned to Poland (private discourse).

With the qualitative content analysis being a flexible method, the focus in this study is primarily on thematic and argumentative patterns used in the comments, particularly as regards shared examples and stories. However, sometimes the rational is tightly interlaced with the emotional, which can be equally useful for understanding motivation. In discourse analysis of narratives, these patterns can be revealed through identification of semantic macrostructures (dominant themes) and comparisons between stances (positive/negative). Attention is also directed toward the commenters’ or story-tellers’ linguistic choices to underpin given arguments with preferred default identifications (national, transnational). As regards warranted argument, looking at various ways of “advice-giving,” “recommending,” and “offering” can be helpful in tracing the discursive practices complicit in framing migration decisions (to stay/return) against a variety of rationalization strategies (Morrison 2019).

## 5 Results

### 5.1 *Official Discourse of a Governmental Site*

The official website of the agency which was commissioned by the Polish government to assist Poles in making their resettlement as easy as possible was considerably modernized and made interactive in 2018 ([www.powroty.gov.pl](http://www.powroty.gov.pl)). The portal hosts a wide range of guidelines with updated information, and its staffers are positioned to answer to “frequently asked questions” on how to efficiently arrange a return to Poland from abroad, based on existing regulations and procedures. The main part of the site is titled in Polish “powrotnik” which is a neologism whose meaning corresponds to “returnee’s manual,” which includes such sections as:

- formal issues prior to returning;
- removal of property;
- formal issues after returning;
- work;
- entrepreneurship;
- taxation;
- personal finances;
- family;
- health;
- social benefits;
- psychological advice.

Most sections offer a short introduction and a summary of contents with links to relevant sites and, if possible, booklets with simple instructions and practical recommendations. Each section is concluded with a credit/caveat formula that the information is provided by experts and relevant public institutions but should not be treated as the only possible legal interpretation of the regulations. The language is relatively formal but still comprehensible, even though the matter sometimes tends to be complex and nuanced. The overbearing stylistic formality of such “official discourse” is mitigated with embedded videos and the dynamic, modern layout of the site. Compositionally, the site is built in the form of directories branching out to give ever more specific information and, as a result of this design, it is relatively easy to browse. Another path that can be used to search for relevant information is to look up the country from which one is planning to relocate, with “Ireland,” “Great Britain,” “Austria,” “Germany” and “Other countries” as top headings. Alternatively, the returnee can also “ask a question” through a form made available as one of the website’s plug-ins, through email or messenger.

A special tab called “Brexit” has been made available in the main menu of the portal’s homepage. Most of the information published there relates to the package of bilateral agreements between EU and the UK that might be of interest to entrepreneurs in Poland who co-operate with British entities, have trading contracts with the UK, or run international transport companies. Much of this information is also available through brochures and links to the official site of the Ministry of Development, Labor and Technology, so the tab mainly functions as a springboard to more detailed instructions (sadly, some of the links no longer work).

Another tab is solely devoted to making the most of the job opportunities available in Poland, either in the case of starting up a business, or getting hired by a company or public institution. This part explains the fundamentals of Polish labor code and a taxpayer’s obligations and responsibilities. The site also offers additional services, such as a catalog of job offers from various job agencies around Poland, advice related to composing and translating one’s CV, a selective international news aggregator (“prasówka”—press briefing), items related to Polish culture and traditions (possibly to mitigate “culture shock” for returnees, cf. Krzyżanowski 2010), or psychological advice for parents resettling with children aged 3–12.

It can be easily noted that the support this portal offers to returnees is limited to information, as there is no incentive offered to prospective returnees, such as low credit rates, loan systems, tax breaks or free trainings. Even though the statistics show tens of thousands of monthly visitors to the site, much fewer have actually used the consulting capacity of the team of expert staffers hired by the agency (Babakova 2020). It is also evident that the official discourses of re-emigration promote the idea of managing one's return through legal procedures, and fitting in with the local job market. It champions effective integration of returnees as "slinging into" institutional requirements and cultural mainstreaming.

The site promotes a vision of British Poles' relocation as a manageable list of things "to take care of" rather than a highly stressful experience that reflects back on their identity and self-esteem. Rarely, if ever, are returnees' identification dilemmas ever touched upon, insinuating the sense that everyone is able to smoothly transition to being "back" a Polish citizen, and to reclaim a "lost" or "suspended" national identity through a series of formal steps and manageable actions. Even if there are no individual stories shared in this website, the "grand" narrative, which can be reconstructed on the basis of instructions and recommendations available to returnees, advocates for a formal, rationalized, unreflective, even mechanistic, sequencing of the "post-national" experience of "Brexodus".

## ***5.2 Semi-public Discourse of an Online Media Commentary Section***

As the word "Brexodus" is a curious neologism that might not yield many search results, it was an entry point to extract a set of UK-themed reports and analytic pieces published by a popular Polish news portal [www.money.pl](http://www.money.pl). The articles on "Brexodus" were published in 2018 and have a slight disciplinary bias, as they usually touch upon micro- or macro-economic issues (which is the profile of the outlet). The justification for choosing this material is not only the site's visibility and popularity, but also the fact that Poles residing in Britain (and considering return) are likely to follow information from the labor market, housing market and entrepreneurship and service sectors, and thus engage with information provided by such a portal (Metykova 2010). That was the case with an article by Jacek Frączyk that discusses the implications of the claim that Poles no longer want to work in the UK and choose to emigrate from the British Isles, either to other Western European countries or back to Poland (published on 22 May 2018).<sup>5</sup> With some of its arguments and examples, the article stirred some controversy, which is evidenced in the commentary section that catalyzed a broader discussion that was captured and is analyzed below.

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<sup>5</sup> Original: Brexodus "zaraził" naszych emigrantów. Polacy już nie chcą pracować na Wyspach. <https://www.money.pl/gospodarka/wiadomosci/artukul/brexodus-brexit-emigracja-z-polski,13,0,2406669.html>.

Out of 152 comments to Frączyk's article about the so-called "Brexodus", the sample for analysis was manually downsized to 50, by leaving out the comments that directly related to (or mostly challenged) specific data cited in the text, or asked some provocative/rhetorical questions, or were just expressions of political dissatisfaction with the current government. Out of the 50 comments (word size  $n = 4,420$ ) the longest was 334 words and the shortest was just 5 words.

18 commenters expressed explicit support for the idea of Poles returning to the country from the UK. This meant agreeing with the main points of the article, which noted that statistics showed that Poles were less likely to choose the UK as their destination because of the lowering wages and disadvantageous currency exchange rate between PLN and GBP, as well as because of the increasingly unfavorable perception of immigrant labor on the Isles. Meanwhile 23 commenters thought that the article misrepresented the actual situation, and that the motivation to live or work in the UK was still very high. Some even questioned the journalistic standards behind the article. 9 comments were ambiguous in their stance and took a nuanced perspective claiming that while immigration to the UK could still be beneficial financially in the case of some professionals, others would be hit by the Brexit provisions that restrict free capital and human flows between the UK and the EU. Many commenters also saw beyond the economic concerns and added other perspectives: keeping family relations and friendships intact, improving one's social status and getting more leisure time (when staying in the UK rather than starting from scratch in Poland).

Within the 50 comments, 24 featured a personal story, which means that the commenter shared details regarding personal circumstances (place of living, income, job), on top of their intentions to stay or return to Poland. 26 comments did not reveal any personal aspects of the commenter's life, as the reflections were mostly devoted to generalized observations: comparing Poland to the UK economically, politically or socially in some respect, often referring to the controversial distinctions between Central/Eastern and Western countries and their arrangements, or to the political processes within the EU, including the large scope of Polish migration.

When aggregated into a list of themes and arguments, the most common reasons to return to Poland (from economic to social and cultural) include:

- wage discrepancy between the UK and Poland (an initial motivation for short-term stay) is no longer so stark;
- working conditions for Poles are worsening (with more Bulgarians and Romanians arriving);
- living conditions in Britain are worsening (higher mortgages and rents, high council taxes);
- Poles are being employed below qualifications (often in manual jobs despite having degrees or specialist trainings);
- there will be a lack of opportunities to get promoted in upcoming crisis years (when the economy will bear the brunt of Brexit consequences);
- Poles are being treated as second-class citizens, even by the public/council authorities;

- immigrants are having to work overtime/weekends in order to save enough (to start one's own business, to be financially safe);
- immigrants are no longer welcome or appreciated in the community (incidents of workplace and neighbourhood discrimination);
- there are mental crises caused by missing homeland, family ties and native culture;
- Poles suffer from an inability to assimilate (persistent linguistic barriers in important areas of life);
- Initial excitement and fascination with the UK dissipates;
- Some have patriotic motives (not willing to work for another country, but one's own).

The most common reasons mentioned in the comments rationalizing the stay in the UK, even under the conditions brought by Brexit, include:

- wages and salaries are still higher, especially for qualified staff and in IT professions;
- UK offers decent minimal wage and freedom from excessive taxation;
- Poland has high taxes and low-quality public services;
- one can act smart in cutting unnecessary expenses and saving more on housing and travel;
- having learnt the language/profession, it is easy to prosper (after a hard beginning, it is time to enjoy one's earned status in the UK);
- the working conditions are fair and laws are transparent (unlike in Poland);
- immigrants are offered better prospects for training or career development (in Poland they are left alone);
- returning Poles suffer from incompetence and unpredictability of the Polish government and its unstable migration policies;
- one can appreciate higher standard of living, benefits and services in Western Europe (unlike in Poland);
- there are memories of past experiences of unfriendliness in the workplace in Poland (rat-race, relying on connections rather than skills);
- there are few workers' protections and the private sector in Poland is known for authoritarian decision-making and workers' exploitation;
- Poles tend to assimilate and feel welcome as residents and then citizens of the UK;
- Poles can enjoy the multicultural environment and cultural diversity.

These rationalizations cannot be quantified precisely but represent a spectrum of economic rationales, topped up by social and cultural aspects. The comments are voiced by those who have considered resettlement and decided for/against it or who are planning it. Needless to say, the frequency or recurrence of some stances or arguments is not equivalent to the individual's strength of motivation to stay or return. Rather, this collection is a microcosm reflecting a larger debate on identifications in the recent Polish migrant experience, which shows a scope of primarily economic rationalizations increasingly laced with ideological points (Molek-Kozakowska 2024). Incidentally, in this commentary section, some of the reasons to stay in the

UK are direct responses to, or refutations of, arguments to return, which shows that commenters get acquainted with one another's stories and speak to each other's positions and reasoning.

When aggregated into the lists above, the themes and arguments balance out the rationalities in migrant "modes of being/belonging", but they lose the emotionality and story-like structure of experiences retold in comments. For example, "Robi" contributes to the thread by detailing how much he and his wife make and spend every month, before concluding that the wage discrepancy is not sufficient to cover the high costs of living and educating children in the UK, unless one is a highly trained specialist. For average working-class Polish families in the UK, even if they can speak English very well, life tends to be a struggle, not to mention the lower social status of immigrants, the lack of support from extended family and the feeling of cultural alienation.<sup>6</sup>

With stories shared in comments, it is possible to capture a sense of resentment at not being able to prosper ("a second-class citizen") and at being treated as a "farmhand" never given a chance to get promoted due to one's migrant status. The motif of the British disrespecting EU nationals is a narrative schema that dominates in the comments of people who consider returning to Poland. Another story-line demystifies a common narrative of migrants' humble beginnings in a foreign country, which, thanks to hard work and risk-taking attitudes, should progressively transform into a stable and prosperous existence, but which never actually materializes because of Brexit. By contrast, the stories advocating for staying in the UK feature tips and creative adaptations that Poles have undertaken to overcome barriers such as high costs of living or bureaucratic procedures. These personal "success" narratives are often complemented with exemplary contrasts with Poland, particularly its overregulated and inflexible systems, where such individual solutions would not be possible.

### 5.3 *Private Discourse of Facebook Support Groups*

Out of many groups and profiles dealing with migrants' experience on Facebook, there were a few that seemed directly catering to the needs of people who deliberate

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<sup>6</sup> Original: Natomiast będąc jak ja z rodziną tj. żoną i dójką dzieci, wynajmując dom [...] council tax, rachunki + ubezpieczenie auta + paliwo na dojazdy wydają cała swoją miesięczną wypłatę wysokości 1300f. Żona zarabiała 1200f ale przy dwójce dzieci wydawaliśmy na jedzenie, ubrania i rozrywkę ok 700f miesięcznie [...] na pozostałe wydatki typu rata za road tax, naprawa auta, serwis, wycieczka szkolna itp. Zostaje raptem 200f które trzeba odłożyć przez parę miesięcy tylko po to żeby wydać na bilety do Polski bo dzieci tęsknią za dziadkami i rodziną. Wiele osób przelicza funty na złotówki zapominając o kosztach życia. Rzeczywistość jednak szybko sprowadza na ziemię. Reasumując, żyjąc normalnie w UK z rodziną nie jak szczur w norze na kupie wystarcza na życie [...] ale wg mnie dalej to wegetacja. Chyba że ktoś jest informatykiem, lekarzem lub inżynierem budowlanym [...]. Trzeba zadać sobie pytanie czy za cenę bycia parobkiem [...] warto mieć przeciętne życie na obczyźnie czy lepiej mieć przeciętne u siebie. Ja wolę u siebie ale to indywidualna sprawa bo każdy ma inną sytuację.

about the advantages, but also risks and costs, of returning to Poland after a stay abroad. One of them is a private group called “Big and small returns”. The group started operating in January 2017 and its introductory description makes it clear that it is devoted to supporting Poles who have returned or are considering a return by enabling them to share their stories and recommendations.<sup>7</sup>

The following threads were identified through inductive thematic analysis of posts made available between September 2019 and August 2020. The group had approximately 5,000 members at the beginning of the study and over 10,600 at the end. Each post (excepting strictly commercial messages) was categorized thematically until no new categories could be identified for 20 subsequent posts and the sampling could be considered as reaching saturation. The themes are as follows:

#### Legal and banking issues

- how to apply for child benefit in Poland;
- how to apply for maternity/paternity benefit in Poland;
- where to find Polish-language notary services in the UK;
- how to settle tax residency status;
- how to inform the bank about current residency;
- what taxation rules obtain on inheriting property in Poland for a UK resident;
- how to take out credit in Poland if property for mortgage is in the UK;
- whether student loan in UK is a liability in credit rating in Poland;
- how to reduce fees for international money transfers;
- how to discontinue paying insurance policy premium in the UK;
- whether it is possible to use ID, not a passport, to cross UK-EU border.

#### Travel and removal arrangements

- what health documents are needed to drive from the UK (non-EU country) to Poland (and in all the countries on the way);
- where to make a COVID test before flying to and from Poland;
- how to arrange trade-tariff documents to allow personal belongings into EU;
- how to register a car in Poland and where to insure it with discounts earned in the UK;
- how to find a (recommended) removal firm to take personal belongings to Poland;
- how to move private art/coin collections and precious memorabilia to Poland;
- how best to arrange transfer of pets from the UK to Poland;
- whether there are any restrictions on bringing potted plants to Poland.

#### Job and business

- how best to find work in Poland (recruitment agencies, online portals, registers of vacancies);

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<sup>7</sup> <https://www.facebook.com/groups/391890651146541> Original description: *Odważny, to nie ten kto się nie boi, ale ten który wie, że istnieją rzeczy ważniejsze niż strach. Do grupy zapraszam wszystkich którzy odważyli się wrócić do kraju bądź zamierzają to zrobić. Podzielcie się z nami waszymi opiniami, doświadczeniami.*



- how to get accreditation of educational or professional certificates acquired in the UK;
- how has the economy and political situation changed after the pandemic and if it is easy to find a job;
- which month is best for starting to search for a job (typical hiring time in Poland);
- which city (of the Polish biggest metropolises) offers best prospects for professional and self-development;
- whether having a job in the UK as nursery “teacher’s assistant” is equivalent to Polish “kindergarten teacher”;
- how to apply for a job as a nurse in Poland (after having worked only in the UK health sector);
- how to ensure that work certificate is sent to Poland after contract termination;
- which telephone company, duty agency, and tax advisor is recommended for businesses.
- how to relocate machinery used in one’s maintenance workshop to Poland.

### Children

- how to sign out a child from an English school and how to enroll a child to a Polish school;
- how to have home schooling arranged, as an alternative to public schooling;
- how to find a support group for parents who have maladjusted children and if Polish schools accept psychological diagnoses made in the UK;
- how to arrange child care under the rules of the pandemic;
- how to find a private tutor to make up for Polish language classes.

### Housing

- whom best to contact to rent a flat/house owned in the UK after moving to Poland;
- how to rent a room/flat in Poland during the pandemic;
- which electrical appliances can/cannot be used in Poland;
- what lifestyles, types of food, etc., people miss most after leaving the UK.

With several thousand members, the group tends to offer practical advice and immediate support. There are also follow-ups in the form of invitations to connect privately on more sensitive or local issues. As with any informal group of this kind, some information is more and some less trustworthy or relevant, but no question remains unanswered for long. Most issues of concern and personal stories described relate to overcoming bureaucratic barriers both on the British and the Polish side in the process or resettlement: business registration, official documents related to citizen status and property, transit papers, educational and health provisions, banking services and job search.

Apart from “success” stories related to positive outcomes of application procedures, and having things arranged efficiently, there are also warnings and recommendations on what to avoid doing and how to deal with unexpected situations. Needless to say, due to the focus on the practicalities of “big and small returns”, the group spotlights possible bumps on the way to arranging a return and rarely questions the

motivations of the members, mainly returnees. It also builds on the collective “mode of belonging” to a community of ex-British Europeans who will be adapting (back, anew) to living in Poland, with which they seem to have never lost a connection.

## 6 Conclusions

The present study has traced the (self)identifications and the representations of “modes of being/belonging” of Poles who consider or have already decided to resettle in Poland following the post-Brexit economic, political and social tensions. These representations were mapped on the basis of stories from triangulated datasets – official discourses of governmental agencies supporting returnees, semi-public discourses of below-the-line comments to a popular article dealing with “Brexodus”, and private support and advice Facebook group posts devoted to sharing experiences and practicalities in the resettlement process.

Previous studies indicate that British Poles have often positioned their collective identities against significant and “powerful” others (the British society, the British government, the British media, the Polish government agencies, EU institutions), which sometimes resulted in reinforcing the position of a vulnerable or threatened community (Chovanec and Molek-Kozakowska 2017; Rzepnikowska 2019). They also evidenced the media reinforcing the British Poles’ sense of a social/existential crisis (Portas 2018; Morisson 2019), which had important implications for the “retroactive” recreation of ethnic identity among a cosmopolitan community (Molek-Kozakowska 2019).

The present study maps contents and linguistic representations of issues confronted by Poles in the UK following the Brexit referendum and in view of the no-deal option politics of the British government (i.e., 2018-2021). The issues of uncertain legal status and possible economic crisis had been initially constructed as a threat and injustice leading many Polish migrants to consider resettling to another country or returning to Poland, a phenomenon nicknamed “Brexodus” and hyped by the media (Babakova 2020). Yet, it seems reasonable to conclude that British Poles have not yielded to the media panic or the government’s propaganda and have examined economic, social and cultural rationales for staying or returning, which is evident in the stories they were sharing or recommendations and advice they were giving through both semi-public and private channels. Emotional as these stories sometimes tend to be, they often hinge on the careful examination of circumstances and reasons for staying/returning. They also become a repository of collective experiences with a spectrum of identifications of Poles as ex-British Europeans in their unfinished personal journeys. The wide scope of positionings between transnationalism and patriotism tends to be reflected in mediated debates and group conversations, which tend to host stories about important issues relating to personal migration experiences in the context of European multiculturalism.

## References

- Anderson B (1991) *Imagined communities: reflections on the origin and spread of nationalism*. Verso, London
- Babakova O (2020) *Z ziemi brytyjskiej do Polski [From the British to the Polish land]*. Krytyka Polityczna. <https://krytykapolityczna.pl/swiat/co-z-imigrantami-po-brexicie>
- Blackledge A (2005) *Discourse and power in a multilingual world*. John Benjamins, Amsterdam
- Chovanec J, Molek-Kozakowska K (eds) (2017) *Representing the other in European media discourses*. John Benjamins, Amsterdam
- Fitzgerald I, Smoczynski R (2015) Anti-Polish migrant moral panic in the UK: rethinking employment insecurities and moral regulation. *Czech Sociol Rev* 51(3):339–361
- Fomina J, Frelak J (2008) *Next stopski*. London. Public perceptions of labor migration within the EU: the case of Polish labor migrants in the British press. Institute of Public Affairs, Warsaw
- Home Office (2019) *Hate crime, England and Wales, 2017 to 2018: Home Office Stat Bull 20*. <https://www.gov.uk/government/statistics/hate-crime-england-and-wales-2017-to-2018>
- Krzyżanowski M (2010) *The discursive construction of European identities: a multilevel approach to discourse and identity in the transforming European Union*. Peter Lang, Frankfurt am Main
- Madianou M (2012) *Beyond the presumption of Identity? Ethnicities, cultures and transnational audiences*. In: Nightingale V (ed) *The handbook of media audiences*. Wiley, Malden, MA, pp 444–458
- Metykova M (2010) Only a mouse click away from home: transnational practices of Eastern European migrants in the United Kingdom. *Soc Identities* 16(3):325–338
- Molek-Kozakowska K (2014) *Media polonijne w Londynie a kształtowanie tożsamości polskich emigrantów po 2004 roku [Polish media in London and the shaping of Polish emigre identities after 2004]*. *Rocznik Biblioteki Głównej Uniwersytetu Opolskiego*. Wydawnictwo Uniwersytetu Opolskiego, Opole, pp 91–100
- Molek-Kozakowska K (2017) *Negotiating an identity: the mediated discursive self-representation of the Polish immigrant community in the UK*. In: Chovanec J, Molek-Kozakowska K (eds) *Representing the other in European media discourses*. John Benjamins, Amsterdam, pp 158–181
- Molek-Kozakowska K (2019) *Fuzzy identities in (dis)integrating Europe: discursive identifications of Poles in Britain following Brexit*. In: Furkó PB, Ildikó V, Dér CI, Madsen D (eds) *Fuzzy boundaries in discourse studies: theoretical, methodological, and lexico-grammatical fuzziness*. Palgrave Macmillan, Basingstoke, pp 55–76
- Molek-Kozakowska K (2024) *Manufacturing identities of Poles in the UK in Polish-language online media following the Brexit campaign*. In: Prévost S, Deschamps B (eds) *Immigration and exile foreign-language press in the UK and in the US: Connected histories of the 19th and 20th centuries*. Bloomsbury, London, pp 143–160
- Morrison J (2019) *Re-framing free movement in the countdown to Brexit? Shifting UK press portrayals of EU migrants in the wake of the referendum*. *Br J Polit Int Relat* 21(3):594–611
- Office for National Statistics (2019) *Overview of the UK population: August 2019*. <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/articles/overviewoftheukpopulation/august2019>
- Ogunyemi O (2012) *Introduction: conceptualizing the media of diaspora*. In: Ogunyemi O (ed) *Journalism, audiences and diaspora*. Springer, Cham, pp 1–14
- Portas A (2018) *Representations of Polish migrants in British media from the perspective of “moral panic” theory*. *Polish J Engl Stud* 4(1):113–142
- Rabikowska M (2010) *Negotiation of normality and identity among migrants from Eastern Europe to the United Kingdom after 2004*. *Soc Identities* 16(3):285–296
- Rzepnikowska A (2019) *Racism and xenophobia experienced by Polish migrants in the UK before and after Brexit vote*. *J Ethn Migr Stud* 45(1):61–77
- Samuels T (2013) *The Poles are coming! Tonic productions for BBC TV*. <https://vimeo.com/77151640>

- Spigelman A (2013) The depiction of Polish migrants in the United Kingdom by the British press after Poland's accession to the European Union. *Int J Sociol Soc Policy* 3(1–2):98–113
- Wodak R, de Cillia R, Reisigl M, Liebhart K (2009) *The discursive construction of national identity*. Edinburgh University Press, Edinburgh
- Zappettini F (2019) *European identities in discourse: a transnational citizens' perspective*. Bloomsbury, London

# Representing Places of Coexistence



Vincenza Garofalo

**Abstract** New urban communities in continuous evolution require constant development of the city. The physical places and those of experience are spaces of coexistence and sharing between different ethnic groups. The paper presents the experiences of some community centres in Palermo that have implemented projects for the social inclusion of young immigrants, through the use of expressive arts. These experiences testify that integration, understood as a synthesis of diversity, is achieved through interventions aimed at strengthening the cultural mediation of differences, through paths that recognise geographical, cultural, social and family identities. When the representation of places provides a dimension of integration and experiences become a meeting place, *diversity* is a resource for oneself and for the community.

## 1 Introduction

The existence of new urban communities and their continuous transformations require the city to constantly evolve. The presence of migrants activates new forms of social interaction, solicits new ways of living together, and necessitates new processes of transformation of places. Some physical spaces are real places of sharing between different ethnic groups. Palermo's historical markets, for example, are characterised by the presence of productive activities born from entrepreneurial initiatives of citizens from foreign communities. Commercial activities, typical of certain communities, predominantly affect the city's historic centre, which is also the place where residents of different ethnic groups are concentrated.

The aim of this paper is to represent, interpret, and show some intangible places of socialisation, sharing, and experience.

The multi-ethnic dimension of Palermo emerges from the experience of some community centres, aimed at fostering processes of social inclusion of immigrants and promoting initiatives to counter discrimination, using different forms of artistic expression.

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**Fig. 1** A performance by the children of “No Colors” centre (Photo by Vincenza Garofalo)

Art, music, dance, and photography are the means of socialisation to foster paths of confrontation, exchange and integration, in which cultural, ethnic and religious differences are a resource for collective growth.

Through the testimonies of some of the protagonists, the experiences of urban art workshops, the creation of multi-ethnic orchestras, and the realisation of media-educational paths for intercultural dialogue and social integration are recounted. All of which have aimed at developing the feeling of belonging to the city (Fig. 1).

## **2 The Experience of “No Colors” Community Centre**

For several years now, the Municipality of Palermo has been implementing a programme of interventions that are part of the Territorial Plan for Childhood and Adolescence and are aimed at promoting the protection of the rights and development of persons in childhood. These interventions, financed with funds from Law 285/97 “Diritti ed opportunità per l’infanzia e l’adolescenza” (Rights and Opportunities for Childhood and Adolescence), are developed in the educational, cultural and environmental spheres and also aim to implement activities to combat situations of marginality and overcome difficulties for immigrant minors (Centro Nazionale Documentazione e Analisi sull’infanzia e l’adolescenza 1988; Baraldi et al, 2003).



**Fig. 2** The creative urban art workshop “Give me colors” (Photo by Adriana Falanga)

Among the funded projects, “No Colors” community centre was, between 2008 and 2014, one of the most active realities working for the integration of second-generation immigrants, offering young people the opportunity to meet, hang out and participate in various activities, multimedia workshops, music, art, dance, and journalism<sup>1</sup> (Maiorana 2010).

In 2012 the “No Colors” cooperative, which managed the centre of the same name, implemented the creative urban art workshop “Give me colors”, under the patronage of the U.S. Consulate General in Naples (Fig. 2).

The objective of the workshop was the redevelopment of a city area in a serious state of decay, through the work of the young people who attended the “No Colors” centre, coming from different countries and social contexts. The creative urban art workshop was divided into a series of interventions, some carried out inside the community centre, others directly in the area. The result was the restore of a physical space, both real and symbolic, where cultural, ethnic and religious differences were a resource for exchange and a tool for the participants’ collective growth. The project also had the aim of raising awareness among citizens and foreigners in the area to

<sup>1</sup> Author led the multimedia workshop whose aim was to represent, through photography and multimedia technologies, topics of primary interest to children, with the focus always on interculturality and integration.

respect the surrounding space, using art as a tool to transform degraded physical spaces and through the use of recycled materials, with a view to eco-sustainability.

Diletta Parisi, who was the manager and psychologist of the “No Colors” centre, told us about some experiences.

V.G. Tell us about the “No Colors” community centre. What were its aims?

D.P. The “No Colors” community centre was a project strongly desired by the Municipality of Palermo because at the time it was one of the first centres with a strong intercultural value. It was located in the historic centre of Palermo, where there is a main presence of second, now also third, generation immigrant children. We worked mainly with children born in Palermo to foreign parents. The centre’s activities took place every afternoon, with alternating artistic-expressive workshops.

V.G. The community centre was located in “Ballarò”, the heart of the historical centre where is one of the markets still active in the city, thanks to the presence of the foreign communities that animate it (Settineri 2013). In your experience as manager and psychologist of the centre, have you ever perceived phenomena of social exclusion or intolerance on the part of native residents towards foreign communities?

D.P. No, I never perceived. The historic centre is really a successful experiment, because citizens who have lived there for many years and people from different cultures coexist perfectly, both in work and cultural activities. So, it is a crossroads of many cultures and the schools in the historic centre are a testimony to that. We had a very close collaboration with the Madre Teresa di Calcutta Institute, where there is a prevalence of foreign children, the Italian are a minority, but there is no discrimination. You see children of various nationalities playing in the streets together. I am talking about the period when the “No Colors” Centre was active, but I like to think it is the same now.

V.G. The community centre offered various workshops to the young people enrolled: music, dance, art, photography, and journalism. All these forms of expression were a means of fostering paths of confrontation, exchange, integration, in which cultural, ethnic and religious differences constituted a resource for collective growth. How were they experienced by the children?

D.P. We immediately realised that art, in its various manifestations and expressions, is truly an instrument of closeness, helping to reduce the distance, including cultural distance, that can be generated. At the end of each workshop, the operators also wanted to design and produce a small artistic performance, and that was really the synthesis of the different cultural testimonies of the young people. We like to think that this was a further tool for inclusion. Relationships and small family units of different cultures were born within the centre. I truly believe that “No Colors” was a successful experiment of almost naturalised inclusion, in the sense that there was no forcing. What the children experienced in their schools, they then somehow transferred naturally to the centre as well, truly teaching us a possible and almost physiological coexistence (Fig. 3).

V.G. “No Colors” has also come into contact with various institutional realities. Would you like to tell us about a significant experience?

D.P. In 2010, we were contacted by the U.S. Consulate General in Naples, which had found us on the web, looking for examples of integration between Italian children





**Fig. 3** Inauguration of the space restored by the urban art workshop “Give me colors” (Photo by Vincenza Garofalo)

and second-generation immigrants. The Consul came to Palermo to visit us and this was a great moment for us, which filled us with pride, also because in the dreams of our children very often there was also the idea of going outside. Some dreamed of America and for them it was an opportunity to look beyond Sicily and Italy. In 2012, the Consulate supported us with a grant to equip a degraded urban space with recycled materials. An urban art workshop was set up for the occasion, in which the young people of the centre participated.<sup>2</sup> Our interest has always been to accompany the children along a path of integration, in which art has been a tool for contact, confrontation, and relations.

### 3 Music for Integration

The expressive arts, in their various forms, are means of developing socialisation, integration and participation. Music, specifically, is a universal language, capable of breaking down barriers, overcoming limits, and integrating diversity. Such integration can also be achieved through artistic interventions aimed at cultural mediation, at

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<sup>2</sup> Author was in charge of the workshop together with psychologist Adriana Falanga and curator of the set-up.

the valorisation of differences, through a path of acceptance and respect for individualities and geographical and cultural identities. Mario Crispi, a versatile musician and profound connoisseur of world music, recounts some social art-education projects in which cultural exchange was based on the recognition of specificities and respect for differences.

V.G. Your artistic activity has always been characterised by mixing world music. For several years, you have also been involved in integration projects. What kind of experiences have you had with young immigrants in Palermo?

M.C. The experiences conducted in Palermo in recent years concern, on the one hand, projects aimed at the integration of the children of immigrants who have already been living in Palermo for a long time, the so-called second or third generation immigrants, and on the other hand, projects dedicated to the phenomenon of immigration in recent years, which also concerns young and very young people who have arrived in Italy with the migratory flows along the Mediterranean routes. With respect to the first kind of experience, the community centres where I worked were aimed at families of various ethnic groups, who came from the south of the world and had already been settled in Palermo for decades. Their children, born in Palermo, were already going to school, but had to wait until they turned 18 to be recognised as Italian citizens.

The second kind of experience, which is more recent, was born in a completely changed context. The large-scale immigrations that have taken place in the last 10 years have radically changed Italians' attitudes towards foreign communities. As a result, second and third generation immigrants, who were born in Italy, or who live and work here, are often confused, in the collective imagination, with those who have just arrived. The psychological pressure exerted by the media or social networks has often conveyed a partial or inaccurate view of reality, fuelling fears and xenophobia. Public funds, once used in integration programmes for new Italians of other ethnicities, are now channelled into projects designed to alleviate the impact of immigration from wars and other dramatic realities. Implementing integration projects in the field of music is much more difficult today, because the reality is completely different from twenty years ago. Today, minors arrive in Italy without families or with serious survival problems. They are placed in reception facilities for a few months, then taken elsewhere; it is not possible to think of implementing long-term projects. With the community centre "Centro Tau", a few years ago, I ran some music workshops at the jail for minors in Palermo, aimed precisely at immigrants imprisoned for crimes of various kinds. In that case, music was an emotional break, which brought children back to a more adolescent and less adult dimension.

V.G. From community centres to multi-ethnic orchestras. Would you like to tell us about your experience with "Musicaintegra"?

M.C. From 2007 to 2011, I was involved by Giovanni Lo Cascio in a music literacy project in problematic contexts in Nairobi, with the experience that was first called "Juakali Drummers" and then "*Slum Drummers*". In that context, I led workshops in the construction of wind instruments with recycled materials. This high-impact community project changed the lives of some of the children involved who came from the slums of Nairobi, from the streets or slept in dumps. Music had a



**Fig. 4** Music workshop “Musicaintegra” (Photo by Vincenza Garofalo)

therapeutic function because it involved them in a creative process, detaching them from the dimension of loss of everything, loss of meaning, and physical loss.

Inspired by this experience, I tried to propose it in Palermo, knowing the realities of the community centres in which I was working at the same time (Fig. 4). This is how the “Musicaintegra” experience was born, which took place from 2012 to 2013 within the “Centro Tau”, a reality that has been operating in Palermo for more than 30 years in a highly disadvantaged context.<sup>3</sup> In this case, about twenty young people, aged 13 to 18, who had come from various community centres, were involved in a purely musical operation. The specific project aimed at the cultural integration and identity recovery of the children, through musical literacy, and was also intended to be a stimulus to creativity with the foundation of a multi-ethnic youth orchestra. Over the last twenty years, several multi-ethnic orchestras have been founded in Italy, most of which are concentrated in the major cities (Fiore 2012; Dari 2017). These are important experiences of integrating different cultures, joined by music. Some are now well established and have become high-level artistic examples, such as the “Orchestra di Piazza Vittorio”.

The starting idea of “Musicaintegra” orchestra was to use some recycled materials to build the instruments that the children would play. Plastic drums and wooden sticks were used by the children to practice percussion and also during performances. At the end of the workshop, a number of performances were made, during which the

<sup>3</sup> “Musicaintegra” was a project of cultural integration through music in Palermo, conceived and directed by Mario Crispi, in collaboration with the “Centro Tau” of Palermo, financed by “Fondazione Alta Mane Italia”.

orchestra performed the music composed by the children and a group of dancers from the “No Colors” community centre performed hip-hop dances. The idea was to create a stable orchestra, that there would be a generational change, and that a virtuous system could be set up, but the project stopped when the funding ran out.

However, working with African children in Africa and with young people of African origin in Palermo was a strong and important experience, in completely different contexts. In Nairobi there are serious problems of survival, in Palermo, on the other hand, there are problems of integration, but not of alarming racism. The approach to creativity in problematic contexts, of unease and disunity, especially by teenagers, creates a strong motivation to deal with positive rather than negative realities. The “Musicaintegra” project represented a moment of confrontation, maturation and integration.

All the projects of cultural integration through music, which I have directed or taken part in, have contributed to forming young people who have become friends and who have experienced society as an opportunity. It is fundamental for a young citizen to understand that society is welcoming, not rejecting, and it also stimulates one to find solutions, to find lawful ways.

V.G. In the experiences you have told us, has music been a tool for breaking down barriers?

M.C. For “No Colors” community centre I directed the music workshop, in which indigenous teenagers and young people from foreign communities participated. The workshop was an opportunity for meeting, for exchange, in which we played, sang, and danced together; it was a playful and creative moment in which everyone was happy to participate. Music was the right tool for releasing tensions and transforming them into creative energy, for expressing emotions through writing the lyrics of some songs. Some performances were held in youth contexts, through an exchange between community centres, which reinforced the idea of interaction and integration, in a context where no one was judged because of the colour of their skin or because they spoke a language other than Italian. Music in this has a formidable function, because if you don’t feel like talking, you can play, if you don’t feel like playing, you can sing, if you don’t feel like either playing or singing, you can dance. So, somehow, there is always involvement and it is immediate (Fig. 5).

V.G. The music genres techno, and pop for young people from foreign communities, with whom you have worked, are a reference. But what is their relationship with their own ethnicity? Do they feel representative and represented by their own culture, or do they tend to move away from it?

M.C. This depends on the possible degree of conflict they may have with their family. These young people, born and raised within a Western urban reality, have a bond with their homeland mediated by their parents and the religious community. The horizon of these young people is urban, with a modern vision of the society into which they want to integrate, like all European citizens. The young people from the “No Colors” centre, who attended my music workshop, came from various African states and were all bearers, more than of their cultural identity, of a feeling influenced by the musical genres they listened to, techno, Trap, Hip Hop, the same ones that their peers listen to in all the world’s metropolises, including the African ones. And



**Fig. 5** A performance by the orchestra “Musicaintegra” (Photo by Vincenza Garofalo)

so, the work of my workshop was one of musical identity research. The experience was important for everyone: from the human point of view, it was very intense, from the musical point of view, the children re-appropriated some percussive elements belonging to their ancestral way of feeling. The music workshops were very well attended, and many of the children had musical aptitudes due to a sound perception that was certainly different from that of the West and the use of a very rhythmic language. These projects were really an opportunity for integration, to the point that some of the boys became part of the music scene, becoming rappers/ DJs with thousands of views on YouTube or participating in national talent shows.

#### **4 “Centro Tau” and the “Errando tra la Gente” Project**

Among the socio-cultural promotion activities and youth community centres in Palermo, “Centro Tau” is one of the most established. It is a place that tries to understand the needs of those living in the neighbourhood. It offers young people and adolescents a space for learning and meeting, which fosters educational experiences and spreads the culture of legality, to prevent attitudes of violence and aggression.

Among the various projects developed, a media-educational path for intercultural dialogue and social integration was implemented in 2012, funded by the Italian Ministry of Justice—Juvenile Justice Department. As part of this project, entitled “Errando tra la gente. Sentieri mediaeducativi alla ricerca del dialogo interculturale e dell’integrazione sociale” (Wandering among the people. Media education pathways in search of intercultural dialogue and social integration), a photography workshop,

directed by the author, was activated, attended by adults from foreign communities and Italian. At the end of the workshop, a photographic exhibition was realised that recounted the multi-ethnic dimension of Palermo and the location of places of work, worship, and leisure experienced by migrant communities. The shots documented the presence of four communities from Tunisia, Morocco, Mauritius and Bangladesh—mainly settled in the historic centre—and the difficulties they have to overcome in order to feel part of the city, starting with spaces to pray and meet.

Francesco Di Giovanni recounts the experience of the “Centro Tau”, of which he is the coordinator.

V.G. What is “Centro Tau” and how did it start?

F.D.G. “Centro Tau” is a socio-educational and vocational training centre, established in 1988, which operates for the culture of work. It mainly welcomes a group of users ranging from 6 to 25 years of age, but the focus is on the entire life cycle, considering the fact that the particular nature of the work we carry out tries to provide answers and opportunities to young people and families living in a specific and particularly disadvantaged territorial context.

V.G. Does the centre also work with foreign communities?

F.D.G. The centre works in a non-specific manner, in the sense that it welcomes children, adolescents and young people from the community regardless of where they come from or the disadvantaged situations they may experience. The centre is open, inclusive, so as we are in an area where many immigrant families live, we also welcome immigrants from different countries of the world, trying to make them feel at home and to manage the educational accompaniment and school support service for younger children (Figs. 6, 7 and 8).



**Fig. 6** Photography workshop “Errando tra la gente” (Photo by Vincenza Garofalo)





**Fig. 7** Photography workshop “Errando tra la gente”: places of work (Photo by Vincenza Garofalo)



**Fig. 8** Photography workshop “Errando tra la gente”: places of work (Photo by Emanuela Marino)

V.G. Have you ever perceived phenomena of social exclusion or intolerance on the part of native residents towards foreigners?

F.D.G. There have been no particular situations of conflict or non-acceptance, also because immigrant communities have existed in the neighbourhood for a very long time and have integrated into the area.

V.G. We spoke with Mario Crispi about the “Musicaintegra” experience and the collaboration with the “Centro Tau”. Have you developed other specific integration and inclusion projects?

F.D.G. For some years now, we have been developing an action through the Asylum, Migration and Integration Fund (AMIF), financed by the Italian Ministry of the Interior and managed by the Sicilian Region. The project involves some schools in Palermo, with which we are carrying out a reception and mediation activity for young immigrants (Ciccarelli 2019). We hired three young people from Morocco and Gambia, who are working with the schools to put the children in contact with the other educational activities of the “Centro Tau”. Many children are intercepted in those contexts, then they are also accepted by the “Centro Tau” and in the educational and school accompaniment projects.

Our point of view is that it is necessary to really integrate with a community experience, within an integrated logic of the territory. Doing specific projects on immigrants is already a form of discrimination.

We have done other projects that are always oriented towards labour integration. There were two projects reserved for immigrants: one managed by ANPAL (Agenzia Nazionale per le Politiche Attive del Lavoro - National Agency for Active Employment Policies) for the job placement of 5 young people, another managed by the Sicilian Region which provided 11 job placements. Working on labour inclusion projects with immigrants is proving to be very laborious in terms of placement and adaptation to the production system. There have also been some very important results. About 50 per cent of the young people who participated in the projects were hired (Fig. 9).

V.G. We also remember the experience of “Errando tra la gente”, a workshop that got to meet and then represent four foreign communities through the work of photography, filming, and journalism.

F.D.G. In that case, the narratives of the four foreign communities were made through photographic storytelling, as part of a project of the Juvenile Justice Department. The sense of the work we do at the “Centro Tau” is to create forms of integration also by bringing together people living with different problems. The key words are community and generativity, making each project develop in a community, circular format, but projected to generate change. The theory of change is not only made up of narrative formulas, but is mainly made up of experiences that, with great effort, are implemented on the territory, but without which projects would be an end in themselves. This is the element that we try to put inside the projects to give them meaning. The risk is that we work more and more in a serial production of projects and unconnected initiatives that do not fit into a coherent framework. The important thing is to respond to people’s needs and above all to activate conditions for change



**Fig. 9** Photography workshop “Errando tra la gente”: places of worship (Photo by Yodit Abraha)



in the most disadvantaged contexts, creating community opportunities in a logic of generativity.

At a historic moment when even politics tends to fragment, segmentation does not help to create change. What is missing is the logic of also thinking society in architectural terms, looking at community life as a system and building processes that make sense in perspective, capable of creating beauty and harmony. Today there are so many activities that are financed, but they are disconnected, not projected within a vision of change and in this way, they become welfarism or are tied to subjectivity (Di Giovanni, 2021). If we talk about major social issues, the problem is not of the person, it is of a system that then becomes generative of negative processes, instead of positive and virtuous ones.

## 5 Conclusions

“The way of depicting a specific territorial context ends up transforming the represented sphere itself. Conveying certain territorial representations has the power to shape the environment, working on collective perceptions, making explicit imaginaries that have the power to take root” (Attili 2007, 41). In representing places and experiences, it must be remembered that there is always a gap between the reality of things and the way in which we interpret and thus return them. Representation necessarily passes through the filters of knowledge, culture, memory and vision and, by its very nature, cannot be neutral and objective.

If the way in which a context is represented can influence its transformation and if the representation itself, therefore, is filtered by the culture of the places, the experiences described show that integration processes are healthy and effective where they favour the breaking down of cultural barriers, through paths of knowledge of reciprocal specificities.

When the representation of places restores a dimension of integration and experiences become a meeting place, *diversity* is a resource for oneself and for the community.

We cannot talk about coexistence and social integration without looking at migration as a long-term phenomenon that, through different generations and stages, leads to the real possibility for migrants to participate and actively contribute to social life on an equal level with natives and on the basis of mutual respect between different cultures.

## References

- Atili G (2007) Rappresentare la città dei migranti. Jaca Book, Milano
- Baraldi C, Maggioni G, Mittica M P (eds) (2003) Pratiche di partecipazione. Teorie e metodi di intervento con bambini e adolescenti. Donzelli, Roma
- Centro Tau, <http://mediatau.it/centrotau/centrotau>. Accessed 29 Jul 2022
- Centro Nazionale Documentazione e Analisi sull'infanzia e l'adolescenza (1988). Diritti e opportunità. Orientamenti alla progettazione degli interventi previsti dalla L. 285/97, Presidenza Consiglio dei ministri, Dipartimento affari sociali. Istituto degli Innocenti, Firenze
- Ciccarelli E (ed) (2019) Scuola e famiglie immigrate: un incontro possibile. Fondazione ISMU, Milano
- Dari L (2017) Orchestre multietniche e confronto interculturale nell'Europa Meridionale: possibili processi di integrazione, ibridazione musicale e cittadinanza in Italia e in Portogallo. PhD Thesis, Tutor Maurizio Agamennone, Università degli Studi di Firenze
- Di Giovanni FP (2021) Think responsibly, act sustainably. Il management di un Ente del Terzo Settore nella prospettiva dello Sviluppo Locale: l'esperienza di "Inventare Insieme (onlus)" e del Centro Tau di Palermo. Master Thesis, Supervisor Riccardo Tiscini, Università Mercatorum
- Fiore F (ed) (2012) Orchestre e bande multietniche in Italia. Zona, Roma
- Maiorana I (2010) La Sicilia che cresce – diversi ma non divisi. Nel centro storico palermitano un laboratorio per costruire l'integrazione. L'Obiettivo 29(17):4
- Mario Crispi, <https://www.mariocrispi.it>. Accessed 29 Jul 2022
- Settineri D (2013) Migranti, storie di vita, relazioni. Un'etnografia di un quartiere di Palermo. PhD Thesis, Tutor Alice Bellagamba, Università degli Studi di Milano-Bicocca

# Communicative Practices and Online Communities on Social Media in Migration Context



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**Abstract** The chapter investigates the digital communication practices among a group of young migrants living in Palermo. In particular, the analysis aims to study both how migrant youth who belong to superdiverse networks use communicative resources and the way they handle the networked relations they establish in the host community. The data of the chapter come from the Facebook feeds of two young migrant youths who met each other and the researchers at a school of Italian in Palermo. Central in our work is the recognition of the need to change our views about the composition and trajectories of migrant groups. In this perspective we review literature on digital diasporas, underlining how this literature has built on research about social media communication, particularly work on context collapse and audience design. Finally, we argue that neither the concept of “diaspora” nor the different labels used for this kind of community (“intradiverse”, “light” “of practice” and the like) are able to capture the complexity of networks that young migrants are shown to construct online.

## 1 Introduction

The focus of our paper is on the investigation of digital communication practices among transnational migrant youth living in Palermo. Our objective is to analyze how migrant youth who belong to superdiverse networks use communicative resources, but also to study the kinds of connections that they establish once they settle in a host country and the way they handle their networked relations. The data for our paper is based on the study of the Facebook feeds of two young migrant youths who met each other and the researchers at a school of Italian in Palermo. In particular, we are interested in extending the analysis of communication within digital communities

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and groups, to individuals and networks that have not been sufficiently studied such as migrant mobile youths and thus deepen sociolinguistic understandings of the different types of groupings that emerge in social media communication. We are also interested in the specific contribution of multilingual resources to the ways in which mobile migrant youth communicate and in the role of reciprocity in exchanges involving members of superdiverse networks. This field of analysis raises some theoretical questions, that we seek to explore in this paper:

- a. How do mobile, transnational migrants and people they connect with use linguistic resources in sites of digital communication?
- b. What types of networks/digital communities are built and maintained through their communicative choices and deployment of resources?
- c. What is the role of translingual repertoires and named languages (including colonial ones) within these processes?

In order to try to answer these questions it is necessary to reflect on the role of the sociolinguistics of globalization (Blommaert 2010) and the superdiversity movement (Blommaert and Rampton 2011) in bringing to the fore a new approach to the study of linguistic practices and phenomena which recognizes the changed relations between languages, spaces and identities and theorizes languages as resources rather than closed systems. Key to such approach is the recognition of the centrality of mobility in the way identities and social practices emerge and are negotiated and therefore also the need to change our views about the composition and trajectories of migrant groups.

In this perspective, we also review literature on digital diasporas which has highlighted the importance of networked communities and online practices in the life of immigrants, particularly young ones. We then discuss how this literature has built on research about social media communication, particularly work on context collapse and audience design. We make the argument that research on multilingual, superdiverse mobile youth requires an understanding of networked communication that goes beyond the categories of community membership currently used in both diaspora studies and studies focused on social media. Indeed, we argue that neither the concept of “diaspora” nor the different labels used for communities described variously as “intradiverse”, “light” “of practice” and so forth are able to capture the complexity of networks that young migrants are shown to construct online.

## 2 Theoretical Methodological Points of Reference

The sociolinguistics of globalization and the superdiversity orientation have had a profound influence on the way sociolinguists analyze linguistic and communication practices in the last two decades. Both trends have thrown light not on the interconnectedness of economic, social and cultural phenomena across the world. They have taken the lead from studies produced by scholars of modernity such as Appadurai (1996) and Castells (2000) to underline how the worlds’ interconnectedness has

accelerated dramatically together with the speed and intensity of human mobility and with the solidification of the technology revolution, determining much more complex and changing relations among different parts of the world than in the past and higher mobility for individuals and groups. Scholars in this camp have rejected simple dichotomies between centers and peripheries and proposed instead the idea of polycentricity, that is of the existence of different centers of economic, social, and political influence that are in dialectic relationship with each other and also in flux. In terms of cultural and linguistic phenomena this means that resources can not only move from one space to the other acquiring different meanings and value across different spaces and different scales (see Blommaert 2010), but also the phenomena that start in the periphery may suddenly gain currency in the centers (such is the case for example with musical or social media trends), and also that centers and peripheries coexist within the same spaces producing communicative practices that are typical of contact zones (Pratt 1991).

At the same time, scholars proposing a superdiversity frame (Arnault et al. 2015; Blommaert and Rampton 2011; Creese and Blackledge 2018; De Fina et al. 2017) have underlined that language varieties can no longer be seen as firmly grounded within territorially bound communities and that a great deal of communication happens across spaces and times and often without physical and face to face contact. Superdiversity scholars have also underlined how the increasing cohabitation, particularly in urban spaces and in virtual ones, between people with very different origins and backgrounds continuously generates new patterns and modes of communication and its analysis therefore necessitates new instruments. Partly as a response to these needs, scholars have rejected the idea that named languages are necessarily the units of linguistic analysis and provide the basic tools for communication and have pointed to a view of languages as part of assemblages of communicative resources working together (see Pennycook 2017). These views have also revolutionized approaches to multilingualism since conceptions of languages based on the idea of assemblages underlie recent theorization about multilingual practices. An example is the construct of translanguaging proposed by various authors (see Hua et al. 2017; Li 2018), according to which multilingual people do not simply code-switch from one linguistic system to another but rather use a mix of resources from different named languages and different sociocultural and semiotic systems to communicate. Similarly, Jacquemet's proposed the concept of "transidiomatic practices," to characterize "the communicative practices of deterritorialized groups that interact using different languages and communicative codes simultaneously present in a range of communicative media, both local and distant" (in press:4). These theorizations are particularly useful in the study of communication among migrants and mobile people in general.

These insights on multilingual practices have been compounded with proposals by superdiversity scholars such as Vertovec (2010) and migration scholars such as Glick Schiller (2010), to generate novel understandings about migrant individuals and communities. Work in this line has proposed that migrants do not form homogeneous communities like in the past and do not follow trajectories that can be easily defined in advance. New migrants often follow unpredictable routes and do not congregate in

the same areas as migrants from previous generations. They also do not necessarily identify with established communities coming from the same country or area as they do.

In fact, recent literature on migration suggests the idea that many migrants nowadays should be seen as mobile individuals who construct transnational ties and build knowledge and affective links through a plurality of networks as they move along their trajectories (see De Fina and Mazzaferro 2021). Papadopoulos and Tsianos (2013, 178–79), for example, talk about “mobile commons”, which they define as “the shared knowledge, affective cooperation, mutual support and care between migrants when they are on the road and when they arrive somewhere” and state that such mobile commons crucially involve participation in different communities and “an infrastructure of connectivity”, that includes spaces of sociability and the use of digital technologies (ibid.191–192). In a recent work about a transnational group of migrant youths living in Palermo, D’Agostino (2021) notes that youth arriving in Italy have made their journey alone, without siblings, parents and relatives at all. Therefore, they have met their travel mates during the trip, sharing experience with them, losing sight and finally finding each other in Libya or in Europe, face to face or just online. So, these youths begin to belong to very mobile and fluid communities and this situation carries on even in the place of arrival.

### 3 Migrants and Digital Communities

The recognition of the centrality of mobility in linguistic theorization has also led to a greater appreciation of the importance of investigating digital environments, which of course do not presuppose the need for face-to-face communication.

Migration scholars note how technology and the wide diffusion of mobile phones nowadays allows migrants to stay connected to different centers in their life. Some scholars advocate for studying this phenomenon focusing on social networks stating that rather than thinking about people moving, one could think of networks moving with people (see Alonso and Oiarzabal 2010). Researchers in this interdisciplinary field have shown the many ways in which digital communication has changed the life of migrants. As D’Agostino (2021) has pointed out, the lack of the migrants’ family networks in the host country is counterbalanced by the large use of digital devices. Thanks to their young age, the migrants may easily learn how these tools work even though they often are illiterates. This allows migrants to be able to create and cultivate new identities that combine their varied experiences while continuing to negotiate their belonging to different social conglomerations (Cunningham and Sinclair 2000, 17). It also means however, that they often resist mainstream categorizations about them (see De Fina 2018).

The importance of the digital sphere for the study of migrants and migration has not escaped sociolinguists as well. The latter have indeed shown an increasing interest in digital environments. Such focus is apparent in the recent growth of literature on so-called “digital diasporas” (see among others Afeworki 2018; Androutsopoulos 2006;

Androutsopoulos and Juffermans 2014; Heyd and Honkanen 2015; Leurs 2015). In his review of the concept, Androutsopoulos (2006, 520) remarks that diaspora has acquired the general meaning of “a group of people dispersed from their original place”. Almost all studies tend to emphasize: an ethnic minority’s sense of difference and awareness of its marginal status within a host society; its desire to maintain links with the homeland, and to resist complete assimilation; and a constant negotiation between identities and cultures which is captured in the “master metaphor” of hybridity (*ivi*). Androutsopoulos and Juffermans (2014) note how a specific interest in the role of technology within globalization flows has always characterized the work of scholars within the linguistics of globalization and superdiversity trends. They add that «given that digital, and in particular mobile communication technologies are considered a backbone of transnational mobility [...], understanding the relation of language to individual trajectories in superdiverse settings seems impossible without taking digitally-mediated communication into account» (2014: 3). At the same time, there has also been a growing realization of the importance of digital communication for the investigation of migrant youth, since, as proposed by Leurs in his study of second generation Moroccan youths in the Netherlands, they use the internet as part of a transnational habitus (2015, 43). However, in his view, the internet also offers migrant youths a space where hybridity and multiple identities can be explored and cultivated and an occasion to relate to different communities and norms. The specificity of these immigrants is that although they belong to groups that are characterized by a certain homogeneity at home (e.g. families, political groupings, religious, etc.) they do not take part in homogeneous communities in their new countries of residence. So the processes through which they construct and negotiate identities and communicative practices may be very different. Current literature on diasporic communities focuses on homogeneous ones or at least on subdivisions and differentiations within ethnically homogenous groups.

These studies have contributed to highlight the important role of digital communication in the life of young and adult migrants. However, they also reveal existing gaps and the need to widen both the scope of this kind of research to different contexts than the ones studied until now and to get a better sense of the nature of the networks that migrants create or become part of in their communication. One problem, for example is the stress on the idea of “diasporic communities.” Diaspora is already an ambiguous and contested term. According to Banerjee and German (2010, 18):

The original meaning of *diaspora* is “to sow” or “to scatter” from the Greek term *diasperein* and refers to the dispersal of a population from its original territory to other territories. Today, while contested as to its appropriateness for use for all migrant groups (Safran 1991), the term continues to carry with it the connotation of displacement from the homeland.

However, there is in the literature an implicit assumption that diasporas form communities of some kind and that have in common some attachment to an original “land.” This is in sharp contrast with the reality of many new migrants, among them unaccompanied minors for example, whose experience is defined by passage through many countries and experience with others coming from very diverse background, and who eventually land in a place where they do not enter an “ethnic community” but



rather mixed communities (such as the government facilities in which they are hosted) or groups of friends that they acquire in their educational trajectory. In addition to that, for many Africans who migrate the defining point of reference is not their “country”, but rather their ethnic group or family or village. In brief, the concept of diaspora is wholly inadequate to describe the experience of these migrants.

Research on digital diaspora has to some extent converged with research on social media more in general, as studying communication within networks presents similar issues across different populations or groups. However, recent work from a sociolinguistic perspective in this area is scarce, particularly when it comes to multilinguals in social media environments. Among the few exceptions are two studies, one by Androutsopoulous (2014), who analyzed multilingual usage among youngsters of Greek and Vietnamese origins in Germany and the other one by Tagg & Sergeant (2014), who analyzed language choice by multilinguals involved in translocal communities. Both studies deal with the role of languages, particularly language choice, within such communications and they both underscore the impact of the indeterminacy of audiences in social media communication (see Marwick and Boyd 2010) and the consequent phenomenon of context collapse on the way social media users approach digital communication.

The construct of “context collapse” introduced by Vitak, who defined it as “the flattening out of multiple distinct audiences in one’s social network, such that people from different contexts become part of a singular group of message recipients” (2012, 541), is particularly relevant in the case of migrant youth. Indeed, their digital practices are addressed and become available to audiences that have not only different origins but also speak different languages. Let us backtrack for a moment and consider the structure of Facebook and its affordances. As described by Tagg et al. (2017) Facebook is a semi-public platform, in the sense that users networks are controlled by them as they choose their friends, i.e. people who have access to their posts, and can potentially block others from seeing their posts and photos. However, as the same authors note:

The fact that each Friend has their own interconnected ego-centred network leads to potential ‘leakage’, in that posts to which a friend has commented may appear in their Friends’ newsfeeds so that one’s posts can become visible to Friends of Friends, leading to a somewhat unpredictable text trajectory (ivi:54).

This is a potential problem for all users of FB in that they expose themselves to unwanted audience members, but it poses specific issues for multilingual speakers as their own linguistic repertoire is often either not shared or sometimes partially shared with both members of their close network of friends and members of other networks who are potential “non ratified “participants or “overhearers” (see Goofman 1981). Both the studies quoted above and other work on the topic (see for example Georgakopolou 2016; Blommaert and Szaba 2017) have argued that participants always develop techniques to choose their addressees, no matter how transparent audiences and other interactants may be. Indeed, for example Androutsopoulous (2014) proposes to look at audience design as a way in which social media users try to delimit their messages addressees. Blommaert and Szaba (2017) on the other



hand, show that messages may generate branching threads that reflect the interests of different audiences, while Tagg et al. (2017) argue that at the end of the day since Facebook is an “ego centered” platform in the sense that it is the profile owner who decides who can be part of their circle, most of the time people are addressing other people that they know.

However, communication patterns and choices are not merely determined by individuals, but are the result of the interaction between individuals and dynamics within networks. It is now amply recognized that there are many different kinds of communities which are formed online and that they often involve online/offline interactions (see d’Hollósy 2019). Definitions of online communities are often shaped by the kind of platforms being investigated. So, for example scholars have talked about online communities as “communities of practice” as defined by Wenger (1998), formed around regular interaction about specific tasks and interests (see Wong et al. 2011), “light communities,” i.e. groupings that often share only certain limited interests (Blommaert and Varis 2015), and so forth. In the case of Facebook, Tagg, Segeant and Brown have talked about “intradiversity” as a defining element of these networks to describe “the way in which the audience that people are writing for on Facebook is shaped by complexes of personal networks, individual experiences and mutual friendships, rather than being organised along traditionally defined community lines” (2017, 53).

What seems to emerge from this literature is a clear need for further insights into the ways networks are created and maintained by users, particularly in the case of multilingual migrants and the types of patterns that contribute to create different groupings, with different characteristics and functions. As we will see, the migrant youths we investigated tend to participate in a variety of ways in communication with other users, some of which are part of communities that have interests in common and maintain online and offline ties, while others may simply represent existing ties to their places of origin.

## 4 Background and Methodology

Data for this paper come from a project which is being conducted with youths who entered Italy as unaccompanied minors asylum seekers and who are, or have been, students at an Italian language school in Palermo (see De Fina et al. 2020).<sup>1</sup> The Language school in which our participants met has been instrumental in organizing language courses and other social and convivial activities for the minors who are students there.

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<sup>1</sup> The latest counts of these youths (Ministero del Lavoro), indicate that in December 2021 the number of unaccompanied minors in Italy had reached 12, 284. Most of these minors (97.3%) are males and the great majority are between 15 and 17 years old. According to recent data, minors constitute 14.5 of total arrivals by sea and come from Bangladesh, Tunisia, Egypt, Guinea, Ivory Coast, Eritrea, Nigeria, Mali and other countries. At least 28% of these youth stay in Sicily.

The main objective of the project is to study the identity formation and use of linguistic resources by students and former students within communities that include local members as well. Thus, we have looked at identity processes within storytelling practices in the community formed at the school by teachers and students and we are now following the Facebook profiles of four focal members, three migrants and one Italian.

The project is ethnographic in nature. It includes observations, collection of artifacts, notetaking and interviews. In the case of the Facebook study we have adopted a virtual ethnography approach (Hine 2015), based on long-term observation of the FB posts and exchange in order to get a sense of participants constructions about those interactions, followed by one or more interviews focusing on their use of the media and on their linguistic choices.

After requesting permission to do so from the FB page owners, we have been observing the pages of our focal participants from August 2018 and conducted interviews with them. In this paper we concentrate on the Facebook profile of one of the participants, a young man from Guinea Conakry who was an asylum seeker and now lives in Palermo, whom we will call with the pseudonym, Mohammed as a point of observation of communication among members of his group of friends.

## 5 Analysis

In the analysis we will focus on answering the research questions mentioned above, that is.

Are different networks/digital communities implied in communicative choices and deployment of resources? If so, how do young migrants and their friends deal with so-called “context collapse” and index their membership into these different communities through the use of linguistic and extra linguistic resources? We look at the linguistic and semiotic uses of resources used in FB posts and at participants comments, in order to assess whether different communities/networks emerge and what kinds of uses of resources are associated with them.

One thing that is apparent is that migrant youth do cultivate relations and communicate in different ways with different communities/networks, thus negotiating belonging to a variety of groups. Thus, our data points to the fact that in many cases there is no context collapse or at least, participants try to keep contexts separate and signal which network they are addressing through the choice of topics, linguistic and cultural resources through specific interactional dynamics. In very general terms two major networks can be identified: a Guinean network, mostly constituted by friends and family members of Mohammed (pseudonym) living in the homeland and a network constituted by Italians and African friends both from Guinea and from other countries in the continent met on the move and in Palermo. Within those networks there are of course some core members, but we do not have space to develop this aspect here.

Messages to and by members of the Guinean network are usually identifiable because of a combination of participants (people originating or being targeted by the post) and topics. Sometimes the posts revolve around African or Guinean affairs or they represent celebrations such as family and friends birthdays or marriages in the home country. Participants may be selected by the originator of the post, that can be a friend or relative of Mohammed and in those cases he is tagged in the post. As we will see, however, even in cases where there is audience selection, context collapse happens anyway, with people from different networks participating in the same interactional thread.

Posts mostly addressed to or originating in Guinean participants are characterized by multilingual practices that we will describe below but also by the use of specific greetings and politeness routines. See the following examples, in which the use of formulaic expressions in mixed languages and also in French but with expressions that are calques of local greetings:

- (1) Merci beaucoup mon frère de sang  
de rien wontan. ['brother', Susu].  
On diarama bappa. ['God bless you, uncle, Fula]

Another routine that characterizes posts to and with African friends is the habit of thanking almost every participant who sends good wishes or a positive comment.

Language choice in the context of posts predominantly addressed to or originating from African friends and family depends on many factors. French seems to be used as a kind of unmarked choice. Indeed, for example when Mohammed broadcasts live on Guinean political issues (which he does on occasions), he does so exclusively in French, but in more informal posts French alternates with both African Languages and with what we could call an digital translingua which is composed of French, English in translanguaging mixtures of various degrees, together with other semiotic resources such as emojis and memes. French itself is written on a continuum that goes from close to standard orthography to close to an innovative digital orthography characterized by abbreviations and by the writing of words in a way that resembles their phonetic make up.

Examples of this usage can be seen in the following fragment which contains replies to a post by a friend of Mohammed (in which he is tagged) presenting a photo of the poster with a text saying: *Joyeux anniversaire à toi Bro mon officier*:

- (2) Joyeux anniversaire à toi Bro mon officier  
eating le gâteau d'anniversaire  
Post 1: HBO BRO  
1 person likes this, 2 people love this  
Reply to Post 1: Merci bro  
Post 2: Ja  
1 person likes this, 2 people love this.  
Reply to Post 2: Merci  
Reply to Post 2: Merci beaucoup mon frère de sang [Thank you blood brother]

1 person loves this  
 Reply to Reply: De rien wantan  
 Post 3: Joyeux anniversaire  
 One person likes this, 2 persons love this  
 Reply to Post 3: Merci

The translinguistic nature of this post is evident not only in the title that has bits of French, an emoji representing a cake and bits of English, but also in the responses. See for example “de riens, wantan” where wantan is Susu for “friend” but “de rien” is French, and see examples of the digital translingual, made up of various bits of language associated with known languages like “bro” or abbreviations like HBD.

Thus, it is very difficult to explain the linguistic behavior exhibited by Mohammed and his friends using the classical models of repertoires based on codes that are structured according to prestige. What seems to emerge both in practice and in the interviews that we did with Mohammed is an idea of languages and of linguistic and semiotic resources as strongly associated with communicative value, both in the African and in the Italian context. When asked what language he uses with other African friends in Italy Mohammed responded that he uses a mixed variety made up of Italian and words taken from different African languages. He also explained multilingualism in his home as follows in one of the interviews:

M: non abbiamo una lingua. Tutte queste lingue va benissimo per noi. Anche se ci sono persone che non parlano benissimo questa lingua [referring to Susu] possono parlare questa lingua. Per esempio due persone che parlano Fula possono dire anadi (Greeting in Susu). Queste lingue dipendono dal luogo. Per esempio per giocare a calcio si usa Susu. Anche per fare le cose un pochino brutte si usa Susu. Tutte le persone che abitano a Conakry capiscono almeno 5 o 10% questa lingua.

M: We do not have a language. All these languages are ok for us. Even if there are people who do not speak this language very well, they can speak it. For example two people who speak Fula can say anadi. These languages depend on the place. For example to play soccer Susu is used. Also to do things that are a bit ugly Susu is used. All the people who live in Conakry understand at least 5 or 10% of this language.

Sometimes it is the choice of particular resources that acts as a selector for the audience. For example, Mohammed posts a video in which he announces that he has got engaged to an Italian girl.

In the video M. makes a wedding proposal to his fiancé and for this purpose he uses French. As we see here the great part of the comments elicited by the video are in French.

- (3) Reply 1 to video: Super mariage toi est chance aussi vraiment du courage mon grand frère Mohamed [Super wedding you are lucky and really brave my great brother Mohamed]
- Reply 2 to video: Félicitations mon frère [Congratulations my brother]
- Reply 3 to video: Félicitations tokis [Congratulations from me too]
- Reply 4 to video: Ok cool
- Reply 5 to video: Tonio [‘Antonio’ a nickname of Mohamed, in honour of the football player Antonio Cassano]

Reply 6 to video: Casso [Fuck, see the Italian word 'cazzo']

Reply 7 to video: Baa montre là on voi rien [Hey show her, we don't see anything]

Reply 8 to video: Super marriage a toi Mon grande bonne chance [Super wedding to you, my great good luck]

Let us now consider posts prevalently addressed to the “Italian network” within which we find the core of the community of friends (that is the school community) consisting of both Italian and African users which constitutes a community of practice acting both online and offline. This community has found in the school of Italian, a place in which a complex imbrication of social and cultural interactions takes place. The members of this community of practice are Italian teachers and youth and African youths (boys, mostly) who learn Italian trying to insert themselves in the social texture of the hosting community. When the members of this community of practice interact online, the interactions that take place are again translingual but we see that Italian emerges as an important resource to signal belonging to the school community. See for example the following excerpt, regarding a post in which Mohammed shows a photo of himself with two of his best friends from the school.

- (4) Post: Il nostro amore è la nostra casa. I nostri piedi possono andarsene ma il nostro cuore mai... cittadini del mondo  
[Our world is our home. Our feet can go away but our heart never. Citizens of the world]  
Reply 1 to post: Grandi!! [Great!!]  
1 person likes this, 1 person loves this  
Reply 2 to post: Super  
1 person likes this  
Reply 3 to post: Siamo il mondo fra... [We are the world bro]  
1 person likes this, 1 person loves this  
Reply 4 to post: Super  
Reply 5 to post: Yeah siete grandi [Yeah, we are great]  
Reply 6 to post: Cool mon frère [Cool my brother]  
1 person likes this

Here we see reactions in Italian, French, and digital translingua. Of course languages or varieties are not chosen necessarily based on the participants L1 or language competence but seem to respond to much more complex contextual choices. For example Italian seems to have a particular role in indexing belonging to this community since often times texts in Italian are written by migrant youth even with very little competence in the language.

Participants also find other ways of indexing the community to which they belong, other than through linguistic means only. For example see the following set of comments following the posting of a video in which Mohammed was tagged, in which he was singing.

- (5) Reply 1 to post  
maintenant tu es devenu musicien ahahah [Now you have become a musician]  
Reply 2 to post

Vrai gay [Really nice]

Reply 3 to post

La pacchia continua [The party goes on]

As we can see, among other comments in French, there is one in Italian, written by O, a Guineian living in Turin. In his post O uses a well-known expression in Italian [“è finita la pacchia”, “the fun is over”] that the former Italian Minister of interior Matteo Salvini used to say in order to foster his issues against the migrants that according to him come in Europe just to make a “bella vita”.

In fact we find sometimes posts (in Italian or in French) in which the author shows his opinion about the policy of the government on migrations and migrants. However, it should be noted that these comments are nearly always “ironic”. The main target is the then Minister of the Interior. See, for instance the following excerpts in which friends are expressing their reactions to an announcement by Mohammed that he will soon get engaged with an Italian girl.

(6) Salvini vas te sécuriser petit [Salvini will xxx, guy]

Salvini te donne directement les papiers mes félicitations moi j'ai déjà ooo

[Salvini will give you the documents directly congratulations I have already got them]

Thus, there seem to be various ways in which participants index belonging to communities and therefore differentiate themselves within possible audiences and also create community: first, the use of the language of the post itself or the comments seems to be significant at times.

For example, the use of translanguistic resources often leads to metalinguistic comments that are revealing of attitudes by different participants with regard to such resources and to languages as well and to issue of belonging. Indeed, members of the home community in Africa often comment on Mohammed's use of Italian. See the following example of a post in which Mohammed publishes his photo with the following text in Italian.

(7) Non devo essere più forte dell'altro, devo essere più forte di me ogni giorno grazie all'altro

[I don't have to be stronger than the other, I have to be stronger than myself everyday thanks to the other]



Italian here may have been used in order to select specifically members of the Italian community (that it does not mean community of the Italians). However, it is possible to find feedback that underlines how Mohammed prefers Italian to French.

(8) Tu veu dire que tu a oubiler français nespas?

[You mean that you forgot your French isn't it?]

In the previously discussed posted video on his engagement we find further evidence of negotiation regarding languages and identities. Indeed it is interesting to find both a comment by an African friend who is not only using Italian, but also indexing the variability of religious credos within the community, and an offer of translation for one of the participants who does not speak French. Notice, however,

how this offer is proffered in French by an Italian. In fact, another interesting phenomenon that becomes visible in these posts is the willingness of participants in the Italian community to engage with multilingualism and translanguaging as another hallmark of this group.

- (9) P1 Chiamo tutti i santi e prego a Dio, Allah, Jesu, Buda... di rendervi felice per tutta la vita. L'anello lo pago Io  anche ne sono invitato  
 [I invoke all the saints and pray to God, Allah, Jesus, Buddha to make you happy for your whole life. I will pay for the ring, even though I'm not invited]  
 P2 in bocca al lupo  
 [good luck]  
 P3 Cornuto  
 [cuckold]  
 P4 elle ne comprends pas, mai sit u veux on peut traduire. Pas de problème, les amis ca sert à ca   
 [She does not understand you, but if you want I could translate. No problem. A friend in need is a friend indeed]

For further comments on the need for translations see the example below reproducing comments to a live video posted by Mohammed in French in which he commented on African politics.

- (10) P1 Io non ho capito bene quello che stai dicendo mi sembra interessante, non parlo bene Francese ma qualcosa ho capito. Bravo  
 [I did not understand very well what you are saying but it seems interesting, I don't speak French well but I understood something. Bravo!]  
 M grazie. Poi ti faccio il traduco  
 [Thanks, then I will do translation]

## 6 Summary

We are now in a position to answer the research questions posed at the beginning of this paper.

- a. How do migrants and people they connect with use linguistic resources in sites of digital communication?
- b. Are different networks/digital communities implied in communicative choices and deployment of resources? If so, how do young migrants and their friends deal with so-called “context collapse” and index their membership into these different communities through the use of linguistic resources?
- c. What is the role of translingual resources and the named languages (including colonial ones) within these processes?

We have seen that linguistic and semiotic resources used online include different known languages and translingual varieties, plus a mixed variety that we called

digital translingua. We have also seen that migrant youth are part of different digital networks and communities that follow different linguistic and pragmatic routines.

Such communities represent these youngsters' multiple links with different realities.

Participants signal and negotiate multiple belongings to these different communities through semiotic strategies, but they also index identities that travel across contexts, for example youth identity signaled through use of digital translingual which shows also the intersectional nature of the identities constructed online by migrant youth.

Digital contexts present an arena for both identity negotiations by the minors and the encounter of all youth with other cultural realities. Such arena generates a new translingual and multisemiotic space in which participants engage with the variety of resources that are circulated there. Participants in the local Sicilian community seem particularly engaged in translingual practices (be they translations, use of linguistic resources with which they are not familiar, and so forth).

The analysis of ways in which communication happens in communities such as these that are formed by migrants and local friends offers a vantage point of observation to describe important aspects of the mobile commons.

## References

- Afeworki N (2018) Eritrean nationalism and the digital diaspora: expanding diasporic networks via Twitter. MA Thesis, African Studies. University of California. <https://escholarship.org/uc/item/8bz6s6m0>
- Alonso A, Oiarzabal PJ (2010) *Diasporas in the new media age: identity, politics and community*. University of Nevada Press, Nevada
- Arnault et al (eds) (2015) *Language and superdiversity*. Routledge, London
- Androutsopoulos J (2006) Multilingualism, diaspora, and the internet: codes and identities on german-based diaspora websites. *J Sociolinguist*:520–547
- Androutsopoulos J (2014) Linguaging when contexts collapse: audience design in social networking. *Discourse, Context Media* 4–5:62–73
- Androutsopoulos J, Juffermans K (2014) Digital language practices in superdiversity: introduction. *Discourse Context Media* 4–5:1–6
- Appadurai A (1996) *Modernity at Large*. In: *Cultural dimension of globalization*. University of Minnesota Press, Minneapolis
- Banerjee P, German M (2010), A conceptual overview: global migration and transculturation in the digital age. In: Banerjee P, German M (eds) *Migration, technology and transculturation: a global perspective*. Lindenwood University Press, St. Charles
- Blackledge A, Creese A (2019) *Voices of a city market. an ethnography*. Multilingual Matters, Bristol
- Blommaert J (2010) *The sociolinguistics of globalitazion*. Cambridge University Press, Cambridge
- Blommaert J, Szabla M (2017) Does context really collapse in social media interaction? *Tilburg working papers in urban languages and literacies*, No. 217
- Blommaert J, Varis P (2015) Enoughness, accent and light communities: essays on contemporary identities *Tilburg Papers in Culture Studies*; No. 139
- Blommaert J, Rampton B (2011) Language and superdiversity. *Diversities* 13(3). <http://www.uncsco.org/shs/diversities/vol13/issue2/art1>. Accessed 15 Jan 2022



- Creese A, Blackledge A (2018) *The Routledge handbook of language and superdiversity*. Routledge, New York
- Castells M (2000) Toward a sociology of network society. *Contemp Sociol* 29(5):693–699
- Cunningham S, Sinclair J (eds) (2000) *Floating lives: the media and Asian diasporas*. University of Queensland Press, St. Lucia
- D'Agostino M (2021) Noi che siamo passati dalla Libia. *Giovani in viaggio fra alfabeti e multilinguismo*. Il Mulino, Bologna
- De Fina A (2018) What is your dream, fashioning the migrant self. *Lang Commun* 59:42–52
- De Fina A, Mazzaferro G (eds) (2021) *Exploring (Im)mobilities: language practices, discourses and imaginaries*. Multilingual Matters, Bristol
- De Fina A, Ikizoglu D, Wegner J (eds) (2017) *Diversity and superdiversity*. In: *Sociocultural linguistic perspectives*. Georgetown University Press, Washington DC
- De Fina A, Paternostro G, Amoruso M (2020) Odysseus the traveler: appropriation of a chronotope in a community of practice. *Lang Commun* 70:71–81
- D'Hollosy F (2019) Doxing and online communities. *Diggit Mag* 05/2/2019. <https://www.diggitmagazine.com/articles/doxing-and-online-communities>. Accessed 10 Nov 2021
- Georgakopoulou A (2016) Whose context collapses: ethical clashes in the study of language and social media in context. *Appl Linguist Rev* 8(2–3):169–189
- Glick Schiller N (2010) A global perspective on transnational migration: theorizing migration without methodological nationalism. In: Baubök R, Faist T (eds) *Diaspora and transnationalism: concepts, theories and methods*. Amsterdam University Press, Amsterdam, pp 109–130
- Goffman E (1981) *Forms of talk*. University of Pennsylvania Press, Philadelphia
- Hannerz U (1996) *Transnational connections*. In: *Culture, people, places*. Routledge, London-New York
- Hine C (2015) *Ethnography for the Internet*. Bloomsbury, London
- Heyd T, Honkanen M (2015) From Naija to Chitown: The new African diaspora and digital representations of place. *Discourse Context Media* 9:14–23
- Hua Z (2017) New orientations to identities in mobility. In: Canagarajah SP (ed) *Routledge handbook of migration and language*. Routledge, London, pp 117–132
- Jacquemet M (2019) Beyond the speech community: on belonging to a multilingual, diasporic, and digital social network. *Lang Commun* 68:46–56
- Leurs K (2015) Digital passages: migrant youth 2.0. In: *Diaspora, gender and youth cultural intersections*. Amsterdam University Press, Amsterdam
- Li W (2018) Translanguaging as practical theory of language. *Appl Linguis* 39(1):9–30
- Marwick AE, Boyd D (2010) I tweet honestly, I tweet passionately: Twitter users, context collapse, and the imagined audience. *New Media Soc* 13(1):114–133
- Papadopoulos D, Tsianos VS (2013) After citizenship: autonomy of migration, organisational ontology and mobile commons. *Citizen Stud* 17(2):178–196
- Pennycook A (2017) Translanguaging and semiotic assemblages. *Int J Multiling* 14(3):269–282
- Pratt ML (1991) Arts of the contact zone. *Profession*, pp 33–40
- Tagg C, Seargeant P (2014) Audience design and language choice in the construction and maintenance of translocal communities on social network sites. In: Seargeant P, Tagg C (eds) *The language of social media: identity and community on the internet*. Palgrave Macmillan, Basingstoke, pp 161–185
- Tagg C, Seargeant P, Brown A (2017) Taking offence on social media conviviality and communication on Facebook. Palgrave/Macmillan, Cham
- Vertovec S (2007) Super-diversity and its implications. *Ethn Racial Stud* 30(6):1024–1054
- Vertovec S (2010) Superdiversity and its implications. In: Vertovec S (ed) *Anthropology of migration and multiculturalism: new directions*. Routledge, Abingdon, pp 65–96
- Vitak J (2012) The impact of context collapse and privacy on social network site disclosures. *J Broadcast Electron Media* 56(4):451–470
- Wenger E (1998) *Communities of Practice*. In: *Learning, meaning and identity*. Cambridge University Press, Cambridge

- Wong K, Kwan R, Leung K (2011) An exploration of using Facebook to build a virtual community of practice. In: Hybrid learning: 4th international conference, ICHL 2011, Hong Kong, China, 10–12 Aug 2011. Springer, Berlin, pp 316–324
- Zhou H, Li W, Lyons A (2017) Polish shop(ping) as translanguaging Space. *Soc Semiot* 27(4):411–433

# The Invisible Voices of Migrants in Higher Education



Carmen Carmona and Gerhard Kruip

**Abstract** Universities and other institutions of higher education have always been places of learning where people from different countries came together. This also certainly contributes to the creativity and productivity of research and teaching. However, in a time of growing migrant and refugee flows, higher education institutions are not only attended by foreign students who have a good previous education, whose parents can finance such studies or who receive a scholarship, but also by vulnerable groups who have fewer financial resources, often have a precarious residence status and whose previous education does not always create the best conditions for successfully completing their studies. However, we believe that these groups also have a human right to higher education. Universities should therefore try to do justice to them as well and adapt their programmes and ways of working accordingly. Given the wide variety of different situations and policies in Europe, we focus on Spain and Germany in the context of Higher Education.

## 1 Migrants in Higher Education—Facts and Figures

The number of people residing in an EU Member State with citizenship of a non-member country on January 1st, 2020 was 23 million, representing 5.1% of the EU population. In addition, there were 13.5 million persons living in one of the EU Member States with the citizenship of another EU Member State (Eurostat 2021a). In absolute terms, the largest numbers of non-nationals living in the EU Member States in 2020 were found in: Germany (10.4 million persons), Spain (5.2 million), France (5.1 million) and Italy (5.0 million). Non-nationals in these four Member

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States collectively represented 71% of the total number of non-nationals living in all of the EU Member States, while the same four Member States had a 58% share of the EU's population (Eurostat 2021a). In general terms, Germany reported the largest total number of immigrants in 2019, followed by Spain, France and Italy among all European countries (Eurostat 2021a).

As described below, Table 1 represents the number of immigrants across the seven countries included in the FORTHEM alliance<sup>2</sup>. Data indicate that 4 out of 7 partner countries in the alliance, accumulate high percentage of immigrants in absolute terms.

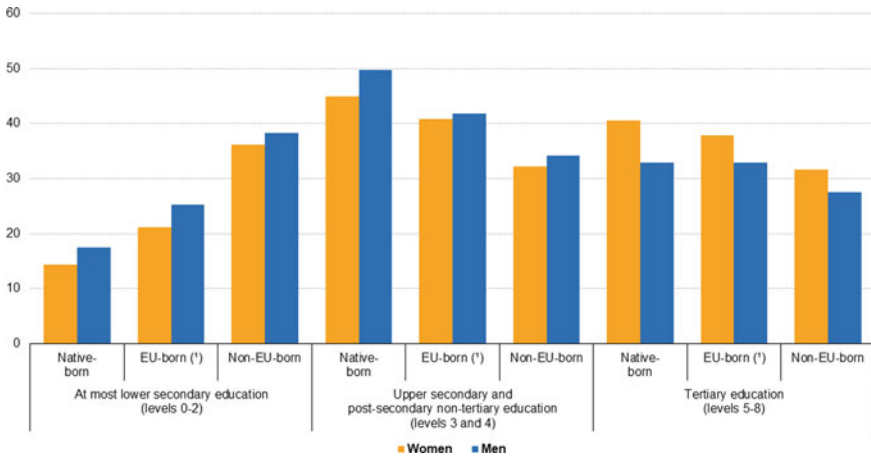
According to the International Migration Outlook 2020 (OECD 2020), 14% of the total population in OECD countries are foreign-born. The important rise in humanitarian migration has largely contributed to the growing preoccupation with reviewing migration policies. Nevertheless, humanitarian migration makes up only a part of total population flows. A large share of migrants moves for work reasons, and there is evidence of positive social and economic returns to migration (Arslan et al. 2014).

Regarding education, according to OECD (2020), for the younger adults (25–34 year-olds), on average across OECD countries, 45% have tertiary attainment. However, younger immigrants are particularly at risk. Socio-economically disadvantaged students with an immigrant background and boys are more likely to repeat grades than advantaged students (OECD 2019), and this could also lead to persisting socio-economic inequalities. Completion rates are usually lower for students from a disadvantaged background (e.g. lower educational status of parents, first-generation immigrants, and belonging to a vulnerable group).

Therefore, being a first- or second-generation immigrant affects students' likelihood of completing upper secondary education. In almost all countries with available data, the completion rate of first-generation immigrants (those born outside the country and whose parents were both also born in another country, excluding international students) or second-generation immigrants (those born in the country, but whose parents were both born in another country) was lower than students without an immigrant background (OECD 2021a, b, c). The difference in completion rates among those with an immigrant background, however, differs across countries.

**Table 1** Number of immigrants in FORTHEM partner countries (Eurostat 2021a)

	Percentage	2019		
		Total	Men	Women
Germany	33.75	886,341	506,123	380,218
Spain	28.58	750,480	376,035	374,445
France	14.68	385,591	187,681	197,910
Italy	12.67	332,778	168,921	163,857
Poland	8.63	226,649	131,930	94,719
Finland	1.25	32,758	17,280	15,478
Latvia	0.43	11,223	7664	3559



**Fig. 1** Share of the population aged years, by educational attainment and gender (Eurostat 2021b)

However, while first-generation students have lower completion rates than second-generation students, in some countries this depends on their age at arrival in the host country (OECD 2021a, b, c).

An important dimension of migrant “integration” into host societies is the level of educational attainment. In 2020, just over one-third (35.6%) of adult migrants (aged 25–54) who were born in another EU Member State had a tertiary level of education. This rate was lower for migrants who were born outside the EU (29.6%) (Fig. 1).

In particular, regarding refugees, a group with its own status and legal characteristics, only 3% of refugees worldwide are enrolled in higher education institutions (Unangst and Crea 2020). Data show a contrast with the expected goal of UNHCR’s commitment to ensure that 15% of university-age refugees access higher education by the year 2030 (UNHCR 2020).

In general terms, the need to seek international protection is one of the main reasons that forces people to cross borders. Recent data indicate that in 2020, 471,300 asylum applicants applied for international protection in the EU Member States; it was down by 32.6% compared with 2019. This decrease can be attributed to the COVID-19 pandemic and the related travel restrictions implemented by the EU Member States.

Regarding citizenship of first-time applicants, Syria remains the main country of citizenship of asylum seekers in the EU since 2013. In 2020, the number of Syrian first-time asylum applicants in the EU fell to 63 500 from 74 900 in 2019, while the share of Syrians in the total EU first-time applicants increased from 11.9 to 15.2%. Afghans accounted for 10.6% of the total number of first-time asylum applicants, Venezuelans for 7.3%, Colombians for 7.0%, while Iraqis and Pakistanis for 3.9 and 3.8%, respectively (Eurostat 2019). The main countries of destination are Germany, Spain and France. In particular, with 102,500 applicants registered in 2020, Germany accounted for 24.6% of all first-time applicants in the EU. It was followed by Spain

(86,000; 20.7%), France (81,800; 19.6%), ahead of Greece (37,900; 9.1%) and Italy (21,200; 5.1%).

More than three quarters (78.7%) of the first-time asylum seekers in the EU in 2020 were less than 35 years old; those in the age range 18–34 years accounted for slightly less than half (47.7%) of the total number of first-time applicants, while almost one third (31.0%) of the total number of first-time applicants were minors aged less than 18 years. Concerning gender, the distribution of first-time asylum applicants shows that more men (63.8%) than women (36.1%) sought asylum; an unknown category accounted for the remaining 0.1% (Eurostat 2021a).

We believe that education, at all levels, performs a protective function (UNHCR & UNESCO 2016), and higher education protects refugees from marginalisation and abuse in a safer context (Kirk and Sherab 2016). Furthermore, it might help for integration, even when this concept has its own problems (Berg et al. 2021). Recent data show that in 2020, 5% of refugees have access to higher education compared to only 1% in 2019. This is far below the global average higher education enrolment among non-refugees, which stands at 39% in general terms (UNHCR 2021).

## 2 The Right to Education—Also for Migrants?

Modern societies have developed into knowledge societies, in which the stock of knowledge is constantly increasing, and the greater the importance of media communication has become, the more important it is for economic success, personal development and social recognition that people have access to knowledge and possess skills for media communication. Since knowledge is becoming outdated more and more quickly and today an initial vocational training alone can no longer provide the knowledge for a professional life, key qualifications are also increasingly necessary in order to be able to select, order and reacquire knowledge. Nowadays, it is less important to have a high income than to be well educated. People with higher educational qualifications are generally more successful in their careers, less likely to be unemployed, earn higher incomes, are more involved in politics and volunteering, provide better education for their children, are healthier, live longer and are more likely to enjoy high social recognition. The economic, social and cultural development of entire countries also depends heavily on the quality of the education system. Even more so, ageing societies in the context of demographic change are dependent on their diminishing labour force potential being well educated.

However, education must not be reduced to the transmission of pure knowledge or technical skills. Personal development, social skills and communication of values are just as important as the demand that those to be educated themselves become subjects of their educational process and acquire the ability to use their freedom in a responsible way. The necessity of education is not only based on economic reasons.

In the end, a Human Rights foundation is more important. That is why there is a “human right to education”.<sup>1</sup>

In Art. 26 of the *Universal Declaration of Human Rights* (UDHR) of the United Nations of 1948,<sup>2</sup> in Art. 13 of the *International Covenant on Economic, Social and Cultural Rights* (adopted in 1966) and in Art. 28 of the *UN Convention on the Rights of the Child* (CRC 1989), one has a clear and universally valid basis to criticise a lack of educational justice. Article 29 CRC also emphasises various important educational goals ranging from personal development to Human Rights education and the respect for the natural environment. The *Charter of Fundamental Rights of the European Union*<sup>3</sup> also proclaims in Art. 14 a human right to education in similar formulations as the UDHR of 1948. And last but not least, target 4.3 of the Sustainable Development Goals demands to “ensure equal access for all women and men to affordable and quality technical, vocational and tertiary education, including university”.

In none of the Human Rights documents mentioned is the human right to education restricted to nationals. In addition, the prohibition of discrimination in Art. 2 and Art. 7 of the UDHR applies. Migrants therefore also have a human right to education, the fulfilment of which is the responsibility of the state in which they reside. For higher education, however, the restriction applies that it “shall be equally accessible to all on the basis of merit”. But this means that only in the case of lack of ability or merit people may be excluded from higher education. Everyone must have not only formal but real opportunities of access to educational institutions that correspond to their aptitude. In this context it is very important to mention the relation of the right to education to other Human Rights, e.g. the right to life, liberty and security (Art 3, UDHR), the right to recognition everywhere as a person before the law (Art 6, UDHR), the right to a standard of living adequate for the health and well-being of himself and of his family (Art. 25(1), UDHR). The right to education will only become a reality for migrants if they have a long-term and reliable residence status.

Corresponding demands were also reflected in the *Global Compact for Safe, Orderly and Regular Migration* adopted in 2018, in which the participating states undertake “to adapt options and pathways for regular migration in a manner that facilitates labour mobility and decent work reflecting demographic and labour market realities, optimizes education opportunities [...]”. (No. 21) Furthermore, the signatory states want to “provide inclusive and equitable quality education to migrant children and youth, as well as facilitate access to lifelong learning opportunities [...]”. (31f) In the context of the demand for inclusion of migrants, an expansion of educational opportunities is also mentioned (32c) and educational environments that support the acceptance of migrants (32i).

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<sup>1</sup> We base this on a research project on the human right to education that Kruip conducted together with Marianne Heimbach-Steins. Important results can be found in: Heimbach-Steins et al. (2007), 2009 and Neuhoff 2015.

<sup>2</sup> See the text e.g. on <https://www.un.org/en/about-us/universal-declaration-of-human-rights>. The texts of the other conventions mentioned also can easily be found on [www.un.org](http://www.un.org).

<sup>3</sup> See [https://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](https://www.europarl.europa.eu/charter/pdf/text_en.pdf).

As the data cited above show, the human right to education is violated to a considerable extent in many European countries. The fact that educational success and access to education depend so strongly on the socio-economic and (post-) migrant background of the parents constitutes discrimination that cannot be legitimised under Human Rights.

For the monitoring of the implementation of positive rights, a 4A scheme has proven to be particularly fruitful, which has been developed in UN Human Rights committees and applied to the human right to education by the UN education rapporteurs. It comprises *Availability*, *Accessibility*, *Acceptability* and *Adaptability*. Availability means that sufficient educational facilities are *available*. However, these must also be *accessible* to those who need them. This alone would not be sufficient, however, if the type of education offered were *unacceptable* from the perspective of the people to be educated for moral, religious or lack of quality reasons. Finally, educational provision must be *adapted* as well as possible to the needs of the people to be educated, in particular to their prior knowledge, language, age, gender and life-world background. The situation in higher education institutions in many European countries is particularly unfavourable in terms of acceptability and adaptability. How both acceptability and adaptability can be improved in higher education is the subject of the following section.

### 3 Institutional and Didactical Consequences

According to Eurydice (2019), top-level authorities may apply various strategic approaches for the integration of migrants, asylum seekers and refugees into higher education. These may be stipulated in a range of official documents, including legislation, national strategies, action plans, “white papers”, etc. In that study, countries were asked to report on documents to understand better policies and actions regarding asylum seekers and refugees in higher education. Results indicated that among the systems where higher education steering documents mention asylum seekers and refugees, there are very few that outline any significant top-level policy or strategy. Indeed, in some cases asylum seekers and refugees are mentioned simply to point out that responsibility for policy is devolved to another level of decision-making, such as higher education institutions.

Concretely, Germany stands out among all European countries as having the most comprehensive policy approach, with a strategy developed in 2015 (KMK 2015) outlining national measures for the integration of asylum seekers and refugees into the German higher education system. The main focus of the strategy is to facilitate the path into higher education for those asylum seekers and refugees who are motivated and with the aptitude to study, or who were previously studying in higher education before coming to Germany. There are a number of actions addressing recognition of qualifications and prior learning, bridging programmes, guidance and counselling services and financial support (Eurydice 2019).



In comparison to Germany, other countries focus on a more limited sphere of policy action and tend to include higher education within wider strategies on migration (Eurydice 2019). Concretely, Norway, Sweden and Denmark outline several higher education policy areas—recognition of educational qualifications, and supporting language learning—with the goal of facilitating smooth access to higher education. Belgium (the French and the Flemish Communities), and Italy also have a relatively limited policy approach, focusing on procedures to recognise foreign qualifications. Portugal covers refugee rights to higher education as a section within a recent (2018) policy decree on international students. The objective is to treat refugee students as equivalent to Portuguese students and hence eligible to receive state social support. Other countries tend not to have any specific policy related to higher education for asylum seekers and/or refugees, but rather to integrate some elements affecting higher education into wider strategies on migration. This is the case in France, Cyprus, Croatia, Malta, Montenegro, Poland and the United Kingdom (Wales). It is important to underline that in almost half of the systems, there is no mention of asylum seekers and/or refugees in top-level steering documents. This finding can be partially explained by two factors: firstly, despite two years—2015 and 2016—of unusually high numbers of asylum seekers coming to Europe, the vast majority settled in very few countries; and secondly, even in some countries which saw an increase in numbers, this social reality had little or no impact on top-level higher education policy, with higher education institutions largely being left to manage the situation at their level.

Where there is policy or strategy in place, authorities have the possibility to support their objectives through large-scale measures. This term refers to measures in the higher education sector that operate throughout the whole country or a significant geographical area rather than being developed for a particular higher education institution or geographical location. In fact, there are fewer systems that have large-scale measures for asylum seekers and refugees. The explanation of this finding is that not all countries mention asylum seekers or refugees in steering documents in relation to specific policy measures. Indeed, in some cases such documents may simply clarify that there is no top-level responsibility, and instead point out the bodies and institutions that may take initiatives in relation to asylum seekers and refugees. It is also worth pointing out that, as with the landscape for policy towards asylum seekers and refugees, some countries may have measures in place that are not specifically designed for facilitating access to higher education, but may have such an impact for some people. For example, there are countries that have general language training and information services for asylum seekers and refugees. These services are not developed for refugees interested in entering higher education, but the services may benefit some refugees in this situation. In the countries where measures can be found, they vary considerably in terms of the extent of their reflection and scope.

Among the countries with large-scale measures, the provision of linguistic support is the most commonly identified element. Out of 22 higher education systems, twelve offer some kind of grant to asylum seekers or refugees, while six provide fee exemptions. The provision of personalised guidance is also fairly widespread—being found

in ten systems out of 22. Training for staff in dealing with asylum seekers and refugees can be found only in seven systems.

Germany is the country where the most complete package of measures can be found. The package is mostly managed by the German Academic Exchange Service (DAAD)—the organisation which has been delegated the responsibility to harness the potential of refugees who are qualified to study at German universities and facilitate access to German higher education. DAAD refugee programmes started at the beginning of 2016, and it is still running and funded by the German Federal Ministry of Education and Research (BMBWF).

In particular, the DAAD refugee programmes in Germany build upon a four-phase model: entrance, preparation, study and career. The programmes cover the first three phases and specifically address the challenges of identifying and recognising skills and potential, preparing students academically for higher education studies, and supporting integration into higher education institutions (Eurydice 2019). The measures aim to accelerate the university admission process of refugees, identifying their ability to study in Germany and helping to classify professional language skills. A number of tools well established for regular international students have been applied for this purpose, including bespoke student aptitude tests (TestAS for refugees) examining general and subject-related cognitive abilities. Web-based language tests have also been used as very good German (and sometimes English) language skills are required for higher education study. Higher education institutions have also been supported in running application and assessment processes. A specific DAAD programme has been set up to integrate refugees into higher education: the INTEGRA programme has funded academic language and introductory courses at 170 universities and preparatory colleges in Germany. Indeed, the majority of refugees have to pass language courses before starting a regular degree programme. Another strand of funding targets students-led volunteer projects supporting the integration of refugees into higher education. The programme provides funding for student assistants (8–10 h per week), who are either in self-organised initiatives or form part of a university-organised support group. Activities aim to integrate refugees for example through tutorials, creation of information material, mentoring, translations, language training or more. Initiatives may also draw on the expertise of individual faculties (for example, legal advice of refugees by students in so-called Law Clinics). Finally, the DAAD has set-up information portals to give information and advice to refugees interested in university studies in Germany, as well as to higher education institutions and the public. The International DAAD Academy (iDA) provides professional training for university staff counselling refugee students.<sup>4</sup>

In Spain, the Organic Law 4/11 January 2000 on the rights and freedoms of foreigners and their social integration contemplates the right to education. To access the education system in Spain, refugees do not have special status. This further adds to the situation of helplessness in which refugee students from war and tense environments live. Like other foreigners and immigrants, they must comply with

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<sup>4</sup> Further information can be found on <https://www.daad.de/en/information-services-for-higher-education-institutions/further-information-on-daad-programmes/?page-tag=6&page-category=thema>.

specific access requirements, in addition to having a sufficient level of Spanish to be able to follow the academic course without difficulty. The access requirements consist of: (1) Specific tests or being in possession of a specific certificate, such as, a school graduation diploma or the baccalaureate; (2) Homologation or validation of the studies of the country of origin. The process of homologation and validation of previous studies is carried out by the education administrations. It is a long and arduous process in which documents must be provided that accredit and certify the studies carried out in the country of origin. This process is essential to be able to continue with studies in higher education, or to access a job that corresponds to previous training.

For refugees, regardless of the missing qualification documents, there are other higher education barriers that refugees face as the lack of knowledge or understanding of the higher education system in their host country. This can be exacerbated by a lack of availability of information and counselling services. This is particularly true for the 85% of refugees in developing nations (UNHCR 2018; Watenaugh et al. 2013). While numerous new initiatives make use of the Internet to disseminate information widely, limited Internet access, particularly in rural settings and developing countries, represents a significant barrier to this approach. Crea and Sparnon (2017) also find that lack of access to technology and the Internet, as well as cultural and linguistic mismatches between Western-oriented online education and students' backgrounds, present hurdles to students attempting to access higher education in developing countries.

In addition to better legal regulations, administrative support, suitable counselling facilities and support programmes at university level, attention must also be paid in teaching itself to ensuring that refugee and asylum-seeking students are given the same opportunities as others. From our experience as teachers, we would like to mention a few important points: on one hand, it is necessary that these students receive additional support according to their needs. On the other hand, they should not be treated with a deficit orientation, but rather attention should be paid to their positive resources. Foreign students often report experiences of racism, although teachers rarely have conscious racist attitudes and are usually not aware of implicit racism (Heitzmann and Houda 2020). Cultural or religious differences and differences in skin colour should neither be hidden nor addressed in such a way that this encourages an unpleasant process of "othering". It is to be appreciated positively if foreign students have a good command of the language of instruction, but it should also not be emphasised too much because this could also be perceived as discrimination. Consideration should also be given to the fact that, depending on different cultural backgrounds, different statements may well be considered plausible or implausible. Criticism of errors in students' written work or oral contributions should not be withheld where necessary. However, it must always be well justified objectively and remain open to possible counter-arguments. Under no circumstances should they be attributed to the student's background or person. In case of doubt, this definitely requires a high degree of tact and also on the part of the teachers a great openness for opposing positions and the willingness to be criticised.

## 4 General Conclusions

Despite the recent experience of a significant increase in the numbers of people seeking protection in Europe, results show that the majority of countries have no specific policy approach to integrate asylum seekers and refugees into higher education. Moreover, only a handful of countries have introduced higher education policy measures in response to increased numbers of refugees, and a similarly small number of countries monitor the integration of asylum seekers and refugees into higher education institutions.

These findings can partly be explained by the fact that asylum requests have been concentrated in a limited number of European countries. It is therefore only a few countries that have been dealing with substantial numbers of asylum seekers and refugees. In countries where the numbers of asylum seekers and refugees are lower, some policy elements affecting higher education have been integrated into wider strategies on migration, and higher education institutions have mostly been left to respond in ways which suit their local context.

Access to higher education should be widened and facilitated both from the perspective of the human right to education, which also applies to refugees and asylum seekers, and from the recipient states' own interest in promoting the integration of these persons and, in the face of an ageing native population, in exploiting their potential for employment. At the same time, however, efforts must be stepped up to encourage and support this group of students during their studies so that fewer drop out. This requires social, financial and in some cases also psychological support, but above all the willingness of teachers at higher education institutions to pay special attention to the problems of this group of students and to provide them with special support. There is a specific need to provide a common European framework for migrants and refugee students in vulnerable situation. The right to learn, think and reflect in a dialogical and scientific way with others should not be limited to those who have access to higher education systems.

## References

- Arslan C, Dumont JC, Kone Z, Moullan Y, Ozden C, Parsons C, Xenogianiet T (2014) A New profile of migrants in the aftermath of the recent economic crisis, OECD social, employment and migration working papers, No. 160, OECD Publishing. <https://doi.org/10.1787/5jxt2t3nnjr5-en>. Accessed 9 Dec 2021
- Berg J, Grüttner M, Streitwieser B (eds) (2021) Refugees in higher education: questioning the notion of integration. Springer International Publishing, Wiesbaden, Cham
- Crea TM, Sparnon N (2017) Democratizing education at the margins: faculty and practitioner perspectives on delivering online tertiary education for refugees. *Int J Educ Technol High Educ* 14(1):1–19. <https://doi.org/10.1186/s41239-017-0081-y>
- Eurydice (2019) Integrating asylum seekers and refugees into higher education in Europe: national policies and measures. Eurydice Report. Publications Office of the European Union, Luxembourg

- Eurostat (2021a) Asylum statistics. [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Asylum\\_statistics#Number\\_of\\_asylum\\_applicants:\\_decrease\\_in\\_2020](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Asylum_statistics#Number_of_asylum_applicants:_decrease_in_2020)
- Eurostat (2021b) Migrant integration statistics—education. [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Migrant\\_integration\\_statistics\\_-\\_education&stable=0&redirect=no#Educational\\_attainment](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Migrant_integration_statistics_-_education&stable=0&redirect=no#Educational_attainment). Accessed 10 Dec 2021
- Heimbach-Steins M, Kruij G, Kunze AB (eds) (2007) Das Menschenrecht auf Bildung und seine Umsetzung in Deutschland. Diagnosen—Reflexionen—Perspektiven. Bertelsmann, Bielefeld
- Heimbach-Steins, M, Kruij G, Kunze AB (eds) (2009) Bildung, Politik und Menschenrecht. Ein ethischer Diskurs. Bertelsmann, Bielefeld
- Heitzmann D, Houda K (eds) (2020) Rassismus an Hochschulen. Analyse—Kritik—Intervention. Weinheim, Basel: Beltz Juventa
- Kirk K, Sherab D (2016) Access to higher education for refugees in Jordan', Arab renaissance for democracy and development (ARDD)-Legal. <http://ardd-jo.org/reports-documents/access-higher-education-refugees-jordan-protection-and-sustainable-development>. Accessed 2 Dec 2021
- KMK (Kultusministerkonferenz, Standing Conference of the Ministers of Education and Cultural Affairs—DE) (2015) Hochschulzugang und Hochschulzulassung für Studienbewerberinnen bzw. Studienbewerber, die fluchtbedingt den Nachweis der im Heimatland erworbenen Hochschulzugangsberechtigung nicht erbringen können (Beschluss der Kultusministerkonferenz vom 03/12/2015). [https://www.kmk.org/fileadmin/Dateien/bilder/KMK/Aufgaben/kmk\\_imagefolder\\_engl\\_web.pdf](https://www.kmk.org/fileadmin/Dateien/bilder/KMK/Aufgaben/kmk_imagefolder_engl_web.pdf). Accessed 15 Nov 2021
- Neuhoff K (2015) Bildung als Menschenrecht. Systematische Anfragen an die Umsetzung in Deutschland. Bertelsmann, Bielefeld
- OECD (2020) International Migration Outlook 2020, OECD Publishing, Paris. <https://doi.org/10.1787/ec98f531-en>
- OECD (2021a) Education at a glance 2021: OECD indicators. OECD Publishing, Paris. <https://doi.org/10.1787/b35a14e5-en>
- OECD (2021b) OECD regional statistics (database). [http://stats.oecd.org/Index.aspx?DataSetCode=REGION\\_DEMOGR](http://stats.oecd.org/Index.aspx?DataSetCode=REGION_DEMOGR)
- OECD (2021c) Education at a glance database—educational attainment and labour-force status. [http://stats.oecd.org/Index.aspx?datasetcode=EAG\\_NEAC](http://stats.oecd.org/Index.aspx?datasetcode=EAG_NEAC). Accessed 11 Nov 2021
- Unangst L, Crea TM (2020) Higher education for refugees: a need for intersectional research. *Comp Educ Rev* 64(2):228–248
- UNHCR (2020) Global report 2020. <https://www.unhcr.org/flagship-reports/globalreport>
- UNHCR (2021) Refugee education 2030: a strategy for refugee inclusion. <https://www.unhcr.org/publications/education/5d651da88d7/education-2030-strategy-refugee-education.html>. Accessed 12 Dec 2021
- UNHCR (2018) The other one per cent. Refugee students in higher education: DAFI annual report 2017. UNHCR, Geneva. <http://www.unhcr.org/publications/education/5bc4affc4/otherpercent-refugee-students-higher-education-dafi-annual-report-2017.html>
- UNHCR, UNESCO (2016) No more excuses: Provide education to all forcibly displaced people (Policy Paper 26, ED/GEMR/MRT/2016/PP/26 REV). UNESCO Global Education Monitoring Report, Paris. <https://unesdoc.unesco.org/ark:/48223/pf0000244847>
- Watenpaugh KD, Fricke AL, Siegel T (2013) Uncounted and Unacknowledged: Syria's Refugee University Students and Academics in Jordan. Jordan: University of California Davis Human Rights Initiative and the Institute of International Education's Scholar Rescue Fund. [https://www.insidehighered.com/sites/default/server\\_files/-files/Uncounted%20and%20Unacknowledged%20-%20Syria%27s%20Refugee%20University%20Students%20and%20Academics%20in%20Jordan.pdf](https://www.insidehighered.com/sites/default/server_files/-files/Uncounted%20and%20Unacknowledged%20-%20Syria%27s%20Refugee%20University%20Students%20and%20Academics%20in%20Jordan.pdf). Accessed 9 Dec 2021

# Reflections on Literature, Translation, and Border with the Undergraduate Students at the Universitat De València (Spain)



Julia Haba Osca

**Abstract** During six consecutive years at the Philology, Translation and Communication Faculty at the Universitat de València (Spain) we have developed a conference workshop called JOLIN that was born with the desire to delve into literary, visual, social and educational studies through illustrated literature (from children’s picture-books, graphic novels, comics to the photo-textual world), a literary modality that is usually left out despite its social tradition and impact on the current publishing world. The critical political, social, economic, cultural and health crisis we live in makes it urgent to precisely consider this space for reflection where we can critically question the society around us through humanism, education, and culture, reflecting on the role of social agents. Therefore, this last session—JOLIN2020—that took place during December 17th and 18th 2020, was conceived as a platform to echo and to revolve around the recognition of one’s own position of power, the forms of domination and processes of hegemony present in today’s society (Balasch et al. *Athenea Digital* 8:129–144, 2005, 133), with “the border”—both physical and metaphorical—as essential backbone. It is therefore proposed an article that, in an academic yet informative tone, allows us to know the opinion regarding the Border concept—geographical, political, cultural, and regarding migratory movements—allowing us to know the perception regarding this literary and literal reality in our country and beyond. The intention of this massive data gathering at our faculty is to learn more about our students’ perspective regarding the frontiers, as well as to help students develop an ethical perspective that allows them to understand the partial discourses that shape the society in which we live and enable transformation through critical-emancipatory education.

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## 1 Critical-Emancipatory Education

The University<sup>1</sup> is one of the few institutions widely recognized for its role in generating relevant knowledge for the understanding and improvement of societies. However, the University is not alien to the phenomenon of neoliberal globalization or to the situation of systemic crisis that the policies and practices of this globalization have generated. We can affirm that the logics of the capitalist model have greatly conditioned the meaning and work of Higher Education, making knowledge an interested strategy to reproduce and legitimize the interests and power and, therefore, of the dominant system (Borón 2009). Hence, criticism of this institution emerges from various places.

Discourses and experiences arise from the academy and beyond that question the paradigms that continue to emphasize development as a solution to the planet's unsustainable situation and the profound worsening of the living conditions of the majority (Brunold 2015). Critical-Emancipatory education, which has become aware of the contradictions and devastating effects that this model has generated, proposes the encounter with other subjects, discourses, and experiences to, jointly, build "another" thought in accordance with life's sustainability (Dussel 2016a, b). Therefore, we must take advantage of these opportunities for dialogue and articulation to test practices that confront the dominant cultural model.

Thinking and acting from this approach requires changing the social imaginary based on the idea that it is impossible to build alternatives outside capitalism (Ócalan 2016). We have internalized this ideology that it will take many efforts to break this link and learn to think from other senses that make the principles of social justice, equity, and solidarity come true. This great task to displace the myths of capitalist culture unquestionably encompasses the delegitimization of heteropatriarchal, racist, colonialist, and extractivist thoughts and practices (Echevarría 2010).

Thus, it is vital that teaching and researching is oriented toward the production of relevant knowledge for social change, attached to the reality of its time and that answers to contemporary problems. However, contributing to disrupt the current logic of Higher Education and building an emancipating cultural horizon is the main challenge (Sousa Santos 2016; López and Herrera 2018).

## 2 Once Upon a Time... or JOLIN's Beginnings

The idea of reflecting on illustrated books and comics in all its aspects began to take shape as a result of a pilot experience in July 2014 between the English and German Philology Department at the Universitat de València (Spain) and the Design and Graphic Expression Department at the Universidade Federal do Amazonas (Brazil), throughout a workshop based on the creative dimension of writing and illustration by means of the Education for the Sustainable Development (ESD). The ESD longs

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<sup>1</sup> A common Spanish expression that means *gosh*.



to become a tool for social transformation, an opportunity for participatory learning that generates critical awareness by making people responsible and active to build a more just society (Haba-Osca et al. 2019).

In this case, our challenge was to achieve the sustainable development of both individuals and the local Amazon people in the face of cultural poverty and social exclusion, taking culture and creativity as inspiration and a basis for social change. Our main objective was to be able to awaken in Design undergraduate students an interest in their local traditions and folklore, combining it with their artistic and creative capacities to highlight the varied and, too often, ignored Amazonian culture. That is why we decided to carry out an international Creative Writing and Illustration Workshop in which the sessions were taught by two members<sup>2</sup> from the Universitat de València (Spain) and the creative illustration sessions were supervised by the Head of the Design and Graphic Expression Department, Dr. Karla Mazarelo Maciel Pacheco, along with the support of certain lecturers,<sup>3</sup> at the Faculty of Technology, in the Universidade Federal do Amazonas (UFAM). The work of the 35 participant students<sup>4</sup> throughout three weeks was to: (i) compile, (ii) re-write, and (iii) illustrate in groups of maximum 6 people. By doing so, all the students recovered 10 *Caboclo*<sup>5</sup> oral folktales: *Amazonas, Boitatá, Guaraná, Iara, Mapinguari, Matinta Pereira, Pirarucú, Tucumao, Uirapuru, and Vitória Régia*.

This first workshop pilot experience ended up being extremely positive and fructiferous, managing to have all the illustrated oral folktales being published as a bilingual Portuguese-Spanish book entitled: *Mucho más que un río... Cuentos del Amazonas/Muito mais do um rio... Contos do Amazonas*. Plus, we also attended several congresses to share our initiative (Haba-Osca and Peredo 2015) and, published a scientific article describing the creative workshop process (Haba-Osca et al. 2015a, b).

After analyzing the pros and cons of this first experience, a second workshop took place during March 2015, with the main purpose of deepening the collaboration between the artistic-expressive spheres and the literary education of university students and lecturers through the: (i) recovery of oral folkloric tales and illustrations based on Amazon cultural heritage; and, (ii) training of both design and philology

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<sup>2</sup> Dra. Julia Haba-Osca taught the Creative Writing workshops with the support of Dr. Joan Peredo Hernández.

<sup>3</sup> Dr. Almir de Souza Pacheco, Dra. Patricia Braga, Ms. Larissa Albuquerque de Alencar, Mr. Claudio Luiz de Oliveira, Mr. Rodrigo Alcantara, and the teacher assistant, Mr. Luiz Guilherme Oliveira.

<sup>4</sup> Juliane Abreu, Rodrigo Abreu, Ingrid Adine, Lua Alfaia, Gabriel de Andrade, Eliane Assunção, Sarah Batista Correa, Davi Bennier, Leandro Brandao, Mayara Brandão, Bárbara Brito, Camila Bruno, Elvis Esteban Equiluz, Jessica Ester, Beatriz Evangelista, Raina Feitosa, Gizah Ferreira, Michelle Ferreira, Ranna Ferreira, Rayra Furtado, Nilberto Jorge Haddad, Bruna Jaqueline, Diego Mendes, Paulo Mindicello, Anabele Monteiro, Tiago Nascimento, Ester Oliveira, Luiz Henrique Oliveira, Fernanda Printes, Bianca Rodrigues, Júnior Segadilha, Raquel Texeira, Alef Vernon, Erika Yukari and Leonilde Manasse Zanou.

<sup>5</sup> A *Caboclo* is a person of mixed indigenous Brazilian and European ancestry or a culturally assimilated or detribalized person of full Amerindian descent. In the Amazons they usually live nearby the river and have their own local tribal folktales disseminated via oral literature.





**Fig. 1** Design students at UFAM exposing their artistic representations of the Amazon heritage

lecturers in new teaching methodologies based on the principles of Education for Development and Global Citizenship (Fig. 1).

In this second edition a total of 32 Brazilian undergraduate students participated and recovered 8 traditional *Caboclo* oral legends: *A Lenda da Cobra Negra*, *Curupira*, *O Saci Pererê*, *Caipora*, *Boto Cor de Rosa*, *Peixe-boi*, *Naruna* y *Bicho Folharal* from possible oblivion in the collective imagination. The work of the students was to compile, write, illustrate and, for the first time, also to translate them from Portuguese into Spanish, English, and German language.

This didactic workshop was carried out thanks to local lecturers<sup>6</sup> from the Faculdade Martha Falcao–DeVry, as well as multilingualism and literary criticism professionals from the Universitat de València. In addition, we had again the support of Dr. Joan Peredo Hernández who collected both qualitative and quantitative data through questionnaires, semi-structured interviews, and field audio-visual diaries.

The data collected as a result of the analysis of the artistic productions showed a great receptivity and a high degree of involvement of the participants regarding the three aspects of the creative dimension dealt with: translation, writing, and illustration. Their contributions enriched the project, allowing inclusion of new themes, such as the vindication of places and historical figures in stories; and of new forms of expression, for instance, including dialogues in their texts (Fig. 2).

Both through illustrated books, as well as through photography and comics, teachers not only manage to awaken curiosity in their students, but via these stories

<sup>6</sup> Dr. Almir De Souza Pacheco, Mrs. Mirella Sousa, and Mr. Rodrigo Alcântara

Fig. 2 Article in the Brazilian newspaper *A Crítica* describing the second “Creative Writing and Illustration Workshop” held in Manaus (Brazil) during March 2015



we can learn to be critical and develop our literary competence. The use of what we consider “illustrated treasures” is multiple and we firmly believe that they can be used in any subject and for very different purposes.

Coinciding with the attendance by some Brazilian designer professors to the congress *Systems & Design: Beyond Processes and Thinking* held at the Universitat Politècnica de València on June 2016, it was proposed by the English and German Philology Department at the UV, hold a small International Innovation Conference on Illustrated Books, whose acronym in Spanish language ended up being JOLIN. The main aim of this conference was to publicize the interesting experience that we had carried out in Brazil between the interaction among the world of Design and Philology, as well as to generate a space-homage to genres that traditionally have remained on the periphery of the classical literary canon: picturebooks and comics.

The conference was held at the Philology, Translation and Communication Faculty on June 20<sup>th</sup> and it was free entrance. The purpose was that local students could implement active learning strategies that would complement the subjects that made up their curriculum. This first JOLIN was dedicated to Portuguese language and culture having Brazil as our guest nation, although no vehicular language was imposed and invited speakers expressed themselves in Portuguese, Spanish, Catalan, or English. We had the presence of renowned researchers such as professor Dr. Josep Ballester Roca, who inaugurated a conference entitled: *Reading and Literary Education training*. We had designers' interventions, such as Ms. Larissa Albuquerque de Alencar's *Literatura do Cordel* and Dr. Almir de Souza Pacheco's *Typography, calligraphy and teaching*, in which he outstandingly mentioned the importance of font styles in order to promote adults' literacy. The closing conference was *The Children's Picture-books in Portugal since its beginnings until the twenty-first century* by Dr. María Rosa Álvarez. Even though this first attempt was merely brought up to share our common interest around illustration and literature, the initiative captured student's and lecturer's attraction and had more than 56 assistants, which was particularly shocking and moving, as we had predicted around twenty (Fig. 3).

Such was the success of this humble experience that we decided to replicate JOLIN's concept and format annually, inviting other so-called minority languages and cultures with which to find points of union at an academic, literary, and cultural level. Therefore, JOLIN2017 was entirely dedicated to German culture and language. Among others, we had the presence of speakers such as the *Deutscher Akademischer Austauschdienst* (DAAD) lecturer at the UV at that time: Mrs. Aurica Borszik, with her contribution *Illustrated Little Red Riding Hood through a podcast*; also, Cambridge University researcher Dr. Carolin Schmitz with the communication: *Wissenschaftsgeschichte erzählt und gezeichnet. Die Jordi Bayarri Comics in*



Fig. 3 JOLIN2016—1st International innovative conference on illustrated books



Fig. 4 JOLIN2017—2nd international innovative conference on illustrated books

*deutscher Übersetzung*. Finally, the closing lecture entitled *Du kannst mehr Deutsch als du denkst* was conducted by translator, Dr. Claudia Peter. Again, the assistants for such a non-mainstream initiative were outstanding having 92 students and lecturers joining our free event and encouraging us to continue with JOLIN, as they considered it “the coolest conference at our faculty”.

This second experience allowed us to find an annual framework where both academic reflections on literature and image had their own space, as well as the intersections between both disciplines. As a hybrid textual genre, illustrated books and comics see year after year an exponential increase with its academic and public recognition translated into more than significant sales in national and international markets. Therefore, the JOLIN organization realized that we had to foster the research spirit of academics and research groups, as well as the curiosity of students in the literature, design, and translation world (Fig. 4).

During the third consecutive year, JOLIN aspired to become a benchmark within the university field in terms of illustrated books and comics, but also with the aim of being an open platform for active learning and dialogue between different professionals of illustrated literary creation together with agents of social change. Hence, we established this by articulating three lines that contain the central aspects: (i) text and literary content; (ii) illustration and editorial design; and (iii) innovation practices held with picture books.

Albeit, on this third occasion and based on our previous assistants’ demands, JOLIN conference was dedicated to the Catalan language and culture. In addition, it became the longest and with the largest number of communications. Plus, it was a





Fig. 5 JOLIN2018—3rd international innovative conference on illustrated books

year of great novelties: it was the first edition in which we had institutional support and the Organizing Committee was expanded by adding two more colleagues.<sup>7</sup>

It was obviously an edition with considerable political connotations in which the efforts of editors, writers, and illustrators from our territory were highlighted. We gave time and space to social agents that promote our language, literature, culture, and identity, and we had professionals from literary education and Catalan language and literature didactics with a vast experience teaching Catalan as a Foreign language to migrant people (Fig. 5).

The inaugural conference entitled *Introducció al món foto-textual* was held by Dr. Alberto Prieto, who reminded us about the importance of photography when it comes to visually illustrate and narrate any conflict. Among others, we also had the presence of comic illustrator Mr. Jordi Bayarri, who presented us his work *Col·lecció Científics: comics as a vehicle for scientific dissemination*. Elementary school teachers, Ms. Sheyla Ros-Fenollosa and Mr. Andrés Giner, presented their communication *L'àlbum il·lustrat en Valencià per a nòvinguts* a proposal based on their daily assistance to migrant students. Cartoonist, Mr. Ulises Ponce López, made the presentation: *Cesc, a portrait of the Catalan society during Franco's regime*. Finally, the closing conference entitled *Més enllà del tòpic: l'ús de llibres il·lustrats a l'aula de llengua com eina EDS i foment de la memòria històrica* was carried out by Dr. Robert March, in which he shared different teaching proposals based on comic books for historical memory purposes – mainly focusing on the Spanish case of Franco's dictatorship *versus* the Catalan heritage/culture.

Via our assistants' post-survey comments, the JOLIN Organizing Committee decided to keep pushing the boundaries and break the traditional literary canon

<sup>7</sup> Dr. Robert Martínez-Carrasco, a translation specialist at the Universitat Jaume I and, Dr. Robert March, specialist in Catalan language and literature at the Universitat de València.

of what constitutes a text by presenting diverse graphic-visual genres and started to shape itself as a platform based beyond dissemination purposes but on academic and research objectives.

For all these reasons, JOLIN2019 took a step forward and broadened the horizon and scope of the conference by doubling its duration and the number of invited. On this occasion, Dr. Álvaro Pons started the inaugural presentation entitled *Comics, from the society's enemies to sociocultural tools*. The rest of the sessions were enriched with the participation of: Mexican Consul Mrs. Graciela Rock, specialist in public and gender policies, who presented *Female heroes: Children's Literature to educate in Feminism*; Dr. Eduard Baile from the Universitat d'Alacant, with *Comics are an (educational) weapon loaded with future*. There were numerous presentations of secondary school teachers that use illustrated books from a critical-emancipatory education perspective in order to transform their students' beliefs, such as Mr. Jorge Martínez's *Asterix and Obelix in Geography and History class in high school*, and Mr. Federico Gómez's *Fantastic Fiction as a transcendent symbolic language. An experience with Secret Wars II* (Fig. 6).

Finally, even though all the conferences had been filmed over the last few years and are all still available on the Philology, Translation and Communication Faculty YouTube channel, via the JOLIN post-survey, the organizing committee was encouraged to organize a conference publication. Therefore, on 2020 we published our first book *Llegir la imatge. Il·lustrar la Paraula. Reflexions al voltant del llibre il·lustrat i el Còmic*, a small first attempt of a monographic book with the contributions made throughout these years in order to disseminate the objectives of our conferences and emphasizing the joint role between the different languages and cultures and illustrated non-canonical literature so that the results of the conferences continue to be accessible.



Fig. 6 JOLIN2019—4th international conference on innovation on illustrated books and comics

### 3 Literature, Translation, and Border

Over time, the idea of exploring textual genres that incorporate a multimodal element as a central axis, such as the image and/or photography, has become a participatory space for collective construction of knowledge with the collaboration of different university and artistic members, that, rooted in the basic principles of emancipatory education, have shown the express will to work for a university that is committed to the sustainability of life, languages, literatures, cultures, and so-called minorities.

Due to the current critical situation, we live in—social, economic, cultural, political, health, etc.—it makes it urgent to precisely consider these extremely necessary spaces for reflection where we can critically question the society around us through humanism, education, and culture, as well as wondering on our own role as social agents.

Therefore, for JOLIN2020 the organizing committee decided to use this intersectional and multimodal platform to echo it and to discuss about the recognition of one's position of power, the forms of domination and processes of hegemony present in the current societies (Balasch et al. 2005: 133), taking the key concept “the border”—physical and metaphorical—as the backbone of this conference.

In order to do so, it has been essential to rethink the role of the educational community in relation to the contexts of knowledge production and its contribution to a fairer and more equitable world, fostering the empowerment of people, stories, characters, and the images. For this reason, JOLIN2020 opted for the transfer of knowledge in the construction of political subjects, along with their processes of awareness and empowerment.

JOLIN2020, has had all the technological innovation, using both retransmission and video recording, as throughout the 2019 edition, but we have expanded its multimodal character by incorporating online sessions that allowed us to use and promote Catalan as a language of common use among members of our university community, as well as from those who aspire to be so. The day was attended by leading professionals who have shared with us their experience and research with particular emphasis on three main concepts: Literature, Translation, and Border (Fig. 7).

Undoubtedly, JOLIN2020 managed to deepen the literary, social, educative, and visual studies via illustrated literature. All contributions were unforgettable and had as a central thematic axis both migrants and migratory movements. They aroused a lot of interest, demonstrating the synergies between literature and universal human rights. In fact, most of the comments received by the attendees were very positive, praising that the current crisis that we are experiencing makes it urgent to consider spaces for reflection to critically question the society that surrounds us.



Fig. 7 JOLIN2020—5th international innovative conference on picture books and comics

## 4 The JOLIN Effect

We believe that in order to analyze whether the activity has been effective and achieves its objectives, it is necessary to evaluate it and reflect on the results. Monitoring and tracking the results will allow us to improve the activities, dynamics, and strategies when addressing the dynamics of possible future courses. On this occasion, the elements that we are interested in knowing refer to the two following points:

1. if the activity is well planned and carried out in a suitable format (both in terms of content and dynamics); and,
2. if it meets the needs of the participants.

To carry out this analysis, information was collected and analyzed through a questionnaire prepared by the authors that includes quantitative items with Likert-type scales and qualitative items. The questionnaire collects information on the personal characteristics of the participants, on the development of the activity, its organization, its applicability, and usefulness, with its strengths and weaknesses.

Throughout these five consecutive years, more than 345 people have attended JOLIN, of which 22 answered the questionnaire (see Table 1). The people who participated in the survey have a mean age of 33.95 years (SD: 4.68) between 21 and 42 years. Regarding their gender, 59.1% are women, while 40.9% are men. Considering their level of studies: 15.8% of the participants have a basic educational level, 47.7% a medium educational level and 36.8% have a higher educational level. 100% of the participants are students at the Universitat de València.

Overall, the 22 participants who responded to the JOLIN survey rated the organization as very good and exemplary. Specifically, as can be seen in Table 2, 95.3%



**Table 1** Sample sociodemographic characteristics

Age (M, DT)—Min./Max	33.95 (4.68)—21/42
Education Level (%)	
No studies	0%
Basic studies	15.8%
Medium studies	47.4%
Higher Education studies	36.8%
Gender (%)	
Women	59.1%
Men	40.9%

*Own elaboration, 2021*

of the people consider that the activity is logically organized and that the objectives are clearly defined (80.9%).

The participants value very positively that the proposed activities encourage reflection on the different thematic axes and that the communications include the central topics. About the time used for these topics in the two-day sessions, the answers are

**Table 2** JOLIN attendee responses (N = 22)

Percentages						
Organization	Unsatisfactory	Satisfactory	Very Good	Exemplary	n	Media/DT
The activity is logically organized	0	4.8	52.4	42.9	21	3.38/0.59
The activity objectives are clearly defined	0	9.1	40.9	40	22	3.41/0.66
The proposed activities favor the reflection on the central thematic axis	0	9.1	36.4	54.5	22	3.45/0.67
The communications include the main ideas based on the central thematic axis	0	4.8	38.1	57.1	21	3.52/0.60
The time used for these topics is adequate	5.6	22.2	50	22.2	18	2.89/0.83

*Own elaboration, 2021*

somewhat more varied. Some participants comment that the time spent is insufficient, especially in JOLIN2020, given that the migration movements issue is especially sensitive and covers many complex sub-themes. Although 90% of the participants consider that the time in general used throughout all the different JOLIN is satisfactory.

In general, the survey participants value the variety of the JOLIN contents very positively over these last five years. As the data indicates (see Table 3), the attendees value the identification of the social and cultural inequality processes that cause and maintain worldwide differences between the people.

Likewise, the participants value very positively that reflection on how the current system influences the development of one's own identity and individual preferences has been encouraged (57.1%). They also value very positively that the conferences have fostered the recognition of the basic concepts on migratory movements in relation to the personal, family, and work life of migrants (57.1%); as well as that it has promoted the importance of new strategies (63.6%).

In general, those attending the conferences throughout the five years, and especially during the last JOLIN2020, positively value being able to apply the contents taught in daily life and would recommend these sessions. Specifically, they value very positively that in the course the different issues related to inequality have been discussed from a creative and critical perspective (68.2%), and that it has been allowed to talk about the different problems related to migratory movements in a constructive way (52.4%).

## 5 Conclusions

From a critical position, it is essential to question the positivist scientific model that defends neutrality, objectivity, and that prevents the recognition and value of knowledge coming from popular backgrounds, women, peasants, and/or non-Western cultures.

Opening the University to other narratives constructed from other subjects and other latitudes will be a great contribution to combat Eurocentrism and androcentrism and to promote the process of decolonization of the collective imagination and knowledge production (Fals-Borda 1970; Sánchez-Vásquez 2007; Guerrero 2010). The decolonial perspective and the epistemologies of the South offer very suggestive proposals to put in value subalternized groups' knowledge and make viable their desires to build a world freed from logics of domination (Houtart 2008). It therefore corresponds to the University to promote research spaces where awareness of our position as critical subjects and the horizon of social transformation constitutes central elements of university work—such as FORTHEM Alliance.

All these looks and speeches have begun to timidly appear at the University hand in hand and with the effort of different critical subjects—teachers, students, research groups, as well as other educational and social agents (Torres-Restrepo 1970). It would be very interesting to give continuity to these initiatives and for those who

**Table 3** JOLIN attendee responses regarding the contents (N = 22)

Percentages						
Contents	Unsatisfactory	Satisfactory	Very Good	Exemplary	n	Media/ DT
The JOLIN conferences have allowed me to know different systems of social and cultural inequalities	0	4.7	52.4	42.9	21	3.38/ 0.59
The conferences have fostered a sensitivity for human rights	0	9.1	40.9	50	22	3.41/ 0.66
JOLIN has favored the identification of individual, social and cultural processes that cause and maintain differences and inequalities between people	0	9.1	36.4	54.5	22	3.45/ 0.67
Through the conferences, the recognition of the consequences derived from inequalities has been favored	0	0	47.6	52.4	21	3.52/ 0.51
JOLIN2020 has fostered reflection on how the current system affect and determine migrant people's lives	0	9.1	36.4	54.5	22	3.45/ 0.67
JOLIN2020 has encouraged the reflection on how the current situation influences migratory movements and even affects the development of the individuals' preferences and lives	0	4.8	38.1	57.1	21	3.52/ 0.60

(continued)

**Table 3** (continued)

Percentages						
All the conferences have favored the analysis of the reasons that explain the differences between the people's lives—particularly men and women	0	9.2	54.4	36.4	22	3.27/ 0.63
JOLIN has promoted the recognition of the basic concepts about inequalities in relation to people's personal, family and work life	0	0	42.9	57.1	21	3.57/ 0.50
The conferences have promoted the importance of a new social strategy in linguistic-literary studies	0	0	36.4	63.6	22	3.64/ 0.49
The sessions have favored—especially JOLIN2020—my knowledge of the rights, resources, and measures available in Spain for migrant people to try to achieve a better quality of life	0	9.1	50	40.9	22	3.32/ 0.64
The conferences have promoted an objective and critical analysis, based on statistical and global data of worldwide problems	0	10	40	50	20	3.40/ 0.68

*Own elaboration, 2021*

are responsible for designing and developing university policies to make room for these emancipatory approaches, to orient the University to the common good and commitment to life.

## References

- Balash M, Bonet J, Callén B, Guarderas P, Gutiérrez P, León A, Montenegro K, Montenegro M, Pujol J, Rivero I, Sanz J (2005) *Investigación Crítica: Desafíos y posibilidades*. Athenea Digital 8:129–144
- Borón A (2009) *Socialismo del siglo XXI, ¿hay vida después del neoliberalismo?* Editorial de Ciencias Sociales, La Habana
- Brunold A (2015) Global learning and education for sustainable development. *High Educ Eur* 30(3–4):295–306
- Dussel E (2016a) *14 tesis de ética. Hacia la esencia del pensamiento crítico*. Editorial Trotta, Madrid
- Dussel E (2016b) *Filosofías del sur*. Ediciones Akal: Mexico DF
- Echevarría B (2010) *Modernidad y blanquitud*. Ediciones Era: Mexico DF
- Fals-Borda O (1970) Algunos problemas prácticos de la sociología de la crisis. In: Cortés R (eds) *Ciencias sociales: ideología y realidad nacional*. Editorial tiempo contemporáneo, Buenos Aires, pp 59–85
- Guerrero P (2010) *Corazonar. Una antropología comprometida con la vida*. Ediciones Abya Yala, Quito
- Haba-Osca J, Peredo J (2015) Talis: Mucho más que un río... Hacia el desarrollo de las competencias literaria, intercultural y comunicativa en Brasil V Jornada Nacional sobre Estudios Universitarios/I Taller de Innovación Educativa: Motivar para aprender. La asignatura pendiente, Castellón de la Plana: Publicacions de la Universitat Jaume I:1–12
- Haba-Osca J, Alcantud M, Peredo J (2015a) Taller de escritura creativa para el desarrollo de la competencia literaria en Brasil. *Didáctica* 27:97–110
- Haba-Osca J, Peredo J, Mazarelo Maciel Pacheco K, de Souza Pacheco A (2015b) Mucho más que un río... Cuentos del Amazonas/Muito mais do um rio... Contos do Amazonas. JPM ediciones, Valencia, pp 1–73
- Haba-Osca J, González-Sala F, Martínez-Carrasco R (2019) Towards critical-reflexive agency: introducing the 2030 Agenda through engaged pedagogy in higher education. Proceedings of EDULEARN2019 conference
- Houtart F (2008) *El camino a la utopía desde un mundo de incertidumbre*. Ruth Casa Editorial, La Habana
- López L, Herrera NA (2018) *Ciencia, compromiso y cambio social*. Antología de Orlando Fals Borda. Editorial El Colectivo Buenos Aires
- Öcalan A (2016) *Orígenes de la civilización. La era de los dioses enmascarados y los reyes encubiertos*. Editorial Sudestada, Lomas de Zamora
- Sánchez-Vásquez A (2007) *Ética y política*. Fondo de Cultura Económica—UNAM, Mexico DF
- Sousa Santos B (2016) *Epistemologies of the south: justice against epistemicide*. Routledge, London and New York