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Population Movement and State Building: A Case Study of Migratory Policies in Italy

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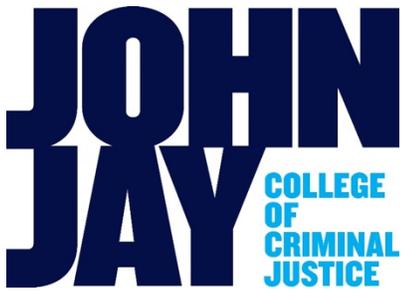
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Population Movement and State Building:
A Case Study Of Migratory Policies In Italy

A Thesis Presented in Partial Fulfillment of the Requirements for
the Master of Arts in Criminal Justice
John Jay College of Criminal Justice
City University of New York

Julia Pagnamenta

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Program Director Thesis Approval

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Population Movement and State Building: A Case Study of Migratory Policies in Italy

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Abstract

The current study examines Italian laws and policies around migratory movements since Italy first became a modern nation state in 1861 up until April 2019, when the research was concluded. This paper is a case study of Italian migratory policies. It first looks at the way Italy's early efforts at nation building coincided with the mass emigration of its citizens, informing its policies on emigration and colonial expansion. The study then analyzes the way in which Italy developed a policy response to the growing immigrant and refugee population in the late 1980s following geo-political transformations in Europe. The evolution of Italy's reactive immigration laws, which went from addressing the presence of foreigners as a temporary labor necessity to a more permanent political phenomenon, stemmed from its ambitions at situating itself as a founding member of the European Union. The thesis grapples with the fact that although Italy's current response to the European migrant crisis has invited controversy for its seemingly restrictive and punitive measures, its response is part of a larger historical continuum, in which Italy's socio-legal infrastructure reflects its attempt to define a national identity in opposition to demographic panic.

Keywords: Italy; migration; emigration; immigration; migratory movements; demographic crisis; European migrant crisis

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1. Introduction

For much of the last two centuries, Italy has been a country grappling with migratory movements and the reactive policies that emerge from controlling the mass movement of people. Examination of Italy's responses to emigration and immigration shows that legal policies around these two phenomena are intrinsically entwined with its development as a nation state in the 19th century, a period of national unification known as "il Risorgimento" (the Resurgence), and more recently, as a founding member of the European Union (EU). Its policies were definitional in establishing Italian identity and citizenship with its associated rights.

The recent influx of migrants arriving on Italian shores as part of the so-called European migrant crisis have thrust Italy, and the way it has addressed the phenomenon, into the public eye, rekindling the debate over Italian identity. Although Italy's current response to the crisis has been widely criticized for being highly restrictive—especially in the context of interior minister Matteo Salvini's inflammatory anti-immigrant rhetoric—an historical reading of the legislation illustrates that the perceived danger of the foreigner is neither a recent nor an isolated political phenomenon. A study of the legislative record reveals that since the 19th century, official documents have been defining the dangerous other ("persone pericolose") in opposition to the native population. Since Italy's modern legal code reflects its identity as a country wrestling with the mass emigration of its citizens, only in the last few decades has it developed a legal infrastructure to address immigrants and migratory movements within its borders.

As the current study illustrates, although diametrically opposed, there are many existing parallels between the way Italy has controlled movements of mass emigration and immigration. Italy's documents on migratory movements emphasize the reality that its historical role as a point of departure for millions of its citizens—a phenomenon that is still ongoing—has informed its

policy response to its relatively recent status as a destination country for foreign laborers, as well as its contemporary role as a transit and host country for hundreds of thousands of asylum-seekers and migrants who have reached its shores in the last several years.

In light of the Italian and broader European Community's preoccupation with 'freedom of movement,' the core principle of the Schengen Treaty—the EU's signature border policy—a comparative analysis of immigration policies in Italy and the EU demonstrate the challenges of trying to control mass movements through policies that consider immigrants, and third party nationals more generally, as agents of disruption and threats to border security. Paradoxically, while 'movement' conjures dynamism and self-determination, historically, policies related to 'movement' have emerged in the EU, and Italy specifically, as reactive strategies during periods of heightened geo-political tension. Therefore, because the socio-legal foundation of border policies is restrictive by design, they have morphed into policies of de-facto control.

1.2. Current Study

This paper examines the way Italy's migratory policies—emigration and immigration—since its founding as a modern nation state in the 19th century have contributed to its evolving national identity. The first section will grapple with public security's connection to emigration policies in the early years of the Italian Republic and Mussolini's fascist government. The second section focuses on the way Mussolini's colonial settlements in Libya mirrored the strict policies of migratory control his dictatorship applied in Italy, maintaining a tether on Italian nationals in the colony. The third section addresses the socio-legal infrastructure that was created to respond to the refugee crisis in Europe in the aftermath of the Second World War. The fourth section studies the way Italy, under external pressure by the European Community, adopted its first legal response to immigration as a temporary labor phenomenon, and as a way to manage

the growing presence of irregular migrants. The fifth section looks at Italy's use of amnesty laws, and the correlation between Italy's reliance on an irregular migrant labor force and its considerable underground economy. The sixth section wrestles with Italian immigration legislation starting in 1990 until the late 2000s, which began to view immigration as a more permanent geo-political situation. The seventh section reckons with the fact that despite the policy shift, contemporary Italy is still experiencing the mass emigration of its citizens. The eighth and final section tackles Italy and the EU's recent controversial policy response to the growing number of migrants on its shores as part of the ongoing migrant crisis in Europe.

2. Methodology

By conducting a case study of Italy's emigration policies after its unification in 1861 and the evolution of its immigration laws since 1986, the current research aims to wrestle with policies that attempt to control migratory movements. The unprecedented waves of migrants on Italian shores in these last several years have underscored the necessity of analyzing policies that have tangible consequences on their lives, especially since contemporary policy decisions will have long-term effects. The project focuses on legal code and language to address the need underscored by Chambliss (1964) for "sociologically relevant analyses of the relationship between particular laws and the social setting in which these laws emerge, are interpreted, and take form" (p.67). While Chambliss was studying vagrancy laws in the Anglo-American legal system, the premise of his analysis extends to Italian legal code as well, and serves as a foundation from which to interpret the current migratory situation.

This research used primary sourced material, chiefly Italian legal code, beginning with its emigration laws from the 19th century up until its most recent immigration law in 2018, much of

which has not been translated from the Italian. Other primary documents cited in this thesis include the Universal Declaration of Human Rights of 1948, the Geneva Convention of 1951, and the EU's Schengen Treaty from 1985. As an Italian speaker, the researcher was in a unique position to access untranslated source material. All of the primary documents cited in the research were accessed digitally and are publicly available government sources. Italian legislative documents come from the Official Gazette of the Italian Republic ("Gazzetta Ufficiale della Repubblica Italiana") and Normattiva.it, a complete digital portal of Italian laws that have been in force since 1861 ("Il Portale della Legge Vigente.") For EU level analysis, documents were accessed through the European Commission and Parliament's websites.

Textual analysis of the documents in the current case study reveals that while the political arguments have become increasingly dominant in shaping immigration policies, historically the push factors that drive migratory movements are often economic. As Sciortino (2015) explains, "migratory dynamics are to be understood in the economy's evolving structure" (p.634). However, because migration is a complex phenomenon, it cannot be reduced to simplistic factors or facile socio-legal categorizations. Since the current paper is part of a larger conversation about migration, the analysis also relies on the support of secondary literature. Thus, drawing from legal and socio-political documents, news articles, and historical analysis, the present research attempts to depict a holistic portrait of Italy's relationship with policies of movement.

3. Analysis

I. A YOUNG NATION'S PUBLIC SECURITY RESPONSE TO EMIGRATION, 1861-1943

Italy's first formal immigration law did not go into effect until 1986 with Foschi Law n.943 emphasizing the reality that Italy has historically been a country of emigration

(Abbondanza, 2017; Azevedo & Musumeci, 1989; Zincone, 2016). Italy's national statistical office ("Direzione Generale di Statistica") began tracking emigration in 1876, fifteen years after Italy's unification as a constitutional monarchy (Calafut, 1977). Italians looking to emigrate acquired a "nulla-osta" or "nihil obstat" status—a certificate of non-impediment—from their local mayor's office, a bureaucratic procedure that mirrored the application and renewal of the "permessi di soggiorno," or residence permits, required of foreigners seeking to live in Italy (Ratti, 1931). Although this form of record keeping was not entirely reliable, as it did not account for clandestine emigration (Soresina, 2016), circa 11 million Italians left Italy between 1896 and 1915 (Davis, 2015). By 1976, an estimated 26 million Italians had emigrated to Europe and the Americas (Del Boca & Venturini, 2003).

Italy's early efforts at nation building were formed under conditions of demographic crisis, as the development of its socio-legal infrastructure coincided with the departure of millions of its inhabitants. Between 1879 and 1901, an estimated 2,553,169 Italians left for the Americas; 92.5 percent of whom settled in Argentina, Brazil, and the United States (Calafut, 1977). By 1901, Law n.23 was introduced to regularize outgoing influxes and the General Commission of Emigration ("Commissariato generale dell'emigrazione") was created to monitor the ports and ships, as Italians were emigrating to the Americas via maritime transportation. While many Italians eventually returned, reinvesting their money in the homeland, in the short term, the government had to contend with the reality that the mass emigration of its people was straining the economy and weakening its political authority. Emigration sapped the national workforce, particularly in the agricultural sector, and led to a "loss of influence" as immigrant communities assimilated into their destination countries (Soresina, 2016, p.729).

Not long after Italy annexed the port of Massawa in what is now Eritrea, prime minister Francesco Crispi passed Italy's first Emigration Law n.5886 in 1888. The new Law was meant to direct emigration to its new African colonies "with a view to conquering dominance" (Soresina, 2016, p.725). Italy, which had only recently emerged as a modern nation state in 1861, sought to assert its new national identity by joining "the imperialistic race in Africa, pushed on by the aspiration of increasing international prestige" (Soresina, 2016, p.724). That the new Law was an attempt by the Italian government to reinforce social order during a period of demographic crisis underscores the legal code's "instrument[al]" role in creating "social solidarity" (Chambliss, 1964, p.74). Indeed, the first article in Law n.5886 asserts the freedom to emigrate: "L'emigrazione e libera." Its opening clause encapsulates the view prevalent with certain politicians and economists of that era: freedom of emigration was encouraged so long as it conformed to the state mandate. Ballinger (2016) confirms, "the justification that Italy needed colonies in order to redirect emigration from third countries dated back to Italy's beginnings as an independent state" (p.820). Thus, the government's formal attempt at controlling mass emigration through Law n.5886 was an effort to consolidate its imperial power in Africa during a period when it was losing its citizens to other European countries and the Americas.

19th century European colonial policies would reverberate into the next century, when colonialism and immigration became interconnected, as demonstrated by the "bilateral labour migration agreements" that emerged during the 1950s and 60s (Van Mol & de Valk, 2016, p.31). During this period, former colonial powers, such as France and Great Britain, began experiencing mass immigration from former colonies in Africa, Asia, and South America (Doomernik & Bruquetas-Callejo, 2016). As a consequence, these northwestern European governments set-up guest worker schemes intended to temporarily fill-in labor shortages. In

millions of cases, chain migration, or the formation of migrant clusters based on social networks, fostered long-term relocation to these countries. In contrast, because Italy's colonial expansion was limited and brief in comparison to other European countries, it would not experience the same rates of immigration from its former colonies. In effect, its "migratory balance remained negative" throughout much of the first half of the 20th century (Abbondanza, 2017, p.77). As such, because the scale of immigration was minimal for centuries, the void in Italy's legal infrastructure reflected the country's status as a country of emigration.

A draft law from 1878, spearheaded by economist Luigi Luzzatti—who later served as prime minister between 1910 and 1911—sought to "emancipate" emigration from its association with public disorder by changing the way authorities administered the phenomenon (Soresina, 2016, p.727). Luzzatti, and like-minded politicians, envisioned emigration as "an instrument of commercial infiltration," which would have focused on the phenomenon's "economic potential" rather than framing it in terms of loss (Soresina, 2016, p.726-27). While the law was not approved, by the start of the next century, policies like the Nationality Law of 1912 focused on the benefits of having such a prominent diaspora, regarding it as "a vital vehicle for the country's economic and strategic interests in the international arena" (Zincone, 2016, p.6). In fact, the Nationality Law accelerated the process of acquiring citizenship as a way to encourage the children of Italian emigrants, or "Italiani non regnicoli," to repatriate back to Italy (Zincone, 2016). By formalizing ties to its extensive emigrant community, Italy's legislation tried to exert cultural and economic influence on a global scale.

Italy's original Civil Code from 1865 reflected the values of 19th century "liberal European states" by "adopt[ing] predominantly open-borders policy," which included "generous measures on asylum-seekers" and provided foreigners with the same "civil rights" as its citizens

(Zincone, 2016, p.4-5). However, by 1888, Law n.5888 on Public Order had established a link between public security and foreigners. Article 86 of Law n.5888 cautions that the minister of the interior and his dependent authorities may for public security reasons, or in exceptional cases of public and private misfortunes, grant the means of free travel to the indigent people for the purpose of repatriation. This “branding” of the “indigent people,” which Chambliss (1964) refers to when describing the semantic evolution of England’s vagrancy laws—in which the term “vagrant” was replaced by “rogue”—connotes a formal insinuation that the branded person is “disorderly and potentially dangerous” (p.74). In effect, prior to the implementation of its immigration laws, Italy’s “treatment and employment” of foreign workers was “regulated by internal rules” that viewed them as “potential disturber[s] of public order” (Azevedo & Musumeci, 1989, p.73). Matters involving foreigners depended on the discretion of the ministries of the interior and labor, which operated “on fascist rules” devised by Mussolini’s 1926 Decree n.1848 on Public Security “for the purposes of governing the presence of a few hundred politically suspect foreigners” (Colombo & Sciortino, 2002, p.164). However, even after the introduction of immigration policies in the 1980s, the language linking foreigners to public disorder did not cease. Article 7 of the 1990 Martelli Law stipulates that the minister of the interior may arrange for the expulsion and accompaniment to the border of a foreigner for reasons of public security. Therefore, since 1888, the Italian legal system has consistently framed foreigners as possible threats to national security, with repatriation as a means of expulsion.

During the first five years of Mussolini’s rule as prime minister, over 1.5 million Italians emigrated, and although most left for socio-economic reasons, “anti-fascist exiled abroad seemed numerous and important because they merged into the vast sea of Italian emigration” (Marrus, 1985, p.125). Mussolini reacted to anti-fascist opposition, including an assassination attempt in

1926, by tightening his grip on power. The “emergency legislation” that was passed in November 1926 reinstated the death penalty and introduced the “Special Tribunal for the Defense of the State,” which effectively established a dictatorship by abolishing political opposition parties and freedom of the press (Cantor, 1936, p.173). Mussolini also issued an order on public security laws, Decree n.1848, which legalized “Fascist terror”—resisting fascism became an offense—and “established a new crime, “abusive emigration”” (Marrus, 1985, p.126). In sharp contrast to the language in Crispi’s Law n.5886 from 1888, in which the freedom to emigrate to the Italian colonies was tantamount to fulfilling one’s national duty, Mussolini’s law restricted the movements of Italian citizens and foreigners under the pretext of enforcing national security. Passports were voided “and no one was permitted to emigrate without permission” (Marrus, 1985, p.126). Although Mussolini’s 1926 Decree, as well as the subsequent Regulation for the Defense of the Italian Race in 1938, reflected the fascist ideology of the time, they were not isolated events. While throughout the 20th century, Italy introduced legislation regarding public security that addressed a plethora of domestic concerns other than migratory movements—notably the presence of organized crime—the connection between public disorder and immigrants would be reinforced through various policy reiterations, including the so-called Security Packages of the Berlusconi era.

A chapter of the 1926 Decree on Public Security titled, “Foreigners to be expelled and rejected by the Kingdom,” echoes the section in the 1888 Law n.5888 on Public Order similarly named “Travelers, Released from prison, and foreigners to be expelled from the Kingdom.” Article 90 of Law n.5888 stipulates, “The Minister of the Interior, for reasons of public order, may demand that the foreigner passing through or residing in the kingdom be expelled and brought to the border.” Almost word for word, Article 151 of the 1926 Decree asserts the same

provision. Mussolini enforced measures of public security on the assumption that foreigners “could be potential fomenters of internal dissent” (Zincone, 2006, p.4). The Decree restricted the internal movements of foreigners by forcing them to register within three days of entering the country. This punitive language gained strength by repetition throughout the decades regardless of the political party in power. Zincone (2006) confirms, “The security-oriented slant of Fascist legislation still persists in the Italian democratic republic, due to the relative continuity of the legal system despite the downfall of the regime” (p.4). According to Chambliss (1964) this continuity is a reflection of the fact that “changed social conditions create a perceived need for legal changes,” which stem from the “revision and refocusing of existing statutes” (p.76). In fact, despite Italy’s political instability—as of the March 2018 elections, there have been 66 changes in government since the end of World War II—the country’s legal system has been largely consistent. Italy’s penal code, which entered into force in 1931 when Mussolini was in power, is still in use today. It was reinterpreted in part to reflect the Italian Constitution of 1947, when Italy transitioned into a Republic, and thus, while it is not “a Fascist code,” the “Fascist shadow still lies upon it” (Skinner, 2011, p.2).

In its first century as a modern nation state, Italy established a socio-legal infrastructure that was trying to monitor and halt the mass emigration of its people to other countries in Europe and the Americas, while simultaneously encouraging its citizens to settle in its new colonial territories in Africa. These two seemingly contradictory policies were part of a larger effort at building a national identity and consolidating imperial power during a period of demographic crisis. Although immigrants were not Italy’s primary policy focus in the 19th century, the 1888 Decree on Public Order crucially established a link between foreigners and public disorder, a connection that would take political center stage in the next century.

Ultimately, in response to Italy's demographic fluctuations, Mussolini created a reactive national identity in the 1920s that allowed him to establish a dictatorship. That the fascist settlements of the 1940s in Libya would further build upon Italy's 19th century policies underscored that the political response to the country's demographic crisis was to establish an infrastructure to mitigate the loss of Italian influence by encouraging its citizens to emigrate via state sanctioned programs. Mussolini built a bureaucratic apparatus that addressed the mobility of its people as a security phenomenon that needed to be controlled. That to this day similar policies continue to be at the core of border and migratory policies in Italy, as well as in the EU, emphasize the historical continuum in the way authorities treat mass movements as agents of disruption and threats to public security.

II. FASCIST CONTROLLED COLONIAL SETTLEMENTS IN LIBYA, 1940s

Under Mussolini's fascist government, "state-sponsored settlers" who moved to Libya were selected based on their conformation to the strict regulations of fascist institutions such as INFPS ("Istituto Nazionale Fascista") and the ECL ("Ente per la Colonizzazione della Libia") (Ballinger, 2016, p.818). The proliferation of state programs during the fascist era—one that was still marked by mass emigration—reflected Italy's changing needs and ambitions. Similarly to the reactive creation of English vagrancy laws in the 14th century in the aftermath of the bubonic plague to provide "cheap labor to landowners during a period when serfdom was breaking down and when the pool of available labor was depleted," the Italian state devised of settlement programs aimed at reducing economically motivated emigration, while increasing its colonial power off of the agricultural labor of its citizens (Chambliss, 1964, p.76). The Africa Orientale Italiana's "unit of colonization" consisted of "the family, preferably with several children and

agricultural experience” (Ballinger, 2016, p.820). Thus, emphasis on the family unit underscored the fact that Italian colonial expansion was envisioned as an intergenerational and long-term nationalist project.

The fascist program did not limit its domination to Libya—which it did by sequestering Libyans into camps and appropriating their land—it also sought to impose greater control over Italian territory, and by extension, the Italians themselves. Ballinger (2016) explains, “INFPS had contributed to land reclamation projects on the Italian peninsula with the aim, as in Libya, of providing work and livelihoods for needy Italian families and combatting unemployment” (p.820). While policies relating to land reclamation and mobility are not inherently fascist, that they proliferated under fascism as a measure of political and economic control accentuate their restrictive characteristics. In fact, the mobility of the Italian people became a crucial part of the country’s identity because of “the centrality of migration to both the Italian national experience and the fascist project of transforming ‘nomadic’ emigrants into pioneering colonial settlers” (Ballinger, 2016, p.837). The insertion of fascist values into migratory dynamics highlighted the ideological undercurrents of Italian migration during that era.

Demographically, the fascist settlement initiatives in the Africa Orientale Italiana were successful. By 1940, 12 percent of the Libyan population was Italian (Ballinger, 2016). However, the fascist organizations did not take into account that Italian settlers would seek to return to Italy after the country lost control of Libya in 1943, following Mussolini’s defeat in the Second World War. Echoing future repatriation measures for immigrants, Italian repatriation was not immediately granted, as it was contingent on “employment, a place to live, and a written guarantee that transportation costs would be paid” by the repatriated (Ballinger, 2016, p.827). Similarly to subsequent humanitarian campaigns addressing immigrant rights in the homeland

(Zincone, 2016), Catholic representatives, in this case the bishop of Tripoli, Facchinetti, would prove sympathetic and supportive of Italian repatriation (Ballinger, 2016). Separation of children from their parents due to “wartime evacuations,” and the general theme of Family Reunification during this period, would be further complicated by those Italians who instead wanted to move to Libya as a means to escape poverty and unemployment at home (Ballinger, 2016, p.828). Colonel Qaddafi, who rose to power in 1970, put an end to Italian immigration when he repealed the 1956 accord between the two countries, leading to the ouster of all remaining Italian citizens on Libyan territory (Ballinger, 2016). Although Qaddafi’s order officially ended Italian presence in the country, it did not mark the end of Italy’s interference in Libya’s domestic affairs. Six decades after the expulsion orders, Italian interests, as well as those of the EU, still dictate the relationship between the two countries.

Ultimately, Mussolini’s fascist settlements in Libya, as well as the in-house programs to end economically motivated emigration out of Italy, are indicative of an historical continuum in the way Italian governments have implemented migratory policies to leverage the interests of the state. Since this research is limited to a case study of Italy, it does not address the dehumanizing practices and behavior of its colonial domination in Libya. Although by no means were the Italians subjugated to the same cruel treatment as the Libyan population, Italy’s colonial expansion in Africa was a two-fold nationalist project that sought to dominate the native Libyan people, as well as its own citizens. Many of Italy’s restrictive migratory policies of this era would resurface when it began developing its immigration policies later on in the 20th century. More immediately, the socio-political response to the refugee crisis in Europe in the aftermath of World War II established much of the humanitarian and legal infrastructure still in use today.

III. SOCIO-LEGAL RESPONSE TO REFUGEE CRISIS IN POSTWAR EUROPE

The fascist rule produced long lasting destruction in Italy, and had a devastating effect on humanity. For instance, Mussolini's 1938 Census counted close to 45,000 Jews in Italy. By 1945, nearly 8,000 had died in concentration camps (Vitello, 2010). Overall, six million European Jews were systematically killed under Hitler's orders, Mussolini's ally, and over 50 million people, a majority civilians, perished worldwide (Showalter, 2010). The survivors, one of whom was Italian writer and chemist, Primo Levi, became one of the 11 million internally displaced people in Western Europe in the aftermath of the war (Marrus, 1985). Thus, "the war's most important legacy," Shephard (2010) writes, "was a refugee crisis" (p.2). The postwar generation's response to rebuilding a collapsed society was to establish a legal and humanitarian infrastructure that regulates the inner-dynamics of migratory phenomena to this day.

Shephard (2010) clarifies, "the planners' model was based not on genocide but on the displacement of populations" (p.2). Thus, UNRRA (United Nations Relief and Rehabilitation Administration)—precursor to the 1951 UNHCR (United Nations High Commission for Refugees)—was created in 1942 to assist internally displaced people and repatriate them to their countries of origin throughout Europe (Shephard, 2010). International cooperation emerged during this period, as exemplified by Article 14 of the Universal Declaration of Human Rights from 1948, which claims, "Everyone has the right to seek and to enjoy in other countries asylum from persecution." However, the reality around repatriation was often mired in bureaucratic tragedies. As Shephard (2010) explains, "Several hundred thousand Germans died in the course of being expelled from Eastern Europe, but those who survived were not categorized as 'displaced persons'; they were 'refugees' and, as such, at the bottom of the pecking order" (p.3). These classifications would prove crucial, as the socio-legal categorizations that emerged from

this era created hierarchies in financial aid and social support still relevant today. These systematic distinctions have become contentious in context of the recent influx of people arriving on European shores, as some are classified as political refugees, and thus are perceived as deserving governmental aid, while those categorized as economic migrants are not.

The magnitude and diversity of the refugee population, including the severity of their needs, made it so that in order to function, transit camps in the aftermath of the Second World War relied as much on official organization as they did on clandestine measures. In *The Truce*, Levi (1963) chronicled his journey back to Italy after surviving Auschwitz. His first experiences outside the concentration camp were at a Soviet run transit camp in the town of Bogucice in Poland. Levi witnessed firsthand the complicated bureaucracy required in managing thousands of people with limited resources and oversight. Marya Fyodorovna, a Serbian military nurse

obtained medicines partly by normal administrative means, collecting them from the Soviet military stores, partly (and it was the largest part) by actively cooperating in ransacking the warehouses of the former German Lagers and abandoned German infirmaries and pharmacies (pp.260-261)

While UNRRA's most urgent undertaking was to provide health assistance and nutrition to millions of refugees, "under its Articles of Agreement" it was also responsible in "assisting in the 'repatriation or return'" effort (Wasserstein, 2011). This forced repatriation policy, or "refoulement," would put it at odds with the 1951 Geneva Convention on Refugees' tenet on "non-refoulement," a practice where states cannot force refugees who have sought protection in their territory to return to the place they fled from. In Article 33, the Convention specifies, "No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened" (Refugee Convention, 1951, p.137). In the case of the Second World War, many refugees had been forcibly removed from their homelands, and in fact wanted to return to their countries of origin. Levi recounts a

scene of jubilation in the transit camp—“People roared, “Home! Home!” through the corridors”—when a Russian captain broke news of their scheduled repatriation (p.303). However, for many Jews, as well as for others returning to newly Soviet controlled countries in Central and Eastern Europe, “refoulement” was a potentially fatal proposition.

The crisis of internally displaced people in the aftermath of the Second World War underscores 20th century Europe’s tense relationship to movement between internal and external borders, which would evolve in the following decades as the EU’s precursor, the European Coal and Steel Community (ECSC) began shaping the region’s socio-economic and political boundaries. That the ECSC, later known as the European Economic Community (EEC), was signed into existence at the 1957 Treaty of Rome signaled Italy’s ambition to establish itself as a founding member of the European Community. This was an especially important “opportunity” after emerging from “the shadow of 20 years of Fascist rule” at the end of the war (Della Sala, 2015, p.698). Italy’s role in the wider community provided the country with a platform from which it could “prove its democratic credentials and become a credible actor on the international stage” (Della Sala, 2015, p.698). However, the democratic policies that materialized out of postwar Europe did not reflect a spirit of open borders and inclusion. In fact, the EEC’s “precondition for membership” was an “enactment of stringent migration controls” (Doomernik & Bruquetas-Callejo, 2016, p.57). Thus, because para-governmental organizations like the European Community were founded on the premise that internal cooperation on border security would rebuild the region’s political and economic infrastructure, their governing ethos was founded on the reinforcement of external security.

The devastation in the aftermath of the Second World War accentuated the need for a collaborative socio-legal infrastructure to prevent the repetition of future calamities and

humanitarian tragedies. However, because the foundation of Europe's postwar nation building was based on securing its shared internal borders, throughout the rest of the 20th century, the European Community's focal issue of concern was border security. This was epitomized by the EU's signature border policy, the Schengen Agreement of 1985. The period of economic rejuvenation following the war led to the proliferation of labor migration programs throughout northwestern Europe. Italy, a country which had primarily developed policies controlling the movements of its own people, did not immediately face the same scale of immigration as did its neighbors. However, by positioning itself as one of the founding members of the European Community, Italy was obliged to develop border security policies that aimed to control the movement of foreign laborers and immigrants within its borders.

IV. ITALY VIEWS IMMIGRATION AS TEMPORARY LABOR SITUATION, 1970s-80s

Italy did not experience its first substantial migratory influxes until after the 1973 oil crisis, a period when other European countries had closed their borders to immigrant workers. Irregular migration—which the European Commission defines as a “movement of persons to a new place of residence or transit that takes place outside the regulatory norms of the sending, transit and receiving countries”—had been widely accepted in the 1950s (European Commission, 2019). However, by the 1970s European governments reduced “the legal means of labour migration” as a precautionary measure against the growing migratory influxes, the so-called savage immigration (“immigration sauvage”) (Maas, 2010, p.234). As a result, irregular migration increased throughout Europe. Italy was forced to develop “new immigration systems” to respond to the “geopolitical transformation of Eastern Europe and the Balkans,” as well as to the “gradual rise of new flows of immigrants” from Africa and Asia (Colombo & Sciortino,

2002, p.163). That this era of political and socio-economic upheaval in Europe corresponded with a period of legislative expansion in Italy is consistent with a larger historical pattern in which reactive policies are created to counter panic about borders.

The creation of Italy's first immigration laws coincided with the simultaneous opening and hardening of European borders. The dissolution of the Soviet Union in 1989, and a few years later, of the former Yugoslavian Republic fostered movements of mass internal displacement and relocation. Both events instigated anxiety in the region over "unfettered immigration," leading to "a number of policies tantamount to the criminalization of migration" (Berman, 2003, pp.38-39). In close proximity to the Balkan states, "Italy was suddenly confronted with flows of illegal immigrants from Albania, which confirmed in both national and international opinion the weakness of the Italian state" (Varsori, 2015, p.390). Italy's lack of immigrant infrastructure and its weak management of irregular immigration put the country in an especially fraught situation, as it was vying for membership in the emerging European Union.

The inflow of immigrants during this period was heightened by the fact that because Albanians were fleeing a war-torn country, their status as refugees introduced issues of international protection. A reality that was at odds with the Italian legislation at the time, which viewed immigration as a short-term economic necessity. Although Italy might have been "one of the very few Western European countries" to recognize its "need for low-skilled workers," it had not developed policies that dealt with the growing number of irregular workers (Sciortino, 2015, p.638). While irregular employment is a phenomenon that "involves mostly Italian workers," the correlation between migration and "a thriving underground economy in southern European countries," was such that the European Community pressured Italy to address the growing number of undocumented migrants in its workforce (Talani, 2018, p.19). In 1981, it passed Law

n.158 based on the 1975 International Labour Organization's (ILO) Convention n.143 (C143). The 1975 Convention titled "Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers" responded to the escalating situation. C143 called to "respect the basic human rights of all migrant workers" (art.1), while also warning that each ILO member was tasked with "suppress[ing] clandestine movements of migrants for employment and illegal employment of migrants" (art. 3). This last clause was especially relevant in Italy's case, as the country would need to introduce legislation addressing the growing presence of irregular migration.

Italy's first immigration law, Foschi Law n.943, which passed under socialist prime minister Bettino Craxi in 1986, read as an extension of the 1975 ILO Convention. The foreign presence on national territory was construed in a limited manner based on the northwestern European guest worker schemes of the 1960s (Sciortino, 2015). Thus, its conceptualization of the foreigner was that of a predominantly male worker, who might briefly reside in the country with his family. The Law makes no mention of immigrants or of immigration more broadly. The official language in the Foschi Law is specific to that period in history; for example, the term "extracommunitary workers," which denoted foreign citizens not part of the European Economic Community (EEC) would not be used in later laws.

The Foschi Law was composed of contradictory provisions, since while granting full equality of treatment between Italian and non-Italian workers, the intricate and heavily bureaucratic process of hiring foreign workers (art.16) favored the employment of Italian and EEC nationals (art.4). The implementation of laws that sought to dissuade labor mobility was not a novel concept: Chambliss (1964) recounts that the 14th century English vagrancy laws were introduced in part to "curtail mobility of laborers in such a way that labor would not become a

commodity for which landowners would have to compete” (p.70). Indeed, in Italy, due to the perception that immigrants were “temporary foreign workers,” the Foschi Law sought to “regulate inflows in order to avoid competition from non-EU workers with national manpower” and “give a legal alternative to illegal immigration” (Zincone, 2006, p.18). As such, the Foschi Law did not view foreigners as potential citizens. For instance, while Article 13 provides foreign workers with social services that were 0.5 percent higher than Italians, that increase was meant to cover repatriation expenses, thus accentuating the way in which the legislative language formalized their impermanent and precarious status within the Italian economy.

The struggle for fair treatment of immigrant workers mirrored earlier diplomatic efforts between US secretary of state Philander Knox and Italian ambassador to the US Cusani Confalonieri (Soresina, 2016). In 1913, the 1871 trade agreement between the two countries was updated to provide Italian workers in the US with the “same legal protection” as American workers “in the case of work-related injury, also in favour of relatives or heirs” (Soresina, 2016, p.732). Similarly, Article 2 of the Foschi Law affirms the protection of civil, social, economic, and cultural rights of immigrant workers and their families. However, while “in theory” the Foschi Law marked an official attempt to lay out progressive policies on par with international legal standards, “in practice,” many of its policies, including the increased cost of social services for foreigners, made foreign labor a less competitive option for employers (Zincone, 2016, p.19). Indeed, the policy’s implementation relied heavily on regional offices, as public funds were not nationally allocated, further emphasizing the lack of state support in addressing the growing presence of irregular migrants on its territory.

Paradoxically, although the Foschi Law had intended to regularize the presence of irregular foreign labor, the restrictive labor procedures it introduced increased clandestine

immigration (Abbondanza, 2017; Colombo & Sciortino, 2002; Zincone, 2016). In response, Italy, like other southern European countries, passed its first amnesty measures to regularize the presence of illegal immigrants on its territories (Maas, 2010). Amnesty programs became a prerequisite procedure to entering the Schengen Zone, as the EU's policy of open borders between member states, "resulted in enhanced cooperation regarding control of the common external border as well as changes in the administration of third country nationals, including unauthorized migrants" (Maas, 2010, p.232).

The Schengen's mission, which was the facilitation of the movement of people and goods within shared "internal borders" (Official Journal of the European Communities, 2000), was also a core principle of the founding documents of the First Italian Republic in 1947. Amato (2015) portends that the Italian constitution "proclaims that individual freedoms can be limited exclusively by law," and that specifically, echoing the future Schengen Treaty, "freedom of movement can be limited only for sanitary and security reasons" (p.74). Indeed, although the Schengen Agreement's language connotes the freedom to move through unmanned checkpoints, the Treaty itself is restrictive. Provisions, such as the expulsion of "aliens" with prior alerts in the Schengen Information System, became enduring legislative recourses for expulsion in Italy, starting in the Turco-Napolitano Law of 1998, and continuing on in the recent Minniti-Orlando and Salvini Decrees of 2017 and 2018 (Official Journal of the European Communities, 2000).

Thus, in the same way that a century earlier the 1888 Emigration Law on Public Order was rooted in Italy's ambitions as an emerging nation state, and the agricultural settlement policies in Libya during the fascist era were representative of Mussolini's authoritative quest to consolidate power, the emergence of its immigration and amnesty legislation illustrated its socio-political aspirations in the broader European Community.

V. CORRELATION BETWEEN IRREGULAR MIGRATION AND BLACK ECONOMY

Italy's reliance on amnesty measures for irregular migrants fits in to a larger pattern of enacting policies that seek to control migratory dynamics. Italy passed amnesties in order for "a large section of the foreign population" to gain "legal status" after "a spell of irregular work and abode" (Sciortino, 2015, p.632). Its amnesty measures also underscore the reality that while state policies might not be immediately favorable to immigrants, its aging population and its need for workers in low skilled job sectors make the country reliant on an immigrant workforce. Ultimately, faced with "the choice between ignoring the underground economy or attempting to control it, states," in this case, Italy, "constantly adjust their policies regarding residence and employment rights" (Maas, 2010, p.232). Although upon their introduction, amnesty laws "prompted arguments that legalization should not be regarded as a way of managing migration flows," in Italy these programs were used to that end (Maas, 2010, p.232). Though intended as an exceptional measure, amnesties have become a regular part of Italy's judicial response to managing immigrant flows.

The economic reality is such that companies in sectors "largely shielded from globalized competition" resort to "lowering labor costs and increasing the flexibility of working hours" (Sciortino, 2015, p.634). As a result, migrants "made it possible for a number of companies that had lost competitiveness to survive," as their "lower level of skills" meant that employers could justify paying them less, enabling companies to cut costs (Talani, 2018, p.12). According to Talani (2018), "estimates provided by reputable Italian research institutes are that the size of the Italian underground economy is currently half of official GDP" (p.19). Thus, while migrants did not create the shadow economy, the economic advantage of hiring foreign labor—especially irregular immigrants who do not benefit from the same standards of protections and social

services—means that Italy’s “underground economy provides a wealth of employment opportunities” (Talani, 2018, p.14).

While in the context of the Schengen Zone, Italy’s implementation of the amnesty law signaled its commitment to a unified European vision on immigration and border security, its continued reliance on the measure emphasized the persistence of its underground economy, as well as its reliance on irregular labor. In effect, although “amnesties may temporarily succeed at “wiping the slate clean,” they do not “address the root causes of migration” (Maas, 2010, p.236). Although Sciortino (2015) argues that the “size of Italy’s irregular foreign population” is not “extraordinary in the EU context” (p.633), the fact that it constitutes “two percent of total employment” is comparatively substantial (Talani, 2018, p.7). The OECD (Organization for Economic Cooperation and Development) estimates that “higher figures” are “only recorded in the United States and Greece” (Talani, 2018, p.7). Talani (2018) warns that “the existence of such a flourishing non-observed sector acts as a catalyst for illegal migration,” generating conditions unfavorable to assimilation “into the host society” (p.19). Because irregular migrants live in the shadows of its black economy, they become marginalized, which may “indirectly increase” their potential for deviant behavior (Talani, 2018, p.18). These findings suggest that instead of viewing immigrants as potential fomenters of unrest, Italian policy should focus its efforts at addressing its underground economy as a threat to public security.

VI. ITALY ADDRESSES IMMIGRATION AS PERMANENT PHENOMENON, 1990s-2000s

Italy’s first substantial immigration law—which passed in 1990 under the Christian Democratic government of Giulio Andreotti—did not break from the alarmist tone that characterized immigration as a situation of national crisis. The Martelli Law’s tone can be

explained in the context of the Balkan wars. In 1991, over 20,000 Albanian refugees arrived in Italy, mostly by boats in the Adriatic Sea, the body of water separating Albania from Italy's eastern coast (Campani, 1992). A peninsula, Italy has perpetually relied on maritime controls. Italian authorities tried to curtail arrivals by sending boats back to Albania. However, because the Albanian presence kept growing, government authorities changed tactics, issuing temporary residency permits, which would become permanent only if Albanians secured work and living accommodations per the Martelli Law's provisions (Campani, 1992).

Martelli Law n.39 was considered a foundational text for subsequent immigration policies: it introduced quotas, management of immigration flows, and regulations of visas (Castellazzi, 2010). The specificity of the Martelli Law's regulations emphasizes that by "focus[ing] upon" a specific set of "criteria," its formalized boundaries established a confining legal foundation (Chambliss, 1964). In contrast to the Foschi Law's labor focus, the Martelli Law construes of foreigners as political entities by underlining the urgency of regularizing their presence, as well as those of stateless persons, on Italian territory. In fact, the insistent language in its preamble, which asserts an "extraordinary need" to adopt immediate provisions for political asylum, entries, and residencies, mirrors the legislative language of the EEC (Abbondanza, 2017). In an effort to secure its border and establish the legal infrastructure necessary to join the Schengen Zone, the Martelli Law aligned itself with the immigration policies of the European Community (Cole, 1997). As such, Law n.39 includes strict provisions on regularizing the presence of clandestine migrants on state territory, such as securing a residency permit within 120 days of the law entering into force (art. 9).

Italy was not one of the founding members of the Schengen Agreement when it was first signed into existence in 1985. As such, it used the Martelli Law as a vehicle to demonstrate its

commitment and readiness to handle border security concerns. Law n.39 adopted the Schengen Treaty's provisions by establishing a border security approach to controlling migratory flows. Article 3 warns that foreigners, even those in possession of a visa, will be rejected at the border if they have been previously expelled or reported for being dangerous persons ("persone pericolose"). Because the term itself is ambiguous, it invites Italian authorities to use their discretion and authority to determine what constitutes a dangerous person. This legal "branding" enables a formal association between foreigners and danger, thus purposely inciting panic (Chambliss, 1964). However, despite its restrictive provisions, the amnesty program linked to the Martelli Law regularized the status of 220,000 irregular immigrants who had been living in Italy prior to 1989 (Abbondanza, 2017; Campani, 1992). In that period, the estimated 350,000 irregular migrants living in Italy made up "half of the total number of foreigners" (Abbondanza, 2017, p.79). Thus, grosso modo, the number of undocumented migrants was equivalent to the legal foreign population. Ultimately, while Law n.39 sought to manage and reduce the growing tide of irregular migration, it did not create the necessary infrastructure to address the causes of the phenomenon (Abbondanza, 2017).

Italy's deteriorating economic situation, and the approaching collapse of Italy's First Republic in 1992, also factored into the Martelli Law's restrictive policies. Although the late 1980s were marked by a positive economic outlook, by 1991 the domestic forecast had taken a turn. At the time, Italy was in negotiations with the founding members of the EU. However, "increasing economic difficulties," including its "growing state deficit," made the other members "doubt Rome's capability to face the challenges posed by the creation of [the European Monetary Union]" (Varsori, 2015, p.391). As a result, Italy was forced to implement "the so called five Maastricht criteria," generating "a serious economic crisis," which compounded by

“judicial inquiries and a renewed threat by organized criminality, led to the collapse of the First Republic” (Varsori, 2015, p.391). The 1992 dissolution of the Andreotti government marked the end of a chapter in Italian politics. A major figure in Italian politics since the 1950s, Andreotti was prime minister in 1978 when his predecessor Aldo Moro was assassinated by the Red Brigades, a Marxist-Leninist militant group active during the 1970s.

The political salience of illegal migration manifested in the 1995 Dini Decree n.489 created under the short-lived government of prime minister Lamberto Dini. Its language and provisions were prompted by broader geo-political transformations in Europe, chiefly the creation of the EU at the 1992 Maastricht Treaty (Abbondanza, 2017). Although the Dini Decree was never turned into law, before lapsing after 60 days, it regularized “the legal status of about 250,000 previously irregular immigrants” (Abbondanza, 2017, p.80), while also providing public services to irregular immigrants (art.13), based on the “contra legem practices taken by hospital directors” (Zincone, 2016, p.23). These practices mirror Primo Levi’s description of the adaptive behavior of the Soviet run transit camp administrators in response to the scarce resources and bureaucratic complications in the aftermath of World War II. In the 1990s, public service administrators were also adapting to their compromised environment by providing basic services to irregular immigrants. Acting against the law had become a normalized practice in Italy’s “public culture,” where “a sort of benevolent (and malevolent) non-compliance with the law seems quite typical” (Zincone, 2016, p.42). Ultimately, by regularizing administrators’ non-compliance, the legislative language officially acknowledged the existence of irregular migrants.

The Turco-Napolitano Law n.40, which was ratified under prime minister Romano Prodi’s center-left government in 1998, appeared, at least prima facie, to introduce progressive policies, such as allowing the children of irregular migrants to attend local public schools.

Notably, it was the first law not to pass “under emergency conditions,” and the first to “treat immigration as a permanent phenomenon” (Zincone, 2016, p.23). However, provisions on permanent residence permits, which could have “relieve[d] a sizeable share of immigrants” from “having to continually renew their papers,” did not, as they were “interpreted in an overly restrictive way” (Colombo & Sciortino, 2002, p.166). However, this did not deter 235,000 irregular migrants from living in Italy in 1998. Maas (2010) explains, “Enforcement increases the cost of crossing the border illegally, thereby encouraging irregular immigrants to stay longer to recoup the cost of entry” (p.236). Thus, restrictive border policies are often counterproductive to their intended aims. Indeed, Law n.40 granted amnesty to 217,000 irregular migrants, a rise attributed to “the presence of a large, underground economy” (Abbondanza, 2017, p.81).

In the last three decades, Italy’s legal infrastructure has progressively aligned itself to the policies of the EU in order to uphold its political standing as a core member state (Abbondanza, 2017). Law n.40’s focus on border regulations (art.9), refoulement (art.8), deportation (art.11, 12, 13), and temporary detention centers (art.14) stemmed from Italy’s ratification of the Schengen Agreement in 1993 under Law n.388 (Abbondanza, 2017; Zincone 2016). Thus, while in theory, that immigrants were no longer considered transitory allowed for more sustained integrative efforts, in practice, it contributed to the heightening of punitive measures. The Turco-Napolitano Law based the amount of admissible entries “on annual quotas which, although they were always set below labour market needs” kept on increasing until 2008 (Caponio & Cappiali, 2018, p.118). However, because Italian immigration laws prioritize control measures over integration, in exchange for granting immigrants permanent status, and allowing “mass entries from Albania, Tunisia, and Morocco,” Italy signed agreements with those three governments ensuring “their collaboration in emigration control and readmission of their deported citizens”

(Sciortino, 2015, p.639). These forms of bilateral contracts remained a consistent strategy, as exemplified by the Friendship Treaty that Italy signed with Libya in 2008.

After officially joining the Schengen Zone in 1993, Italy's legislative language associating "socially dangerous" foreigners with public disorder only became more alarmist (art.13 of Law n.40). These measures were compounded by the fact that Italian public opinion was turning against immigration throughout the period of the Turco-Napolitano Law, and its subsequent reform in 2002 under prime minister Silvio Berlusconi's center-right coalition. Although throughout the 2000s "Eurobarometer data" indicated that the number of Italians who perceived of immigration as the country's most pressing problem was below the EU national average (Gattinara, 2017, p. 323), increased opposition to immigration entries remained consistent throughout the Prodi and Berlusconi governments (Zincone, 2016). However, the negative "demographic growth rate" and "frequent lack of Italian workers for unskilled work" reflected the existing discrepancy between public opinion, political posturing, and the economic reality of immigration and migratory movements (Abbondanza, 2017, p.81).

Immigration became a focal point of the 2000-2001 election campaign when center-right politicians turned it into an issue of political contention (Zincone, 2016), accusing the center-left government of "failing to prevent illegal immigration" (Colombo & Sciortino, 2002, p.167). Under the second and third Berlusconi governments, the minister of the interior consolidated his authority by taking the lead "in combating illegal entry and crime" (Zincone, 2016, p.28). The rise in unemployment around 2007 due to the economic crisis "made it easier for small and medium-sized firms, as well as for families in need of caregivers to hire EU migrants in the underground economy or from among third-country nationals who already lived in Italy" (Caponio & Cappiali, 2018, p.122). As Talani (2018) puts it, "The economic crisis immediately

following the global financial crisis of 2007-08 seems to have increased the size of the Italian underground economy” (p.6). In fact, despite the openly hostile national conversation around immigration, a coalition of employer’s associations, Catholic organizations, and trade unions persuaded Berlusconi’s centrist Catholic component to take on a “more moderate approach” (Zincone, 2016, p.31). As such, Berlusconi’s Bossi-Fini Law from 2002 provided amnesty to 646,000 irregular migrants, which represented “the largest amnesty for illegal workers” to have ever passed in Italy (Abbondanza, 2017, p.82). This inconsistency is attributed to “a structural gap between formally restrictive measures and lenient implementation” (Caponio & Cappiali, 2018, p.116) and a continuum in policies that remained viable regardless of the political party in power (Zincone, 2016).

Right before the end of Prodi’s term, the center-left government had been “afflicted by the electoral panic syndrome” granting “some social rights only to long-term resident immigrants, while making the acquisition of a permanent permit more difficult” (Zincone, 2016, pp.32-33). As a result, residence permits became a focal point of the 2002 Bossi-Fini Law n.189 (art. 13 and 14), especially as issues around permits overloaded the Italian courts in the years after the law was implemented. In the “over a thousand constitutional objections” that “were submitted to the Supreme Court,” two judgments in 2004 determined that it was unconstitutional to imprison an irregular immigrant who was caught without a residence permit or with one that had expired (Zincone, 2016, p.34).

The Bossi-Fini Law’s language had evolved to make an explicit link between the Schengen Agreement and an increased threat to public order. Berman (2003) affirms, “Schengen designated how some people (EU citizens) are freer to move than others (non-EU citizens)” (p.51). The Law n.189’s Article 4, “Entry into the territory of the State,” affirms that Italy will

not admit foreigners considered a threat to its internal public order or to the one of other Schengen members. Ultimately, because third state citizens were not one of the Schengen's "contracting parties," their "alien" status subjected them to "checks to detect and prevent threats to the national security," as per Article 6 of the Schengen Treaty (Official Journal of the European Communities, 2000). The Schengen Agreement was only one of many EU policies that led to the escalation of restrictive measures during Berlusconi's center-right government's time in power. By advancing "the 'principle of solidarity' between member states," the Treaty of Lisbon, which Italy joined in 2008, introduced "stronger legislation against irregular immigration and human trafficking" (Abbondanza, 2017, p.83). Article 10 of Law n.189 stipulates that the minister of the interior is responsible for promoting the appropriate coordination between Italian and European authorities on immigration. As such, Article 10 solidifies the crucial role of maritime patrols in controlling incoming migratory influxes to the peninsula.

The maritime channel as a venue for illegal immigration has been a source of constant policy concern for Italy, notably during the Balkan crisis in the 1990s. A little over a decade after passing the Bossi-Fini Law, the Central Mediterranean Route became a central issue of the contemporary European migrant crisis. A 2017 UNICEF report confirms that the route is rife with sexual violence, abuse, and detention, and thus ripe territory for smugglers and criminal networks (UNICEF, 2017). Similarly, an International Organization for Migration (IOM) report from that same year underscores the fact that although the Central Mediterranean Route "accounts only for about a quarter of almost 1.5 million people who have arrived since 2014," it has been responsible for "88 percent of all migrant deaths in the Mediterranean" (IOM, 2017). Indeed, wrestling with issues of irregular immigration and human trafficking became an issue of contention between EU members in the subsequent decade, as southern Italy's proximity to the

African coastline made it one of the main ports of entry for migrants seeking to reach Europe.

Italy's negotiations with Libya in 2008 were fueled by the former country's concerns over irregular migration. The two countries' beleaguered relationship culminated in the Treaty on Friendship, which came with a five-billion-dollar compensation package (Watkins, 2011), and an official apology from prime minister Silvio Berlusconi who "expressed his regret for the colonial period in very strong terms" (Ronzitti, 2009). At the time of the treaty—a period of domestic economic crisis—speculation on the nature of the relationship between Qaddafi and Berlusconi abounded. News sources maintained it was driven by "business interest" criticism that was not without precedence (Hooper, 2009). Berlusconi's business activities—his involvement in construction and real estate, buying major soccer leagues, and creating the mass media company Mediaset—had propelled him to the national stage (Donovan & Gilbert, 2015). Italy, which had long sustained a "strong business" presence with its former colony, had been importing 25 percent of its oil from Libya for decades (*Reuters*, 2009). In exchange for the financial compensation, Libya vowed to use its navy to restrain the growing number of migrants from reaching Italian shores via the Central Mediterranean Route. At an estimated 36,951 entries in 2008, irregular maritime entries were a matter of national alarm (Abbondanza, 2017). Although Italian immigration laws focused on the implementation of reactive internal controls, its partnership with Libya served as an example of its growing reliance on external controls.

The strategic cooperation between Italy and Libya became a core national security measure in curtailing migratory flows from the northern African coastline. In terms of reducing influxes from the Mediterranean, Libya's efforts were successful. By 2009, "only 9,573 economic migrants and asylum seekers reached the Italian coast," and in 2010 the number had dropped to 4,406 (Abbondanza, 2017, p.84). However, the measures carried out to reach these

reductions were met with widespread criticism, especially since Libya had never ratified the 1951 Convention on Refugees. Italy's policies elicited "human rights concern about the fate of the immigrants turned back and left in the desert" (Ronzitti, 2009, p.130), as well as a rebuke from the European Court of Human Rights (Abbondanza, 2017). The Treaty was temporarily revoked in 2011 during a period of internal chaos in Libya that led to Qaddafi's murder, and the collapse of his regime. Italy's response to the escalating migratory flows was further epitomized by the Security Packages of the fourth Berlusconi government, a coalition that was now composed of the rightist Northern League ("Lega Nord") party—a coalition of northern Italian political parties that historically advocated for the North's regional autonomy from Italy's more economically disadvantaged southern regions—instead of the more moderate parties of the past.

In Italy's attempt to quell the rising tide of migrant entries, Berlusconi's government introduced two laws in quick succession: Law n. 125 in 2008 and Law n.94 in 2009. While the economic situation at the time was precarious with Italy's GDP at one of its lowest points in thirty years, the foreign population had increased since the previous year (Sciortino, 2015). In light of the domestic crisis, Article 1 of the 2008 Decree Law n.92—which would become Law n.125—modified the penal code so that convicted foreigners and EU nationals would face stiffer penalties and increased sentences. Subsequent Law n.94 made clandestine immigration a crime (Abbondanza, 2017; Caponio & Cappiali, 2018). Much like the hardline policies in the Bossi-Fini Law on residence permits, Law n.94's provisions on clandestine immigration made undocumented migrants "more vulnerable to exploitation" (Abbondanza, 2017, p.85) as it bolstered measures of expulsion for irregular migrants and established a range of fines for "entrance and irregular residence crime" (art.1) (Caponio & Cappiali, 2018, p.118). Similar to the more punitive measures of the Bossi-Fini Law from 2002, certain provisions in Article 1

were deemed “unconstitutional” and were reversed by the Italian courts in 2010, reflecting a broader judicial trend of overturning restrictive policies, including by the European Court for Human Rights (Caponio & Cappiali, 2018, p.124).

Although Italy passed its sixth amnesty measure shortly after the passage of Law n.94 in 2009, effectively regularizing the status of 222,000 irregular migrants (Abbondanza, 2017), the 2009 and 2012 amnesty laws were based on “more selective criteria” than in the past (Caponio & Cappiali, 2018). Specifically, the amnesty laws reflected the internal demand for domestic workers. Although in 2006, 12 percent of the amnesty contingent was “allocated to domestic and care workers,” by 2008 “the entire contingent was reserved for domestic workers,” an allocation that continued after 2010 (Sciortino, 2015, p.640). While Talani (2018) confirms that “irregular migrant workers are most commonly employed” in the domestic sectors, the author also points out that “an increasing number of Italians” are also being employed in irregular and regular domestic service positions. Therefore, even though policy papers and scholars refer to Italy as a place of transit rather than one of final destination (Zincone, 2016), Sciortino (2015) counters that regardless of the “gloomy macroeconomic outlook of the country,” referring to its domestic economic crisis, “Italy remains an attractive migratory destination” (p.634). This is due to the fact that employers, especially those in low-skill service sectors “did not stop recruiting” (Caponio & Cappiali, 2018, p.122). In fact, during the crisis, migrants represented 14 percent of the total agricultural workforce (Talani, 2018).

Although in February 2011 “nearly 400,000 applications” were received for the “98,000 work visas allotted by the government for non-EU workers” (Sciortino, 2015, p.634), by 2017, the allotted work permits had decreased to 30,000 (Talani, 2018). Based on their analysis of data flows from 2007 to 2015, Caponio and Cappiali (2018) contend that during economic crises,

migration inflows are “not stopped by restrictive policies”; instead it is the “composition” of the inflows that changes, “with family members and asylum seekers replacing immigrant workers” (p.116). The growing number of asylum-seekers trying to reach Europe obliged Italy to start reckoning with its new and evolving status as a host country. The Italian island of Lampedusa, the so-called “Gateway to Europe,” which has served as the entry point for millions of migrants, is closer to Tunisia than it is to Sicily (Kingsley, 2017). The transitory status of foreigners arriving in Italy is further complicated by the EU’s Dublin Regulation of 1990, which stipulates that asylum applications are only to be considered in the country in which the refugee first arrives. Thus, although Italy received over 120,000 asylum requests in 2016 and 2017 (Eurostat, 2019), the concentration of applications might be a consequence of the Dublin Regulation. Because the law was last ratified in 2013, it could not have envisioned the future magnitude of influxes. The European Commission itself admits: “The volume and concentration of arrivals has exposed in particular the weaknesses of the Dublin System” (European Commission, 2018). Indeed, while in 2011 total asylum requests in Western Europe were recorded at 309,000; by 2015, a mere four years later, the numbers had climbed up to 1.3 million cases (Euro Stat, 2018).

As such, Italy’s immigration legislation was developed concomitantly with the EU’s policies on border security; a period in which the EU implemented policies with the aim of unifying its member states through so-called “invisible borders,” while simultaneously increasing restrictive provisions to deter the presence of third-country nationals. The shift in Italian policies from treating immigration as filling in a temporary labor need to addressing it as a political and permanent phenomenon reflected the geo-political transformations occurring in Europe and the rest of the globe. However, while Italian policy had shifted in the 1970s from emigration to immigration, the mass emigration of its citizens had never ceased, thus

complicating its response to the unprecedented influx of migrants arriving on its shores by 2014.

VII. DESPITE THE POLICY SHIFT, ITALY STILL A COUNTRY OF EMIGRATION

Italy's long and continuous history of emigration has complicated its status as either a destination or transit country. These days, by depicting Italy as a "country of immigration," scholars and the media have relegated the mass exodus of its population to a phenomenon of the past (Zincone, 2016, p.9). However, this shift in perspective is erroneous, since despite the academic and legislative focus towards immigration, emigration from Italy is very much an ongoing phenomenon (Talani, 2018). Italy's "shift in focal concern" did not mean emigration was no longer happening, rather its reactive policies mirrored the region's changing "focal concern" (Chambliss, 1964, p.74). The alarmist rhetoric around immigration occludes the fact that the number of Italians who left in 2016—124,076—is slightly higher than the number of recorded irregular migrant entries in 2017 (Talani, 2018). Indeed, for millions of Italians, Italy is still a point of departure. According to the OECD, Italy ranks in eighth place for global emigration rates (Knapp, 2017). The number of Italian citizens living abroad has steadily increased over the last few decades. In 1970, 151,854 Italian citizens were registered living abroad (Colucci, 2012). In 2006, those numbers had climbed to over three million (Tola, 2018). By 2018, the year interior minister Salvini introduced his latest decree on immigration, there were over five million Italian citizens living abroad—equivalent to the number of immigrants recorded living in Italy in 2018—which represents 8.2 percent of Italy's 60 million plus inhabitants (Talani, 2018).

The ministry of foreign affairs indicates that 1.5 million Italians have left the country since the global financial crisis of 2008, including 45,000 non-Italians in 2015 (Romei, 2017).

This phenomenon illustrates the asymmetrical effects of the “education revolution,” which has been at “odds with an economy” geared toward unskilled labor (Sciortino, 2015, p.635). As such, because Italy’s economy “is structurally unable to provide medium and high skilled jobs,” growing numbers of Italians apply for skilled employment elsewhere (Sciortino, 2015, p.635). A 2013 report from SVIMEZ (the Association for Industry Development in the South) estimates that since 1983, 2.7 million Italians, for the most part high school and university graduates, emigrated from its southern regions due to high unemployment rates (Davis, 2015). This brain drain is causing Italy to face the “dual challenge of dwindling investments and a major exodus of human capital” (Davis, 2015, p.63). Thus, Italy’s persistent emigration underscores the precarious stability of its economy—youth unemployment was at 42.7 percent in 2014 (Statista, 2019)—which has forced its young and educated residents to emigrate.

The exodus of Italy’s high skilled workers emphasizes that the country’s economy depends on low-skilled and irregular labor, including that of migrants. Sciortino (2015) specifies, “By the end of 2012, 134,576 employers had filed applications for the latest of a long series of amnesty programs for irregularly employed foreign workers” (p.634). This discrepancy between the economy’s needs and the hostile political rhetoric and policies surrounding immigration are symptomatic of a “structural gap” in which the “stated goals” of Italy’s institutions differ from “their outcomes” (Caponio & Cappiali, 2018, p.115). Simply put, as more and more educated Italians search for employment elsewhere, Italy’s low skilled economy relies on immigrant labor.

By the end of the Berlusconi era in 2011, immigration was fast becoming a matter of national and political concern unrelated to foreign labor. The increase in migratory flows in the Mediterranean shifted the focus of Italy’s internal controls from “migrant workers” to “unauthorized migrants and asylum seekers” (Caponio & Cappiali, 2018, p.119). Talani (2018)

confirms that a “characteristic of current migratory patterns in Italy is the reduction in the number of third country nationals (TCNs) entering the country legally as workers” (p.8). Indeed, while Italy’s National Health Observatory noted that in 2007, 56 percent of immigrant entries had a labor related purpose, by 2014 that rate had dwindled down to 23 percent, further decreasing to nine percent only a year later (Geraci et al., 2018).

In 2011, the Libyan revolution broke out, leading to the collapse of Qaddafi’s decades long grip on power and to Italy’s annulment of its Friendship Treaty. The subsequent France-led international intervention in Libya emphasized the extent to which Italy, and to a larger extent the EU, depended on Libyan authorities’ managerial role in the Mediterranean. Italy’s evolving rapport with Libya was just one of the many events that underscored the Arab Spring’s impact on Italian immigration policies and its overall effect in generating the record high migratory influxes from the Mediterranean (Abbondanza, 2017)

VIII. ITALY’S CURRENT RESPONSE TO THE EUROPEAN MIGRANT CRISIS

The sinking of a Libyan boat off the coast of Lampedusa in 2013 that led to the deaths of 366 migrants marked a “turning point” in Italian policy (Abbondanza, 2017, p.86). Italy’s prime minister at the time, the center-left government of Enrico Letta, responded by implementing the naval rescue operation Mare Nostrum, which patrolled the Strait of Sicily from 2013 to 2014. According to the Italian minister of defense, the operation performed both a humanitarian and military function “by safeguarding human life at sea” and “bringing to justice human traffickers and migrant smugglers” (Minister of Defense, n.d.). However, Mare Nostrum was criticized for not properly regulating migrant entries into other European countries (Gattinara, 2017). Specifically, “the Italian approach (of ‘turning a blind eye’) at a national level led initially to a

new increase in the number of entries of undocumented migrants,” which was at odds with the official EU position of “direct intervention in the field in Italy” (Caponio & Cappiali, 2018, p. 126). The EU member states’ conflicting responses to the growing presence of migrants was threatening its cohesion and internal solidarity. The crime-fighting approach eventually turned into the dominant strategy, especially as human trafficking became a major concern. The UNODC’s (United Nations Office for Drugs and Crime) 2016 Global Report on Trafficking in Persons observed that trafficking and migration flows mirror each other, with international migrants constituting 60 percent of “detected victims” worldwide (UNODC, 2016). This correlation stems from the reality that the political and economic vulnerabilities that push people to emigrate are also what drive them into trafficking situations.

In 2014, Mare Nostrum operations rescued “170,100 migrants and asylum seekers” headed towards Italy (Abbondanza, 2017, p.86), a stream of migrants that the UNHCR measured as being the biggest recorded flow to date of migrants in the world. Frontex, the EU’s border and coast guard agency, emulated Mare Nostrum’s model of border control and maritime rescue by inaugurating Triton in 2014. Although Triton was supposed to be a marker of solidarity between EU member states, “it also led to a polarisation” (Gattinara, 2017, p. 321). The growing chasm over whether the EU should combat migrant flows or address them as a humanitarian crisis manifested itself in Triton’s budget. While Triton was “supported by 29 countries,” it operated on a budget of “2.9 million euros” in contrast to Mare Nostrum’s, which had been “9.9 million” (Caponio & Cappiali, 2018, p.119). Moreover, while Mare Nostrum “operated off the Libyan coast,” Triton only operated “a few miles beyond Italian territorial waters” (Abbondanza, 2017, p.87). The budget reduction signaled Triton’s narrow scope, and its refusal to respond to the severity of the unfolding crisis. In 2016, addressing the news agency *Reuters*, interior minister

Mario Marcone referred to Italy's "great dignity" in handling record numbers of migrants despite the lack of "European solidarity" (Scherer, 2016). Italy's derisive response underscored its resentment towards the lack of perceived support from other member states and thus the absence of a unified strategy.

The EU's commitment was put to the test in 2015, the year the EU statistical office recorded 1.3 million asylum applications in its member states (Euro Stat, 2016), a dramatic increase from the previous year's 600,000 applications (Pew Research Center, 2016). According to the UNHCR, Europe had not experienced such high numbers of displaced people since the Balkan crisis of the 1990s (Clayton & Holland, 2015). This period of unprecedented migrant arrivals in Italy—181,000 registered entries in 2016 alone (Scherer, 2016)—generated an identity crisis that has manifested itself in increasingly nationalist terms. While the legislation and the news media focused on migrant arrivals from the Central Mediterranean Route, in reality there had also been an increase in immigrants coming from other EU states. Specifically, in 2014, "there were 1,131,839 Romanian citizens registered on Italian territory, an increase of 36 percent with respect to 2011" (Talani, 2018, p.10). However, 2015, which was marked by the deaths of 1,200 migrants and asylum-seekers, is the year EU memos and news sources consider as the start of the migrant crisis with people arriving from predominantly Middle Eastern and African countries (BBC, 2015).

While seemingly humanitarian in scope, the government and para-governmental organizations' joint procedures, resolutions, and maritime operations were principally control tactics in border security. In 2015, the UN Security Council responded to the abusive smuggling conditions by passing Resolution 2240, the Protocol against the Smuggling of Migrants by Land, Sea and Air. Conceived as a preventive measure against the "continuing maritime tragedies in

the Mediterranean Sea,” the protocol authorized EU naval forces to intercept and seize boats departing from Libya in an effort to combat migrant smuggling and human trafficking in agreement with international human rights law (UN, 2015). In effect, that same year the EU launched the “Italian-led” Operation Sophia with the scope of “neutralising smuggling routes in the Mediterranean” (Abbondanza, 2017, p.87). The operation’s founding mission stipulates, “all of the activities undertaken in each phase adhere to and respect international law, including human rights, humanitarian and refugee law and the ‘non-refoulement’ principle meaning that no rescued persons can be disembarked in a third country” (European Union Naval Force, 2016). This official statement notwithstanding, at its core the operation’s aim was to curtail the incoming flows of migrants. Despite their intent, joint EU efforts did not stem the growing tides of migrants who relied on smugglers to make their journey. In 2016, Italy’s interior ministry recorded a nearly 18 percent increase in migrant entries from 2015 (Scherer, 2016).

The reintroduction of select internal borders in 2016 was especially contentious, since although it threatened the viability of the Schengen Zone, it was also in sync with the Agreement’s original language from 1985, which emphasized the need to reinforce checks and surveillance of “third state” citizens (Official Journal of the European Communities, 2000). News outlets and research think-tanks, such as the European Council on Foreign Relations, referred to a looming “Schengen Crisis.” Specifically, six of the 26 Schengen members—Austria, France, Belgium, Germany, Denmark, and Sweden—reinstated border controls at certain checkpoints to limit migrant entries in the wake of a spate of terrorist attacks (European Council on Foreign Relations, n.d.) In Italy, the fear of a potential terrorist attack became a matter of public concern: statistics from the 2016 Pew Research Center indicated that “60 per cent” of Italians were worried that refugees would “increase domestic terrorism” (Gattinara,

2017, p. 323). Legislation began addressing panic over terrorist activity by officially establishing a link between migratory inflows and terrorism.

The center-left government of prime minister Paolo Gentiloni introduced the Minniti-Orlando Decree n.13 of 2017 to provide “urgent provisions for the acceleration of international protection” and the “curtailment of illegal immigration.” The Decree bolstered the legal groundwork to expulse migrants for reasons of national security, specifically as a preventive anti-terrorism measure (art.16). The European Parliament’s strategic anti-terrorism tool, the Schengen Information System, allowed Italian authorities to refuse entry to migrants on the grounds that they represented potential terrorist threats (art.15). Indeed, since the Schengen Crisis, the European Commission has updated the Schengen’s official digital page with the following caveat: “If there is a serious threat to public policy or internal security, a Schengen country may exceptionally temporarily reintroduce border control at its internal borders” (European Commission, 2019). As Gattinara (2017) elucidates, “By representing migrant populations and refugees as aliens who infiltrate Europe to corrode its social and cultural fabric, these actors have challenged the solidarity movement” (p.322). The continued panic over crime crossing over unmanned internal borders has been a recurring policy refrain in the European migrant crisis, beginning with its designation as a crisis, which imbues the situation with alarm and panic rather than humanitarian concern.

The “logic” of the Minniti-Orlando Decree, which turned into Law n.46, “remains one in which migration is treated as an emergency phenomenon that must be repressed” (Gattinara, 2017, p. 326). In effect, based on the new regulations, asylum seekers could no longer appeal their rejected applications in Italian courts (art.16). Moreover, the provisions for the identification of foreign citizens in situations of irregularity during sea rescue operations (art.17)

introduced the EU's "hotspot approach," essentially an "on the ground" administrative procedure, in which EASO (European Asylum Support Office), the European Border and Coast Guard Agency (Frontex), and Europol assist EU Member states "facing disproportionate migratory pressures," in this case Italian authorities, to "swiftly identify, register and fingerprint incoming migrants" (European Commission, 2019). However, as Article 17 warns, because migrants who refuse to cooperate are considered threats to national security, they are brought to detention centers where they may face deportation. While formally these measures are supposed to safeguard Italy's national security, policies such as the Centers of Permanence and Repatriation become informal conduits for accelerating the repatriation of migrants ineligible for asylum (art. 19). As Majcher (2018) points out, "The implementation of pre-removal detention in hotspots would conflict with the Consolidated Immigration Act and consequently be unlawful under art.5 of the [European Court of Human Rights]." In fact, these centers were controversial from the moment they were introduced in the Bossi-Fini Law of 2002 due to the "discretionary manner" in which regional bureaucracy administered them, leading to variations in services and treatment based on location (Caponio & Cappiali, 2018, p.126).

At the height of the migrant crisis in 2015 and 2016, Cara di Mineo, which stands for Asylum Seekers Reception Centre, was Europe's largest refugee camp (Wallis, 2019). Located in the town of Mineo in the Catania province of Sicily, the center made international headlines for the mismanagement of its public funds. A 2015 report from Eurofund, the European Foundation for the Improvement of Living and Working Conditions indicated that the prefecture of Catania had "placed the centre under compulsory administration, after the start of the investigations in 2014" at the "specific request from the National Anti-Corruption Authority." An investigative report on the center confirmed that besides the "murder of a 26-year-old

Nigerian Francis Miracle in January [of 2018],” multiple “other cases of violence and sex trafficking have also been documented” (Tory-Murphy, 2017). A 2014 police investigation led by “Rome’s chief prosecutor,” known as Mafia Capitale, “found that an organized crime syndicate had siphoned off millions of euros intended for public services, and had infiltrated the migrant reception system” (Tory-Murphy, 2017). Although Cara di Mineo received an estimated \$125 million in annual government funds, refugees claimed to receive “substandard or nonexistent services” (Tory-Murphy, 2017). Thus, the nexus of economically desperate and politically vulnerable migrants triggered a proliferation of systemic criminal networks.

According to a 2017 report by Open Migration, 27,000 Nigerians arrived in Italy in 2016, making them the largest single group of migrant entries in Italy. The report shows that Nigerians cited “economic hardship,” “Boko Haram,” and “victims of the slave trade,” as the main reasons for leaving Nigeria (Bagnoli & Civillini, 2017). An IOM report from 2017 indicated that the number of Nigerian women arriving in Italy steadily increased from 1,500 in 2014 to 11,009 in 2016. The organization estimates that eighty percent of Nigerian women in Europe are at risk of being sexually trafficked (IOM, 2017). Thus, many Nigerian women escaped the slave trade in Nigeria only to be implicated in situations of sexual and labor exploitation once they reached Italy and other European countries. In many cases, Nigerians are seeing their asylum applications denied and increasingly face repatriation (Bagnoli & Civillini, 2017).

Nigerian involvement in the local drug and sex trades in Sicily stems from criminal collaborative networks between Nigerian gangs and the local Sicilian mafia. A 2016 article in *The Guardian* reports that ninety percent of prostitutes in Palermo are from Nigeria (Tondo, 2016). Palermo’s deputy chief prosecutor, Leonardo Agueci, explains, “It is clear there is a subordinate relationship between Cosa Nostra and the Nigerian clans, with the former controlling

the latter” (Tondo, 2016). Varese (2018) confirms, Nigerian gangs “control drug distribution and a profitable prostitution ring” in Palermo’s Ballaro neighborhood, an area of the city that has traditionally been a mafia stronghold (p.55). Ultimately, the migratory influxes have had tangible and expansionary effects on Sicily’s underground economy.

Besides fueling criminal activity on the ground, the management of the migratory flows by Gentiloni’s government was also running amiss of international humanitarian law. Although in 2016, Libya had established a new UN approved government (Caponio & Cappiali, 2018), UN High Commissioner for Human Rights, Zeid Ra’ad Al Hussein reprimanded “The EU, and Italy in particular,” for their commitment “to supporting the Libyan Coast Guard—a coast guard that has shot at NGO boats trying to rescue migrants at risk of drowning” (Ra’ad Al Hussein, 2017). In effect, Operation Sophia’s tactics were being widely criticized for not respecting the Geneva Convention’s core principle of non-refoulement. In a 2019 exposé by news source *Politico*, an Italian member of the European Parliament, Barbara Spinelli, admits that Operation Sophia “has become an instrument of refoulement, legitimizing militias with criminal records, dressed up as coast guards” (Campbell, 2019). While the maritime operation saved 49,000 migrants since its 2015 inauguration, leaked confidential reports from the European External Action Service indicated that although the EU had been aware that certain of its policies “made the sea crossing more dangerous for migrants,” changes were not made (Campbell, 2019). Moreover, because Operation Sophia was limited to international water, its anti-trafficking mandate was narrow: it could neither operate close to the Libyan shore nor on Libyan land (Campbell, 2019).

The Italian navy restored its agreement with Libya in 2017 and their partnership once again drastically reduced migratory flows in the Mediterranean. Despite the international concern, the EU condoned the alliance and helped train the Libyan coast guard. During the

period between July and August 2017, the Italian interior ministry recorded 4,000 migrant arrivals from Libya, a fifth of the rate in comparison to the previous three years (Kingsley, 2017). Entries to Italy continued to decrease, going from 119,369 in 2017 to 23,370 in 2018 (Statista, 2019). IOM attributed the drop to “bilateral agreements between Libyan and Italian (and European) authorities” (IOM, 2017).

As European governments became openly hostile to migrant entries and rescue operations more broadly, NGOs such as Germany’s Sea Watch and Proactiva Open Arms from Spain filled in the aid gap. By 2017, 40 percent of migrants in the Mediterranean were being rescued by private ships (Horowitz, 2017). Italian authorities perceived of the NGO presence as an unwelcome complication. For one, their rescue mission undermined the authority of the Libyan coast guard. As Dr. Seema Jilani who had worked on board an NGO rescue ship recounts in a 2017 article in *New York Times Magazine*:

The Libyan coast guard threatened to kill the crew of Proactiva Open Arms, the same ship I volunteered on in November, in international waters if they didn’t turn over refugees on board. Once they reached land, Italian police officers closed in, impounded the boat and placed the captain and mission head under investigation for human trafficking.

The shared policies of the Libyan and Italian authorities underscored Italy’s complicity to Libyan abuse, as well as its increasingly punitive approach of denying migrants entry on national territory under the guise of combatting human trafficking. The confrontation between the Libyan coast guard and the NGOs culminated in the fall of 2017. A *New York Times* exposé uncovered that 20 migrants had drowned in the Mediterranean despite there being a Sea Watch rescue boat, a French ship, and an Italian navy helicopter nearby. Migrants on the raft called the Italian navy for help, and they in turn alerted Sea Watch and the Libyan coast guard. Because the Libyan coast guard was mandated to return the migrants to Libya, it forcibly repatriated 47 of them

“who suffered abuse—including rape and torture” upon their return (Heller et al., 2018). Several of the migrants attempted to evade the Libyan coast guard by jumping from the sinking vessel and swimming towards the Sea Watch ship. A confrontation between the Libyan coast guard and Sea Watch ensued. Heller et al. (2018) describe the struggle between the NGOs and the EU as “a case of Europe versus Europe.” A court case representing the 17 survivors was filed against Italy in 2018 at the European Court of Human Rights (Heller et al., 2018).

In June 2018, a few months after the March elections of far-right anti-establishment candidates, interior minister Matteo Salvini, who had served as the Northern League’s secretary since 2013, and labor minister Luigi Di Maio (both share the title of deputy prime minister) declared that Italy would close its ports to NGO boats (Kirchgaessner, 2018). Indeed, Salvini had reframed his previous internally separatist politics, refocusing his ire on the EU and the migrant crisis rather than on the country’s southern regions (Stille, 2018). Political opposition stemmed from the right-wing “accusing NGOs that are operating rescue ships in the Mediterranean of working in tandem with smugglers and making a profit out of migration” (Gattinara, 2017, p.326). Indeed, in a television interview from January 2019 on the show “Povera Patria” (which translates as “Poor Homeland”) on Italian National Television (RAI 2), Salvini referred to his government’s policies towards migrants as preemptive measures against the so-called migration business, which in his estimate had generated six billion euros in profits in 2018 (RAI 2, 2019). However, despite these assertions, one study conducted in 2018 by the Italian Institute for International Political Studies concluded that as a result of Salvini’s deterrence policies, specifically since ordering the closure of ports in June 2018, drowning fatalities in the Mediterranean have increased from three a day in 2017 to eight a day (Villa, 2018).

In late 2018, Salvini introduced Decree n.113, which turned into Law n.132, as a way to address the criminal activities proliferating from the migrant crisis. Similar to the Minniti-Orlando Decree, Decree n.113's "urgent provisions" responded to issues of "international protection and immigration, as well as public security." Like the immigration policies passed under Berlusconi, the measures in Salvini's Security Decree emphasize the threat irregular migrants pose to public security, including in the residency centers for migrants. In effect, the Decree's provisions abolish humanitarian protection residency permits (art.1), accelerate procedures for detention (art.2) and expulsion (art.4), with the intended aim of reducing the number of migrants living in these centers across Italy. This includes Cara di Mineo, which Salvini announced would close by the end of 2019 (Wallis, 2019). The "forced evictions" from these reception centers, including from Castelnuovo di Porto, outside of Rome, stem from regulations "of the so-called "security decree"" (Iacobini de Fazio, 2019). Because Law n.132 strips humanitarian residency permit holders of public assistance, for thousands of migrants living in these centers the sudden displacement has signaled the precarity of their situation.

The legitimacy of the Salvini Decree has been challenged domestically, including by the regions of Piedmont, Tuscany, Umbria, and the island of Sardinia, which filed legal complaints against the Security Decree in February 2019 on the charges that it "increased criminal activity and decreased the possibility of economic integration" (Horowitz, 2019). Specifically, it "raise[s] potential conflicts with the Italian Constitution and supranational standards," since by dismantling humanitarian protections, Article 1 is at odds with Article 10 of the Constitution, which guarantees the right of asylum (Corsi, 2019, p.3). Salvini has also, as of April 2019, defied Italy's regular application of amnesty laws for irregular immigrants by announcing on an Italian radio show in the fall of 2018 that such a measure was "unthinkable;" and in March 2019, Di

Maio announced that an upcoming decree on public works projects would not provide amnesty to irregular laborers working in construction (*Gazzetta del Mezzogiorno*, 2019).

As a result of Salvini's policies, several high profile criminal cases have been brought against him and the Italian state. In fact, Salvini's RAI 2 television interview begins with an interrogation on the kidnapping charges filed against him in August 2018 when he ordered the illegal detention of 177 migrants, including minors, on the Italian navy boat Diciotti (Tondo, 2018). The migrants, who were mainly from Eritrea, were not allowed to disembark, and a standoff ensued for five days until European countries, including Ireland and Albania, agreed to take some of them in (Tondo, 2018). In response, the UNHCR admonished: "Frightened people who may be in need of international protection should not be caught in the maelstrom of politics" (UNHCR, 2018). Salvini's order is considered to have violated the European Convention on Human Rights, and the chief prosecutor of Agrigento, in Sicily, launched an investigation (*Reuters*, 2018). As of March 2019, the Italian parliament "voted to block" the criminal case against Salvini, citing his "parliamentary immunity" (Giuffrida, 2019).

Since the government's enforcement of port closures, there have been other incidents, including a case in January 2019 when for nearly two weeks, Salvini, in what he described as a "naval blockade," refused entry to a Sea Watch boat carrying 47 migrants that it had rescued from a sinking vessel (Horowitz, 2019). The boat was only permitted to disembark in Catania when other European countries agreed to take in the migrants, indicating Italy's discord and evasion of the Dublin Regulation (Horowitz, 2019). In response to the Sea Watch standoff, prosecutors in Rome investigated Salvini on kidnapping charges similar to those brought against him in August 2018 (Rankin, 2019). However, despite Salvini's polarizing rhetoric—the news media has described it as "impulsive" and "racist"—the interior minister's policies, including the

controversial closure of Italy's ports as a measure of public security, mirror the previous administration's punitive policies, as well as a historical legislative pattern of linking immigrants to public security concerns (Kirchgaessner, 2018).

Italy's new policy of allowing boats to disembark only if other European countries agree to take in the migrants underscores both "the importance of "vested interest" groups," in this case Salvini's government, "in the emergence and/or alteration of laws," as well as the growing divisions and political tension within the EU (Chambliss, 1964). A diplomatic crisis between Italy and France climaxed in February 2019 when France recalled its Ambassador in Rome soon after Di Maio met with the Yellow Vest protestors ("Gilets Jaunes") who have been protesting French president Macron's fuel taxes since late 2018. Tension between the two countries had been gathering force over the last few years, triggered in part by France's resistance to accepting migrant entries, effectively closing its borders to those crossing over from Italy. Moreover, the Macron initiated peace talks in 2017 between Libya's UN backed leader Fayed Serraj, whom Italy approved of, and his political rival, Khalifa Haftar, a military commander whom Italy viewed with "great skepticism" (Balmer, 2017) had frustrated and "blindsided" the Gentiloni government (Horowitz, 2017). By legitimizing Haftar, Italian authorities not only interpreted Macron's initiative as a diplomatic slight, as it undermined Italy's position as leader in the diplomatic efforts with Libya, but they also perceived it as a move that diminished their "chances of stopping traffickers" (Horowitz, 2017). The political strain between the two countries has only increased since Salvini and Di Maio were elected.

Concomitantly to the introduction of the Salvini Decree in October 2018, French police officers released two migrants in the Italian border town of Claviere, escalating the hostilities (Poletto & Martinelli, 2018). Although the French minister for foreign affairs apologized for the

diplomatic incident, minimizing it to a communication “mistake,” the episode is indicative of a broader anti-immigrant response overtaking the region, as well as an overall evasion of accountability (Poletto & Martinelli, 2018). Salvini did not accept the apology: “What happened in Claviere,” he announced, “is an unprecedented offence against our country” (Poletto & Martinelli, 2018). The conflict between the two countries is being framed by the *New York Times* as a “battle for Europe’s leadership between the nationalist forces represented by Mr. Salvini and the self-proclaimed progressive spirit of French President Macron” (Nossiter et al., 2019). Although French citizens are currently challenging Macron’s “progressive spirit,” Italy’s nationalism is increasingly undisputed, epitomized by the targeted violence against migrants. In February 2018, after shooting at six migrants, a man in the town of Macerata, in the Marche region, wrapped himself in an Italian flag and made the fascist salute on the steps of a war monument (Povoledo, 2018). However, the February 2019 lawsuits against the Salvini Decree also indicate existing internal political fissures and growing public opposition to the government’s law-and-order tactics against the migrants living in its borders.

Ultimately, the exponential decline in migrant entries between 2017 and 2018 does not indicate that the situation is any less precarious; on the contrary, it emphasizes the fact that these reductions originated in reactive policies and compromised bilateral agreements. In the first month of 2019, hundreds of migrants had already drowned in the Mediterranean, including an estimated 120 people who perished only 50 miles from the Libyan coast (Associated Press, 2019). Furthermore, Italy’s perception of itself as a lone martyr in the crisis persists. In August 2018, Salvini threatened to cease funding Operation Sophia when his request that France and Spain open up their ports to migrant rescue ships failed to gain traction (Tondo, 2018). As of March 2019, the EU decided to halt funding of Operation Sophia’s maritime rescue patrols, at

least until September 2019, accordingly because “Italy’s populist government threatened to veto the entire operation” (Rankin, 2019).

Although Operation Sophia will continue its air patrols, the suspension of its core maritime services of patrolling the Mediterranean reflect Italy’s, but also to a larger extent, the EU’s faltering response and commitment to the incoming flows of migrants. That the EU program will continue to train the Libyan coast guard despite international and legal opposition to the Libyan authorities’ well-documented abuse of migrants indicates that the European and Italian strategy towards migratory influxes, and immigration more generally, is one that increasingly relies on measures of external control. Although, *prima facie*, this appears to be a far cry from the founding spirit of cooperation and solidarity between EU member states in the aftermath of the Second World War, Italy’s policy focus on border security over measures of assimilation and integration indicate a broader global pattern of national self-preservation in periods of demographic crisis and heightened geo-political tension.

4. Conclusion

In conclusion, a deeper look at the legislation demonstrates that Italy’s regulatory approach to migratory movements is historically rooted. After examining Italy’s legal code through the centuries, the legislative record reveals that Italy has consistently responded to migratory movements as a phenomenon that needs to be controlled through labor and migration policies in opposition to a dangerous other. The government’s current punitive response to the European migrant crisis reflects the legislative and rhetorical panic that manifests during periods of demographic fluctuation.

Berman's (2003) prescient reference to the anxiety surrounding issues of border control points to the reality that rather than interpreting the current mass displacement of people in Europe as a migrant crisis, the situation should be reframed in the context of a larger crisis over physical and socio-legal boundaries. Italy serves as a particularly relevant case study: since its founding as a modern nation state in 1861, the country has been grappling with policies contending with migratory movements. Indeed, its nation building ambitions have always collided with the larger challenges of controlling demographic fluctuations. That much of the restrictive labor policies in Mussolini's settlement programs in Libya, as well as its strict repatriation regulations during the 1940s, mirrored the provisions of Italy's future immigration laws reflect the relative legislative continuity of its policies.

The establishment of Italy's immigration laws emerged in the late 1980s as way to build the socio-legal and economic infrastructure necessary to become a founding member of the European Community. By developing policies that mirrored the border policies of the EU, which emphasized the openness of its internal borders in opposition to its external ones, Italy's geopolitical ambitions, like those of other member states, became rooted in the fear and alienation of the foreigner, an historical pattern that can be traced back to Italy's 1888 Law on Public Order, which was then expanded on under Mussolini's fascist legislation. That Italy's contemporary migratory patterns have been influenced by EU policies is rooted in a larger discussion on how the EU, and the Global North more broadly, regulate and monitor migration. That their response is essentially a form of sovereign self-preservation manifesting itself increasingly over these last few decades through border control and reinforcement is testament to these boundaries' inherent weaknesses.

Italy's contemporary and controversial response to the migrant crisis reflects a global and historical trend of dealing with immigration and immigrants as threats imperiling the national cohesion and safety of the native populace. Despite the public outrage, notably in the media, in response to Salvini's use of inflammatory nationalist tropes, as well as by his closure of Italian ports, Italy's current migratory policies are part of a larger historical continuum. Ultimately, while Italy's situation is distinct because of its history of wrestling with unprecedented movements of emigration and immigration, its legislative response has hardly been anomalous. On the contrary, over the last few centuries, Italy's struggle to build a nation state, creating its identity in opposition to the dangerous other, mirrors the global rise of nationalism.

In fact, because European national identities are perceived to be under threat as a result of migration, increasingly punitive policies have emerged that essentially criminalize migration movements, and by extension, the migrants themselves. As the growing casualties and coercive practices that have arisen from the present migrant crisis show, such a policy precedent has had alarming implications and irreversible outcomes. The upcoming EU elections in May 2019 will emphasize internal fissures in the region, giving EU member state citizens the political opportunity to decide the direction of their collective nation-building. Voters will have the chance to appeal to a more cosmopolitan approach that would curtail recent trends toward nationalism spearheaded by politicians like Salvini; or they can choose to build upon the socio-political infrastructure of these nativist politicians by voting for candidates that advocate for inward looking and anti-immigrant policies.

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