

EUDO CITIZENSHIP OBSERVATORY

CITIZENSHIP POLICY MAKING IN MEDITERRANEAN EU STATES: ITALY

Giovanna Zincone



European University Institute, Florence
Robert Schuman Centre for Advanced Studies
EUDO Citizenship Observatory

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Mediterranean EU States:
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Citizenship policy making in Italy

Giovanna Zincone

1 Summary

Italian Nationality Law, like that of many other continental Europe countries, was initially shaped by the nation building process. When Italy became unified in 1861, its first law was based on the then prevailing idea that membership of the State should depend on membership of the nation, a community of shared traditions constituted by descent. As with other European countries (Waldrach 2006, De Hart & Van Oers 2006) which, at a certain period of their contemporary history, had nationals living outside the State borders, Italy, after mass emigration, increasingly favoured the transmission of citizenship by *ius sanguinis* abroad in order to keep ties with external nationals. By contrast, after the established settlement of immigrants, the need to incorporate them into the national community did not receive an adequate response. All liberal reform bills failed, and in 2009 only a few restrictive measures were passed. Regularizing immigrant workers and defending illegal immigrants' basic rights rather than reforming citizenship were the priorities backed by immigrant advocacy, a powerful lobby consisting mainly of Catholic organizations, often in alignment with employers associations and families hiring domestic labour. Immigrant advocacy also was able to find windows of opportunity for these kinds of requests in centre-right Governments, even if they were relatively less sensitive to its pressures. By contrast, centre-left parties, in theory keen to reform citizenship, when in government, had majorities that were both too narrow and too unstable, and were too concerned at the risk of losing future elections to be consistent in their intentions. In recent times, the issue of reforming nationality law was revitalized due to the changed attitudes of a leading centre-right figure and his acolytes. It was the increasingly moderate and pro-immigrant stances of Gianfranco Fini, co-founder with Berlusconi of the new centre-right PdL, which played an important role in inserting citizenship reform high in the political agenda. A bipartisan liberal bill, which would have reduced the residence requirement to five years and favoured minors, was presented by the Fini faction and by a few other members of the PdL, together with members of the centre and centre-left oppositions (the moderate leftist PD, the centre Catholic UDC, and the strongly anti Berlusconi party IdV). The bipartisan bill was opposed by the 'majority of the majority' which was conditioned by the rising influence of the Northern League, a pivotal party in the ascendant with firm anti-immigrant attitudes. The majority of the majority was also able to marginalize Fini and his group within the PdL; his heterodox attitudes towards immigration in particular were considered detrimental to the coalitional and electoral opportunities of the

party. Opposition to pro legal immigrant reforms has often been used as an inappropriate substitute for an answer to popular demands to repress immigrant criminality and illegal inflows, to get rid of foreigners bringing antisocial behaviour, and more generally to limit immigration. Reluctance to liberalize citizenship was thus intensified as lawmakers were eager to please growing generic anti-immigrant moods. Also some members of the centre-left, tempted by the inappropriate response, showed perplexity about what they judged too generous a reform and looked for a more moderate solution. The inappropriate response may have reached from the top down to public opinion. Opinion polls do not give consistent results, but some of them portray an electorate becoming more reluctant to ease access to nationality. For example, opinion polls make an exception for minors, and consequently reforms in this area can be more easily defended before the electorate by decision makers.

2 Explaining the present

2.1 The dominance of *ius sanguinis*

The still extant 1992 Law, which the present Italian Parliament will probably reform, has been outdated since its inception. It was a delayed-action provision (Zincone 2006, Zincone & Basili 2009) conceived in the past to honour a debt of gratitude towards Italian emigrants. The first reform bill aimed at favouring people of Italian origin dates back to 1960, when immigration was still to come and emigration was still common.¹ The intention was vocally reaffirmed during the 1975 National Conference on Emigration. The project was delayed by the instability of the political system² and by a series of political and economic emergencies³ topping the agenda which confined nationality reform to the limbo of political measures. The bill, which eventually passed in 1992 (Act no. 91), was intrinsically ethnocentric. It reduced the length of residence required to apply for naturalisation from five years to three for people of Italian descent (to two in the case of minors) and to four for EU nationals perceived as ethnically similar. The requirement of five years provided by the 1912 law was maintained only for stateless and refugees, but the time was raised up to ten years for non EU foreigners. Due to the rhetoric of family values present in the Italian political culture, under the 1992 law,

¹ Italian emigration has not stopped, though it mainly involves professionals, researchers, and highly skilled workers: In the last ten years, 2 million Italians enrolled in the AIRE, the register of Italians residing abroad. 2.3 per cent of the relatively small number of Italian graduates reside abroad. Also manual workers continue to emigrate, especially to Germany, though in far more limited numbers than in the past.

² Between the date of presentation of the first bill in 1960 and the approval of the law in 1992, Italy went through 32 governments, with long intervals in between them due to the difficulties in forming them.

³ The economic crises which followed the 1973 oil shock. The political terrorism started in 1969 with the massacre of Piazza Fontana and culminated, but did not end, in 1998 with the killing of the then President of the Council Aldo Moro. Terrorism was a mix of extreme left armed groups which targeted conservative and reformist leading figures and rightist extremist groups associated with deviant sectors of the secret services which were responsible for explosions in crowded public places and means of transportation.

marriage became another easy path to nationality: only six months of marriage were required for resident couples, and the persistence of the bond at the moment of grant was not clearly required to be established. Not surprisingly, acquisitions by marriage have so far largely outnumbered those by residence⁴.

Table 1 Acquisition of Nationality 1985-2009

	Modes of acquisition		
	By marriage	By residence	
1985	2.424	158	2.582
1986	3.578	289	3.867
1987	2.735	218	2.953
1988	3.992	681	4.673
1989	3.675	476	4.151
1990	3.690	355	4.045
1991	3.671	477	4.148
1992	3.857	538	4.395
1993	4.702	363	5.065
1994	6.014	599	6.613
1995	6.405	1.040	7.445
1996	8.122	701	8.823
1997	8.577	1.210	9.787
1998	10.913	1.100	12.013
1999	9.609	1.725	11.334
2000	8.124	1.431	9.555
2001	9.302	1.078	10.380
2002	9.737	945	10.682
2003	11.319	2.124	13.443
2004	9.997	1.948	11.945
2005	11.854	7.412	19.266
2006	30.151	5.615	35.766
2007	31.609	6.857	38.466
2008	24.950	14.534	39.484
2009	17.122	22.962	40.084

Source: Ministry of the Interior.

⁴ Since ius soli naturalisations are by entitlement and are registered at local level, they are difficult to track at national level, and the related figures are not included in the Ministry of the Interior statistics.

After the 1992 Act, in 1993 only 7 per cent of naturalisations were based on residence and 93 per cent out of a total of 5,000 were based on marriage. In 2008, due to the wide settlement of long-term residents combined with the fear of seeing immigrants' rights restricted, applications for naturalisation in general increased by up to 40,000, *ius domicili* mode reached 37 per cent, and *ius conubii* 'only' 63 per cent. The balance between the two modes was reversed in 2009 when 57 per cent were by residence and 43 per cent by marriage. This reversal was due to a change in legislation.

While the familistic feature of citizenship acquisition based on descent is still there, the familism based on conjugal relations has already been reformed by the fourth Berlusconi Government.⁵ The centre-right majority once again in power confirmed the political cycle theory (Howlett & Ramesh 1995), according to which immediately before and immediately after the elections policy makers respond to the electorate's demands and as time elapses have to cope with objective needs and powerful lobbies' pressures. In fact, immediately after its crushing victory in May 2008, the new Government honoured its electoral promises - the electoral campaign being characterized by anti-immigrant stances motivated mainly by security reasons. Repressive measures were included in the so called '*Pacchetto Sicurezza*', a package of Security Decree and Act. The Security Act which, after a difficult path through Parliament, eventually passed in July 2009⁶ also included a reform of citizenship acquisition by marriage. To prevent marriages of convenience, the duration of marriage required for couples resident in Italy was raised from six months to two years (one in the case of children, three for non-residents, as it used to be before), and the requirement of persistence of the bond was made explicit. The possibility for an illegal immigrant to marry an Italian citizen was abolished. While depriving illegal immigrants of this and other rights, the government also introduced the crime of undocumented entry and stay. These combined moves represent a clear case of borders overlapping: the tightening of rights and immaterial borders combine and reinforce the tightening of physical immigration borders. It also represents a general shift of immigration policy to the sector of public security and the consequent dominant role of the Ministry of the Interior as policy maker. Both situations are not just Italian.

The 1992 Law also made *ius soli* mode more difficult by adding continuity and legality of residence as further requirements for children born in Italy. These supplementary requirements were relaxed by two 2007 circulars from the Ministry of the Interior under the last centre-left government. But the centre-right is tempted to reintroduce them and to add

⁵ Berlusconi I (from 10 May 1994 to 17 January 1995) overthrown by the Northern League's defection; Berlusconi II (from 11 June 2001 to 23 April 2005) underwent a Cabinet reshuffle and was followed by Berlusconi III (from 23 April 2005 to 17 June 2006). Berlusconi IV started on 7 May 2008.

⁶ Act no. 94 of 15 July 2009.

more requirements such as the completion of Italian compulsory schooling.⁷ While for minors born or educated in Italy it is still difficult to become citizens, descendants of a single emigrant can keep Italian citizenship and add it to that of the place where they reside. The 1992 Act also triggered a long series of reacquisition programs for expatriates and their descendants who may have lost Italian nationality unintentionally. The last one was approved in 2006. The 1992 Act favoured Italians abroad also by definitively establishing the principle of dual nationality, and in June 2009 the Italian Government, to make clear its decision at international level, denounced the 1963 Convention on Multiple Citizenship. The 2006 reacquisition Act⁸ introduced a language and cultural knowledge requirement for the first time. Only a few timid proposals have been made to qualify transmission of citizenship by *ius sanguinis* abroad by imposing some conditions. Are they likely to succeed in future? On the one hand, the lobby of Italians abroad plays a decisive role in the domestic political game. As in France, Portugal and recently in Spain, in Italy after the 2000 and 2001 constitutional reforms⁹ citizens consistently¹⁰ residing abroad and inscribed in a special register (AIRE) are given the right to vote for their own representatives: six senators and twelve deputies. Faced with narrow majorities, as in the case of the last centre-left government, the votes of just a few of these representatives can prove decisive for the survival of the executive. On the other hand, the Italians presently registered in the AIRE, according to 2008 data, already number some four million¹¹, but we should not overlook the fact that the number of ‘latent Italians’, the *oriundi*, people of Italian origin, is estimated to be around 60 million. Between 1998 and 2007 alone almost 800,000 people outside Italy claimed to be Italians and asked for Italian passports. The difficult fiscal situation of the Italian State has already produced some cuts in external citizens’ social rights. The 2008 Financial Act, for instance, introduced the requirement of ten years of continuous residence in Italy to have access to the social pension,¹² and thus excluded a large percentage of the external citizens. Economic factors may possibly motivate some restrictions of *ius sanguinis* abroad, but they would need a bi-partisan agreement, because no party is ready to lose the consent of this section of the

⁷ This requirement is provided for by the Bertolini text, i.e. the bill adopted (December 2009) by the I Committee of the Chamber of Deputies as a base text for reforming nationality law.

⁸ Act 124 of 2006 was addressed to ethnic Italians resident in the territories assigned to the former Yugoslavia after the 1947 treaty and to their descendants.

⁹ 17 January 2000 no. 1 and 23 January 2001 no. 1 acts. Italian voters abroad are assigned to four macro constituencies: Europe, South America, North and Central America, Africa-Asia-Oceania. The application rules were included in Act no. 459 of 27 December 2001.

¹⁰ When referring to the Italians abroad is important to emphasize the adverb consistently, i.e. permanently, since Italians who are abroad only temporarily (students, visiting professors, managers, seasonal or temporal migrant workers) are quite unlikely to enjoy this right, as one has to register within the end of the year before the elections and cannot always predict in advance that he/she is going abroad, nor can he/she predict anticipated elections. Furthermore, very few Italians that do not permanently live abroad are informed about the need to register in order to be enabled to vote abroad.

¹¹ 3,734,428 according to AIRE 2008 data; 59 per cent are first generation migrants, 34.35 per cent second generation descendants, the rest we can guess reunified children.

¹² The social pension is assigned to citizens or to long resident immigrants over 65 whose income is below a threshold established every year.

electorate by limiting access to citizenship for their descendants. The February 2010 scandal concerning Senator Nicola Di Girolamo, elected under a false certificate of residence in Belgium and with the vote of the *'Ndrangheta* organized crime, could possibly bring about some reform of the procedures of the external vote, and encourage reflection on the legal status of people of Italian origin. In any case, at least until now the gap between people who continuously live in Italy and people who continuously live abroad persists, and it is huge. Reforms to improve access to citizenship for immigrants and their children have been on hold for a long time. I will now try to explain these developments and reasons more fully.

2.2 The immigration context and alternative inappropriate responses

For a long time, there have been two alternative inappropriate responses to popular demands to counter criminality and illegal entry and avoid huge inflows: from the centre-left to postpone, and from the centre-right to refuse immigrant citizenship rights, nationality as well as local voting rights. Actual requests were in fact too difficult to comply with. Nationality laws in Europe have become part of immigrant and even of immigration policies,¹³ for they are considered a tool to encourage welcome immigrants and discourage unwelcome ones. For this reason it is important to set nationality in the wider context of the country immigration data, perceptions and policies. I will try to do this briefly.

Contrary to the commonplace perception that Italian border policy is too relaxed, in reality Italian governments have adopted over time quite severe measures to counter illegal immigration and criminality of immigrant origin, such as patrolling land and sea borders, promoting common police activities with other European countries and forming a common European border Police, bringing about bilateral agreements with emigration and transit countries, introducing severe punishments for human smuggling and trafficking, and establishing centres of detention to identify and expel undocumented immigrants. Recently, as I have already mentioned, even undocumented entry and overstaying was criminalised. But, as Sciortino (2009) notices, not only the geographic position of the country, but also the mismatch between planned inflows and real need for imported manpower frustrated the effectiveness of these measures. Illegal immigrants often could find a job in a flourishing hidden economy (Reyneri 1998), which made it convenient for them to break the immigration law and to tempt fate. In an economic system made out of small enterprises, it is easy to hide undocumented immigrants, and far more so to hide the domestic labour of which Italian families frequently make use (Pugliese 2002), in part because of a still perfectionist domestic style¹⁴ combined with the fact that Italian women who are employed work mainly full time¹⁵

¹³ 'Part of a broader immigration agenda' as stated also by Weil and Spire (2006: 198).

¹⁴ The average time devoted to family labour by Italian women is 320 minutes per day (274 in France, 255 in UK, 254 in Germany, and 222 in Sweden).

¹⁵ Average EU female part time work percentage being 31.7 per cent v. Italy 27.5 per cent. In the Netherlands

(Del Boca & Wetzels 2008, EUROSTAT 2009). Additionally, public care services devoted to children and to non self-sufficient old people are largely inadequate (Einaudi 2007). Italian social and economic systems consequently attract immigrant labour.

Between 2004 and 2008, 850,000 out of 1,100,000 newly employed people in Italy were immigrants who often had been regularised after a period of illegal residence. Employers and families want immigrant workers; however the same individual employer who wants his workers, does not necessarily want more immigration in general. The same family who employs an undocumented care giver and is prepared to regularise her can share the fear of illegal immigration and support the refusal of immigration in general. Public policies respond to these contradictory attitudes not only by trying to counter illegal entry and stay, but also by limiting planned entries, on the one hand, and by regularising undocumented immigrant workers with their employers' support. Ten years ago, a renowned demographer, Antonio Golini, examined the contradiction between objective needs and social cohesion difficulties. He had identified 300,000 entries per year as the right figure to counter balance the demographic gap in a country with low rates of fertility and an ageing population, and these have been the actual entries per year for the last ten years (not the planned one, of course). At the same time, Golini had observed the social difficulty of integrating such a huge inflow and the political difficulty of having these figures accepted by the Italian electorate. Governments had and have to take contradictory public attitudes and needs into consideration and to keep the number of planned legal inflows relatively low. As in other Southern European countries afflicted by the same syndrome, regularisations become a common way to fill the gap between insufficient legal inflows and real needs, an unavoidable decision under any government, and a further magnet for illegal immigration.

Initial minor regularisations were introduced in Italy, in 1977 and in 1982, but the major ones started in 1986. The largest regularisation (more than 600,000 persons) was passed in 2002 by a centre-right government. The present fourth Berlusconi government voted for another amnesty, which, though limited to domestic workers and housekeepers, reached some 300,000 applications.

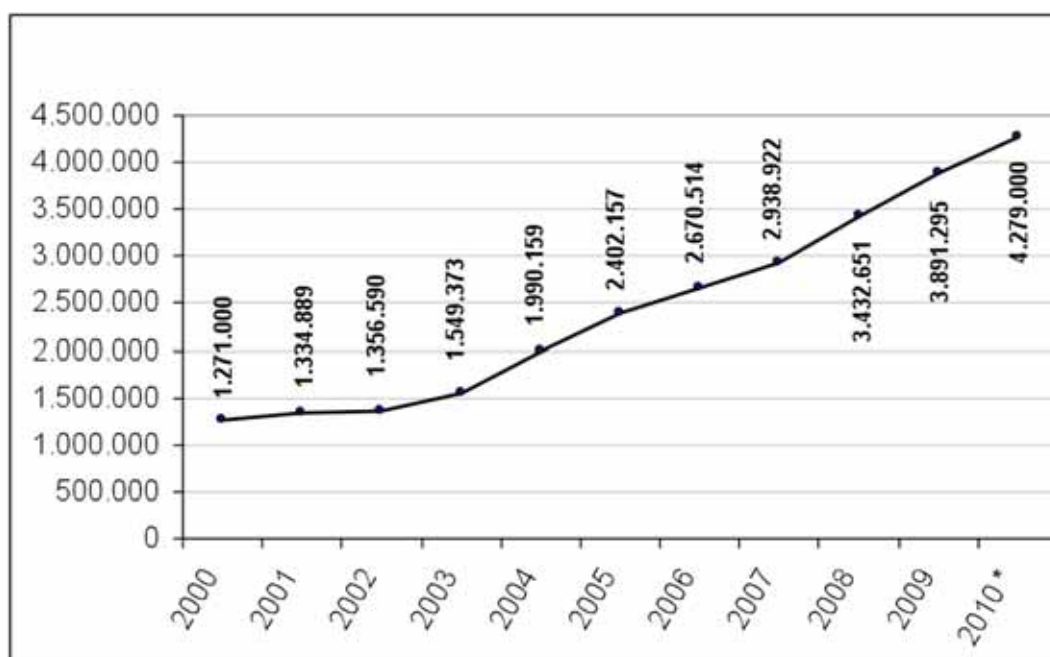
The result of formal and informal inflows is a reality of particularly abundant and rapid immigration which, even if attracted by objective needs, can explain the general alarm. Irregular, consistent and rapid inflows convey the idea that immigration is out of control and can cause a sudden backlash.

Only the initial inflows were welcome, in consideration of the analogy with Italian emigration and because of the curious novelty of the phenomenon, but very soon Italian

this is 75.7 per cent, in the UK 42.6 per cent; in France 28.4 per cent; only in Spain is the percentage smaller, i.e. 22 per cent. Data from EUROSTAT, III trimester 2009, <http://epp.eurostat.ec.europa.eu/portal/page/portal/eurostat/home>.

public opinion became concerned. At the beginning of the Nineties, the number of immigrants was still relatively low. On 1 January 1991, there were only 356,000 foreigners resident in Italy, almost 0.6 per cent of the entire resident population,¹⁶ but the peaks of the ‘the boat is full’ syndrome were reached in 1991: expressed by 63 per cent and 71.3 per cent (Eurobarometer 1991/ 35, Bonifazi 2005) and immediately after in 1992: 65 per cent (Eurobarometer 1992/37).¹⁷ The same Italian identity as an emigration country which had favoured the acceptance of immigration when it was a marginal phenomenon quite soon started to show its negative side. When the presence of immigrants became more visible and consistent, Italian public opinion overreacted: mass immigration was not in the Italian historical DNA. Aliens and often undocumented immigrants were confronted with the false myth of a past of law abiding Italian emigrants. In fact - as Enrico Pugliese (2002) noticed - at the beginning of the Fifties (before the European Economic Community Treaty) aliens from Italy, still a poor country, used to apply for an incredibly large number of tourist visas, in particular for Germany, with the clear intent to find a job and overstay. At the beginning of the Nineties, it was the perception of what was considered an extraneous social entity which misled public opinion and produced the ‘boat is full’ syndrome well ahead of the reality.

Table 2. Foreign residents in Italy 2000-2010



Source: ISTAT

¹⁶ Data from National Institute of Statistics (ISTAT) for 1991, www.istat.it

¹⁷ The share of Italian public opinion which considers immigrants too many has not increased consistently with the increase of immigrant stock. In 1995 according to Eurobarometer (42), those convinced that they were too many were ‘only’ 46 per cent, while of course immigrants stocks did increase at a rapid rate and in huge quantity (figure 2 and 3). Statistics on the evolution of documented resident are obviously influenced by regularisations, which count people who are actually already in the country as new immigrants.

The syndrome is still there, but the reality has changed. In the TTI¹⁸ 2008 comparative survey Italy (54 per cent) was second only to the UK (56 per cent) in answering that there were too many non EU immigrants¹⁹: 19 points above the EU other countries sampled (35 per cent) and 8 more than the US (46 per cent). In TTI 2009 the ‘too many’ answers were 51 per cent of the Italian sample. But public opinion concerns about inflows now have some ground. Together with Spain, Portugal, Greece and Britain, Italy has indeed experienced a particularly large increase of immigrants in the last decade. The share of foreigners out of the total population rose from 1.9 per cent to 5.8 per cent in Italy, from 2.2 per cent to 5.7 per cent in Greece, from 3.8 per cent to 6.5 per cent in UK, from 1.8 per cent to 4.2 per cent in Portugal and from 1.9 per cent to 11.6 per cent in Spain between 1998 and 2007 (SOPEMI 2009).

2.3 Opinion and prejudice

The alarm produced by consistent, rapid, irregular inflows was and is increased by the fear of criminality of immigrant origin. According to 64.7 per cent (EURISPES 2010) and 66 per cent (TTI 2008) of Italian respondents, immigration increases criminality. In the days before the 2010 Regional elections, the President of the Council made the statement: ‘the decrease of non EU citizens means less manpower to swell the criminal ranks’, disregarding the fact that this statement is empirically false. While immigration has remarkably increased, criminality figures have remained quite stable, as Tito Boeri observed in an article²⁰ in which he also reported the fact that Italian newspapers cite immigrants’ crimes three times more than other European newspapers. The percentage of immigrants in jail is disproportionately high, but in part due to their inability to resort to alternative forms of custody and to the fact that only they can break immigration laws. And in any case, criminality does not involve the large majority of immigrants. Inappropriate generalisations tend to produce and spread prejudices.

In a telling path analysis research on the relation between prejudice and voting in Italy, Catellani and Milesi (ITANES 2006)²¹ reached the conclusion that anti-immigrant prejudice, though not able to determine party preferences, can influence them. As was easily

¹⁸ Trans Atlantic Trends are surveys devoted to understand public opinion attitude on foreign relations. In 2008 a special survey was devoted to immigration. The countries involved were the United Kingdom, the Netherlands, France, Germany, Italy, Poland and the United States. In 2009 Poland was excluded and Spain and Canada included. Longitudinal comparisons concerning the EU countries include only those present in both surveys. In both surveys, the questionnaires were given one year before the publication of the results.

¹⁹ Since Romanian immigrants represent the largest (and not particularly popular) foreign nationality in Italy, it may be advisable to rephrase this question in future polls, if we want to detect concern about immigration in Italy, as well as in other EU countries where EU-born immigrants, especially (but not only) from new member states, can be perceived as a source of problems.

²⁰ ‘Immigrati e Criminalità: cosa dicono i numeri’, *La Repubblica*, 4 Febbraio 2010

²¹ Prejudice against immigrants is related to the following macro attitudes a) *conventionalism* i.e. conservative and traditional attitudes; praise of social relations based on hierarchy and deference; b) *social dominance*, need of social relations based on strength and fitness to prevail; c) *individual insecurity* (economic and physical); d) *collective insecurity* (general economic and security perspective of the country).

predictable, anti-immigrant prejudice is stronger among rightist voters, but it is not limited to them. The cross party diffusion of anti-immigrant prejudice can explain the caution of centre-left parties in embracing immigrant rights, citizenship reform included. Previous comparative research, including Italy (De Weerd et al. 2004), which focused on the political consequences of the economic down grading of European workers, singled out as the main determinants of anti-immigrant prejudice, *social dominance*, i.e. the idea that there is a social ranking of human beings, and *collective deprivation*, the idea of having been deprived of resources. The second factor contributes to explaining the fact that the once traditional bulk of support for European leftist parties often abandons these parties because they are perceived as too generous towards immigrants. In recent Italian research (Sabatini 2009)²² limited to the 18-24 and 24-34 age groups and aimed again at singling out the potential factors that influence anti-immigrant prejudice. The conclusion was reached that, as far as the young cohorts are concerned, the only relevant variable is education. Education was also indicated by the previously cited research as a crucial variable capable of predicting open-minded attitudes towards immigrants. Education implies attitudes that are less conventional, less social dominance oriented and less concerned with security. By contrast, prejudice and their predictive macro attitudes are often correlated with old age, residence in small centres or in rural areas, unemployment or underemployment. Unfortunately Italians, in comparison with other Europeans, are relatively less educated,²³ more often live in small towns²⁴ and have a larger older population.²⁵

From these analyses, it could result that anti-immigrant attitudes are likely to increase among the Italian electorate, to be a factor of attraction toward rightist parties for previously leftist voters, and possibly suggest to all policy makers that restrictive policies would be more rewarding. However, this hypothesis postulates that public opinion is the only factor influencing immigrant and immigration policy making, which is not always true.²⁶ And even

²² The research began by considering two main interpretations of prejudice. The psychological interpretation (Allport 1954, Sherif et al. 1961) according to which prejudice is a consequence of the normal attitude of the human mind to generalize and to evaluate as much more diffused than in reality some features of a social group. The rational interpretation according to which prejudice is the construction of *out-groups* based on the defence of interests, for instance, on the will to protect privileged access to scarce welfare resources or job opportunities from the competition of out-groups (Levine and Campbell 1972). After having singled out a set of indicators capable of capturing both the cultural and the utilitarian dimension of prejudice (for instance dis/agreement with statements such as 'Immigrants are likely to take jobs away from Italians' or 'So far immigrants have brought only more criminality'), and having adopted a multiple regression method, he reached the conclusion quoted.

²³ Limiting our comparison to the working age population (age 25-64), according to OECD *Education at a glance*, Italians holding an Upper Secondary Education degree are 51 per cent vs. the OECD average of 68 per cent, though the quantitative gap is reduced in the younger generations (Data from EUROSTAT for 2008).

²⁴ The Italian statistical definition of 'big city' is quite modest, starting from 250,000 inhabitants. According to this definition, the 2001 census gave a 16 per cent of big cities' residents, and this percentage is likely to have decreased over time (ISTAT 2006).

²⁵ According to EUROSTAT, in 2008, together with Germany (20.1 per cent, Italy had the highest percentage (20 per cent) of people over 65 in the EU (EU 27 average being 17 per cent).

²⁶ This is one of the conclusions reached in a comparative research on the immigration and immigrant policy making in ten European countries. The research is to be published in a book edited by myself, Maren Brokert

if public opinion were the main policy making factor, at least until recently, nationality (non) reform should not have been included among the restrictive measures.

Prejudices, the fear of immigration as source of crime, and the refusal to accept more immigration, at least until recently did not correlate with a reluctance to deliver rights. In 2000, 71.7 per cent (Bonifazi 2005) of respondents were in favour of reducing the residence requirement from ten to five years. But according to a 2010 survey (EURISPES 2010), only 29.7 per cent favoured that solution, 14.7 per cent accepted a reduction to seven years, 36.8 per cent wanted to keep the present ten year period, and 9.2 per cent were against any naturalisation. We know that the results of opinion polls are very much influenced by the way in which the questions are formulated. For instance, the majority of individuals interviewed declared their refusal to decrease the residence requirement from ten to five years when the question made it explicit that ten years was the present requirement and that citizenship entitles to vote in political elections.²⁷ On the other hand, when the question underlined that the rights were addressed to documented and tax-paying immigrants, the answers were quite different: 75 per cent of the respondents were favourable to giving them the local vote²⁸ and 64 per cent to giving even the national vote (Demos 2007).

Quite apart from the way in which questions are put, public opinion consent to liberalisation of nationality law may have diminished, but still in 2007 the prevalent signals were in favour. In that year, the Ministry of the Interior commissioned a survey²⁹ to understand Italians' and immigrants' knowledge of citizenship law and their attitudes on the desirability of reforming it along the main lines of the bill proposed by the then Minister Giuliano Amato, i.e. to reduce the residence requirement from ten to five years and to allow acquisition by *ius soli* at birth for children of parents who had been legally residing in Italy for at least five years. It is interesting to notice that only 15 per cent of Italian respondents knew the exact number of years of legal residence required to acquire Italian citizenship, but 55 per cent of the sample agreed with the reduction from ten to five years (40 per cent disagreed), and almost 80 per cent were in favour of facilitating acquisition by *ius soli*. As for the immigrant sample, a majority of 55 per cent of the immigrants interviewed were interested in acquiring Italian citizenship, and they were better informed about the current law and the reform project.³⁰

and Rinus Penninx.

²⁷ IPR 10/2009, <http://www.iprmarketing.it>

²⁸ 57 per cent of Italians were in favour of delivering the local vote to immigrants 'in order to integrate them and their families' (TTI 2009).

²⁹ Makno & consulting (2007).

³⁰ The majority (57 per cent) of the immigrant sample was informed about the Italian citizenship legislation and, in particular, of the ten-year residence requirement. A quarter of the respondents were also well-informed about the reform bill on citizenship then under discussion; once informed, 48 per cent of the whole sample endorsed the amendment from ten to five years of legal residence combined with a linguistic and civic test. Another 35 per cent agreed with the time reduction, but did not approve the requirement of the test, which they considered an

However, since the refusal to reform nationality law as an alternative inappropriate response to different public opinion demands to control immigration has been increasingly articulated by a relevant part of the policy makers, it may have reached public opinion from above, though -as we have seen- the signals are still uncertain.

2.4 The human factor and the unexpected bipartisan proposal

The practice of rejecting citizenship law reform as an alternative inappropriate response to control inflows and repress criminality grew stronger in 2009 and 2010 in reaction to the proposal for a more liberal nationality law. The proposal was a sort of ‘friendly fire’ since it was unexpectedly initiated by part of the centre-right coalition. It eventually produced strong backlashes by the majority of the coalition and of its main party.

The move was unexpected because the present majority seemed particularly determined to deny rights to long-term residents, including citizenship and local voting rights, as part of a policy strategy designed to repress criminality and control immigration by all means.

Unlike the previous centre-right party coalitions (2004-2006), the new one no longer includes the moderate Catholic oriented party, and it replaced the former immigrant friendly Minister of the Interior with a leading figure of the populist and anti-immigrant Northern League. The window of opportunity for the advocacy coalition and for pro-immigrant stances consequently narrowed, and to date the fourth Berlusconi government has approved only repressive norms.

The impasse of Italian Nationality Law reform was broken due to what we can define as, stealing a Graham Greene³¹ title, the human factor, in this case, gradual changes in attitudes and strategies of a leading political figure, Gianfranco Fini. His cultural and political evolution progressively repositioned him from the right towards the centre of the political spectrum.³² His changing attitudes on immigration and immigrant rights played an important

obstacle to naturalisation. 57 per cent of the sample was in favour of *ius soli* at birth for children of long-term resident parents, while 20 per cent would prefer *ius soli* at birth without the residence requirement for parents. At the base of this interest are ‘practical’ and integrating aims: the fact that becoming an Italian citizen would mean avoiding bureaucratic procedures, for example, the renewal of the permit to stay, but also the desire to feel more integrated and to have the same rights as citizens. The ‘opportunistic motivation’ emerging from the survey reinforced the arguments of the anti-reform groups. In fact, also among policy makers favourable to a more liberal nationality law, the idea that acquisition should be based on an affective bond with the new adoptive mother country, without paying attention to the fact that also the citizens abroad are likely to have similar motivations, and that domestic voters and politicians are not moved only by universalistic reasons.

³¹ The individual feeling of loving solidarity of Greene’s novel main character produced quite detrimental consequences for his country; this is not the case of the human factor we are talking about here.

³² Nominated as his successor by Giorgio Almirante, the founder of the post-fascist MSI (Movimento Sociale Italiano; Italian Social Movement), because he wanted a non fascist young politician to lead the party, Gianfranco Fini became Secretary of the Party in 1988 and was excluded by that position only for a brief period. The MSI Congress held in January 25-29 in Fiuggi is considered the milestone of Fini’s journey towards the

role in redefining his political profile and eventually estranged him from not only the PdL, but even from the bulk of the prominent members of the Alleanza Nazionale, the party which he used to lead and had brought to merge with Berlusconi's Forza Italia. Though Fini had never embraced an anti-immigrant or xenophobic stance,³³ his first initiatives on the matter were still oriented more to repressing illegal immigration and controlling inflows than to widening rights. Let us look back on the unique influence of Fini on immigrant and immigration policies. The 2002/289 Bossi-Fini Act, which he signed together with the Northern League leader, was the first centre-right turn of the screw on immigration. The 2002 Act was softer than the previous bill presented by Fini and his party colleague Landi, which provided for a more severe treatment of undocumented immigration than the one actually passed in 2009³⁴. But as early as October 2003, Fini was giving a fresh start to his pro-immigrant march and proposed to give immigrants citizenship rights: easier access to nationality, in particular for minors, and local voting rights. What he is pursuing is in fact a 'balanced policy' (Cerna & Wietholtz, forthcoming) which consists of repressing illegality and, at the same time, extending rights. Pro-immigrant moves are pieces of a wider political strategy aimed at firmly locating Fini himself and the new PdL as a party – as he intends – in the family of European centre parties. As I have already mentioned, it is not only in Italy that nationality laws have become a substantial part of immigration and immigrant rights policies, which are in turn used as important political benchmarks, tools to move parties and party leaders through the political spectrum. The Italian case teaches us that attitudes towards immigration and immigrant rights can not only reposition individual politicians, parties and party factions from the left towards the right of the political spectrum and possibly reward them with electoral returns, but also lead them from the right to the centre and hopefully increase their coalitional potential. Fini's wider political strategy consisted of distinguishing the PdL from its main electoral competitor, the anti-immigrant, Islamophobic Northern League, and of characterizing it as a modern centre-right party which fosters legality, stresses the principle of

moderate section of the political spectrum. During this Congress the party changed its name to AN, Alleanza Nazionale (National Alliance), and elected Gianfranco Fini once again to the top position of Party Secretary. During the Congress he declared: 'It is right to ask to the Italian Right to state without hesitation that antifascism was a moment historically fundamental in order to re-establish the democratic values that fascism had violated'. In 2003, during an official visit in Israel he defined the Racial Laws approved by the Fascist Regime and the Holocaust as the 'absolute evil' of the twentieth century. The latter statement provoked the secession of Mussolini's granddaughter and other members of the Fascist-nostalgic right who founded a new extreme right party. In 2008 Mussolini's granddaughter was eventually elected to Parliament for the PdL party. His main goal, in order to have his party and his figure accepted as a full member of the democratic European community, was to underline the break with Fascism, and the rejection and condemnation of the fascist and Nazi past, but he increasingly characterized himself as a modernizing secular politician of the centre, accepting for instance, as he did in 2006, the legal status of homosexual unmarried couples and in 2009 a liberal version of the biological will and testament.

³³ An American political scientist and expert in Italian politics had observed the absence of an anti-immigrant Right in Italy (Perlmutter 1996), which of course does not apply today.

³⁴ The Landi-Fini bill not only intended to introduce the crime of illegal immigration but wanted it to be punished with one to four years of imprisonment, while Statute no. 94, 15 July 2006 provides only a fine for this new crime.

separation between State and religions, and not least pays respect to minorities of immigrant origin and gives them better opportunities for social mobility. This set of policy orientations is likely to attract favours at international level and enable him to build a wider range of alliances, but also risks creating not just a divide, but possibly a split within the PdL.

So far, his innovative pro-immigrant stances, having reoriented a section of the centre-right, have allowed a bipartisan alignment which presented a shared proposal. The nationality bill, which had as first signatories Fabio Granata (belonging to the Fini faction) and Andrea Sarubbi (belonging to the progressive Catholic component of the PD), was not a compromise between right and left: it virtually reproduced the Unified Text approved by the Constitutional Affairs Committee³⁵ under the last centre-left government (17 May 2006 – 7 May 2008) with even a little improvement. Not only has the waiting time been reduced (as in the previous centre-left proposal) from ten to five years, but the requirement was related to the stay permit instead of the more permanent permit of residence, a further advantage since immigrants do not immediately register. Although the bill was subscribed to by 50 MPs belonging to all political parties except the Northern League, the actual content of the proposals were, not surprisingly, not welcomed by the bulk of the centre-right coalition, in particular by the anti-immigrant Northern League. Maroni, the influential Minister of the Interior declared to the Northern League newspaper *'La Padania'*³⁶ that 'the mesh of the citizenship net should not be loosened, but instead tightened'.

Born as a federation of separatist movements in the Eighties, the League was motivated, like other secessionist European parties, by the refusal to pay the bill for fiscal transfers to less developed 'parasitic' Regions, an attitude reinforced by the need of the Northern Italian industrial districts to face rising international competition. The relations of the Northern League and its leader Bossi with Berlusconi, after a period of alternate conflicts and peace, ended in a strong alliance. Firmly established in central government, the Northern League had to reorient the focus of its hostility from Southern Italians towards immigrants and Muslim minorities, who offered convenient targets, being non-voters. Some excessive Northern League behaviours were considered politically dangerous and inappropriate even by their allies. On 15 February 2006 Northern League Minister Calderoli, during an interview on television, showed an underwear T-shirt with Christ scolding Mohamed for his lack of sense humour about Danish cartoons. He was forced to resign, but his career was not hampered by this or similar gestures. In recent years pig's urine was spread by Northern League militants on grounds assigned to the building of a Muslim cemetery. In 2000, the then Mayor of Treviso, a North-East town, suggested disguising immigrants as leverets to allow hunters to practice their sport. Berlusconi first tended to minimize his allies' xenophobic public

³⁵ This is the parliamentary committee responsible for nationality matters.

³⁶ 29 December 2009.

discourse and behaviours if they provoked detrimental international reaction, but in time he increasingly embraced the Northern League's severe anti-immigrant stances. As a former socialist, Berlusconi would have probably accepted liberal pro-immigrant reforms in principle, nationality law included, were it not for the need to keep the bond with the Northern League tight, as this alliance was essential to pass laws capable of neutralising the intimidating trials and indictments the Italian Premier is undergoing. Again the human factor has played and is playing a crucial role in making Italian Nationality Law.

The political exchange between Bossi and Berlusconi and the pivotal role of the League in the governmental coalition were able to influence the majority of Berlusconi's PdL reaction to the bipartisan Sarubbi-Granata proposal. Fabrizio Cicchitto, the official mouthpiece of the party, declared that the present ten year requirement was a reasonable waiting time and that only linguistic and integration requirements should be added.³⁷ This 'majority of the majority' also reacted in Parliament to the Granata-Sarubbi proposal with a counter proposal. The centre-right official bill was even more restrictive than the Unified Text approved by the Constitutional Affairs Committee under the previous centre-right government (April 2005- May 2006), although it was presented by the same rapporteur, Hon. Isabella Bertolini. While the previous Text accepted a reduction of the residence period to eight years, the counter proposal confirmed this at ten years and just added supplementary requirements.

2.5 An outbreak of inappropriate responses

Apart from the PdL MPs who had subscribed to the bipartisan proposal, a few influential members³⁸ of Berlusconi's party and faction showed more moderate attitudes concerning Fini's positions or the bipartisan bill, but the prevailing attitude was total rejection. Citizenship was to have been discussed by the floor in December, but the discussion was postponed until after the Regional elections (March 28) to avoid having the divisive issue as a subject of the electoral campaign, and the subject was returned to the less visible arena of the Commission of Constitutional Affairs. The move did not prevent further public discussions and polemics.

The most interesting feature of the debate emerged after the bipartisan project was presented; this was the outbreak of substitute target syndrome, the idea that denying citizenship to documented long-term residents was a way to punish deviant or illegal

³⁷ ANSA, 29 December 2009.

³⁸ Giulio Tremonti, the Finance Minister declared that he had 'always and increasingly' considered Fini's positions 'generous and courageous', just untimely (*Il Giornale*, 26 September 2009). Social Affairs Minister Maurizio Sacconi proposed a reform based on the July 2009 British project for a points system. Nationality should be the last stop of an integration process which started with the Integration Agreement introduced with the Security Act. The Implementing Rulings of the Integration Agreement should have been approved by 31 December, but they were postponed until after the elections to hide the divisions within the centre-right coalition.

behaviour, and even terrorism. Commenting on the explosion of a bomb in a Carabinieri barracks, Minister of the Interior Maroni observed that ‘If the law reducing to five years were already in force, the Libyan responsible for the crime would have been an Italian citizen’.³⁹ This is a clear case of a substitute target, since remaining a foreigner does not prevent one from committing a crime, and terrorists go to jail irrespective of the fact of their being citizens or not. Furthermore, the author of the crime, having been resident in Italy for more than ten years could have become Italian under the present legislation.⁴⁰ Another spate of substitute targeting occurred at the beginning of January 2010 when severe riots broke out in Rosarno (Calabria, Southern Italy). Exploited immigrant farm workers rebelled against physical attacks by local mobsters, laying waste to the place. The violent rebellion provoked indignant reactions by local inhabitants and by national politicians, who took the opportunity to criticize the possible liberalization of nationality law. Flavia Perina (Pdl) judged as ‘positive the return to the Commission’ of the discussion of the reform ‘because it will allow a matter to be taken further which, in light of the Rosarno events, deserves particular attention’.⁴¹ And Northern League Minister Calderoli stated that ‘further reactions by clandestine immigrants will be a risk if immigrants could enjoy easy access to citizenship’.⁴² Again it is quite difficult to imagine citizenship being granted to clandestine people in any legal system. Even the moderate Minister of Foreign Affairs and former Justice and Immigration EU Commissioner Frattini observed a few days later, at least with more sense of reality that ‘Those who had planned terrorist attacks in Italy had been living for a long time in our country, they had registered jobs, were persons beyond suspicion, used to go to work every morning. Thus notwithstanding, they were plotting against the country which had hosted them. This is the real proof that even after many years there are people who are unable to feel like Italians.’⁴³ However, he did not take into account the fact the new law would have reduced the ‘irrelevant’ requirement of time and introduced stronger integration requirements than the present one. The substitute target syndrome did not spare centre-left people, who took the Rosarno events as an opportunity to declare their disagreement with the five year residence requirement⁴⁴ or with the idea of adopting citizenship as an instrument of integration.⁴⁵

³⁹ *Italia Mattino*, (TV transmission) 19 October 2009.

⁴⁰ In fact it would have been possible for him to become Italian since he has been living in Italy for more than ten years, and since his radicalism was due to the fact of having been excluded from the right to social housing, probably as citizen he would have been less frustrated and aggressive.

⁴¹ *Il Sole 24 Ore*, 9 January 2010.

⁴² *La Stampa*, 10 January 2010.

⁴³ *ANSA*, 12 January 2010.

⁴⁴ Hon. Rosi Bindi, vice president of PD, declared that five years were too few and suggested taking the US as a good example, ignoring that this is exactly the time of residence required in the US.

⁴⁵ Francesco Rutelli, former figure of the secular Radical Party, then PD leader who recently broke away to form a small Catholic oriented centre group.

2.6 The unprecedented present

In 2009 Nationality reform in Italy became a central battle field to determine PdL identity. The battle on nationality went on in 2010, and so did the battle within the PdL. This is a quite relevant novelty in the political history of Italian Nationality law making. Until 2009, citizenship in Italy has never been a hot political issue.

The law of 1992 n.91, which is still the main piece of legislation regulating the acquisition and loss of citizenship, was voted unanimously both in the Senate and in the House of Deputies. At that time, nationality was simply a non-issue. The same unanimity occurred for the subsequent provisions concerning the reacquisition of citizenship by aliens of Italian origin residing abroad who had lost their Italian citizenship. According to the 1992 Act, the period for reacquiring nationality was set to expire in 1994, but the deadline was then pushed back to 1995, and again to 1997. By taking advantage of this measure, 163,756 people ‘reacquired’ Italian nationality according to the Italian Foreign Office. In 2000, the possibility to reacquire citizenship was extended to aliens of Italian descent living in territories which belonged to the Austro-Hungarian Empire before the end of the First World War⁴⁶ and then passed to the former Yugoslavia after the Second World War. A new Statute approved by the Italian Parliament on 9 February 2006⁴⁷ granted citizenship to individuals of Italian origins who were resident in the territories assigned to former Yugoslavia after the 1947 treaty, and to their descendants with no time limit. As I have anticipated, the last legislation on this provision, approved in 2006, introduced a language requirement for the first time.

So far, the main factor capable of actually influencing Italian nationality legislation has been a legacy from the past, from Italy having been a mass emigration country willing to keep some bond with its diaspora. In 1992, when Italy was already a country of immigration, the Parliament passed the previously quoted Law n. 91 which reinforced *ius sanguinis* abroad by definitively making dual citizenship legal. As happens in other legal systems characterized by co-ethnic preferences (De Hart & Van Oers 2006; Waldrauch 2006), Italian *ius sanguinis* includes expatriates’ descendants, and it does not envisage any generational limit or additional requirement. The 1992 Act also triggered the already cited long series of reacquisition programs. For a long time, *ius sanguinis* abroad has enjoyed a favourable cultural frame, a bipartisan consensus based on different but convergent mythicizations of ‘*L’Altra Italia*’, The Other Italy outside the State borders. For the nationalists, it was important to imagine a larger Italy, and for the leftists to honour emigrant workers. In this as

⁴⁶ Statute no. 379 of 14 December 2000. In 1919, at the Conference of Paris, the regions of Trentino and Alto Adige (including Trieste) and Istria were incorporated into Italian territory, but after World War II, Italy lost Istria which was acquired by former Yugoslavia and now belongs to Croatia and Slovenia.

⁴⁷ Law 736/1994 which extended the deadline to apply for reacquisition of Italian Nationality; Law 379/2000 which equated those people residing in the Alto Adige (South Tyrol) when the territory belonged to Austria and their descendants to Italian nationals; Law 124/2006 which recognised as Italian citizen co-ethnic people living in Istria, Fiume and Dalmazia (now Croatia).

in many other respects, Italy resembles Spain (Rubio Marín 2006, González Enríquez 2009) and, though to a lesser extent, Portugal (Baganha & de Sousa 2006, Peixoto, Sabino, & Abreu 2009).

3 Path to the present

‘In almost every aspect of its nationality regime, Spain has always looked to the past’ (Rubio Marín 2006: 509). We can easily change the name of the country (Italy for Spain) and the statement would fit perfectly. As I have noted in a previous paper (Zincone & Caponio 2002) Italian legislators have been looking backward too often.

Some of the more relevant features of the current Italian legislation - as I have started to illustrate - are rooted in historical sensitivities.

Italy’s past is one of late unification, of ‘a nation in search of a State’, the past of a mass emigration country, of a recovery from an authoritarian regime; and of a democratic and republican constitution which established the principle of non-discrimination and gender equality. Italy’s past is also one of feminist movements capable of having the principles of equality eventually enforced and a past wherein the initial establishment of immigrant settlements was followed by a first attempt to liberalize citizenship law.

3.1 The genetic phase and the impact of mass emigration

Italy became a nation-state relatively late (in 1861). It had long been a nation, a pretended ethnic community, in search of a state. The choice of *ius sanguinis* was consistent with this cultural frame: descent was considered a sufficient indicator of belonging to the nation (Grosso 1997). It was the Kingdom of Piedmont and Sardinia that promoted Italian unification and which transferred its legislation to the new State, with only small adaptations. In turn, the Kingdom had received a strong legal influence, when from 1802 to 1814, during the last years of the Republic and the Empire, unlike the other ‘liberated’ Italian regions, it was incorporated into the French metropolitan territory. The Republican interpretation of citizenship, the one inherited first by Piedmont and then by the new born Italy, regulated only civil and political rights. Belonging to the State was considered legally irrelevant and was based on customs. This was only the very initial (non) legislation. Quite soon, in 1865, the Civil Code reformed the treatment of nationality. The French influence was still there, but, in contrast to the common interpretation (Brubaker 1992), the prevailing mode of acquisition in France was then *ius sanguinis* (Weil 2001). It was adopted by the French Napoleonic Civil Code in 1804 and then spread all over Europe. Furthermore, the outstanding lawyers who contributed to the elaborate 1865 Civil Code were experts and admirers of Roman Law, which can be considered to be the origin of *ius sanguinis*.

When the national state was founded, unification was still incomplete. There were territories that had yet to be freed (*terre irredente*), and there were people of Italian ethnicity living outside the borders of the new state, another reason to adopt *ius sanguinis* also outside the borders, to give the legal basis for the political strategy of citizenship abroad. Already on the eve of the unification, the Electoral Acts (1859, 1860) had placed great emphasis on belonging to the nation. They extended political rights to foreigners of Italian origins. ‘Those who do not belong to the Royal States, if Italians [...] partake of the right to vote, provided that they are naturalised by royal decree and have sworn an oath of loyalty to the King. Alien people may acquire the right to vote through naturalisation by Statute Law.’ This was quite a soft co-ethnic preferential procedure, and so were the ones included in the Electoral Act of 1895 and the Nationality Act reform of 1906. In view of the existence of ‘Italians’ outside the new kingdom of Italy,⁴⁸ we might have expected to find stronger provisions for co-ethnics in the 1865 Code and in other legislation of the Italian legal system of the time. Actually, there was very little, apart from those quoted above. By contrast though, emigration was not yet a relevant phenomenon. Some attempts were already made to prevent the definitive loss of citizens because of emigration: dual citizenship started to be allowed, albeit informally. The 1865 Italian Code (art. 5) stated that a child born on Italian soil to a father who had not lost his nationality by emigrating was Italian. The same principle also applied to children of emigrants born abroad to a father who had become a foreigner in the meantime, so long as the child came back to Italy and settled.

In 1865, the light legal framework was challenged by mass emigration. The origin of the consolidation of *ius sanguinis* abroad is in fact ‘the Great Emigration’. Italian emigration intensified in the 1890s and eventually exploded in the first decade of the twentieth century. The main countries to which Italians emigrated applied *ius soli*, and even automatic naturalisation of residents.⁴⁹ According to the 1865 Civil Code (art. 11), Italy did not formally permit dual nationality. In theory, children of emigrants born abroad and forcibly naturalised should have automatically lost their Italian nationality (Pastore 2001). Yet, in practice, Italian governments gave priority to art. 4 (*ius sanguinis* for children born abroad), and nationality could be lost only by an official act of renunciation. In the case of loss, Italian nationality could only be regained through a special government authorisation. The policy makers-- as it emerges from the Parliamentary debates (Vianello-Chiodo 1910, Tintori 2006)-- worried that the loss of citizenship could lead to alienation from the country of origin, and act as a deterrent to repatriation. There was also a fear that it could make emigrants less willing to

⁴⁸ The process of unification was finally completed in 1924 with the acquisition of Fiume. Veneto and Venice were assigned to Italy only in 1866, and Rome was only conquered in 1870. Towns and territories considered culturally Italian but still under Austrian rule, such as Trento, Trieste, Istria and Dalmatia, were acquired after the First World War, when the frontier was moved even beyond the ‘linguistic border’.

⁴⁹ Brazil, in particular, included in its 1891 Constitution (art. 69) automatic naturalisation of all people resident on 15 November 1889, the day on which the Republic was proclaimed. Renunciation within six months was legally allowed, but strongly discouraged by the public authorities (Rosoli 1978).

send back precious remittances (Prato 1910). A serious deterrent that discouraged emigrants from returning was the existence of sanctions for those who had not performed their military service in the army. To remove this deterrent, a 1901 Act (no. 23 of 31 January) established that expatriates who had not complied with the duty of military service were no longer punishable after the age of 32. Accordingly, the first major reform Act (no. 555 of 13 June 1912) was designed to encourage emigrants to repatriate. It eliminated the requirement of a special government authorisation for the reacquisition of nationality: two years' residence in Italy was sufficient to automatically regain nationality (art. 9) while all other foreign residents had to wait five⁵⁰ years and apply for discretionary naturalisation. In general, the 1912 law reasserted the principle of *ius sanguinis* as the main mode of access to nationality, complementing it with the principle of *ius soli* in partial imitation of the French model: dual nationality was allowed to minors, but they could choose and were not obliged to opt on coming of age as was the case in French law. The Italian parliament accepted a trade-off between tolerating dual nationality in exchange for keeping strong ties with its offspring abroad (art. 7). Dual nationality was generally tolerated, though not clearly accepted, for expatriates when the acquisition of the second nationality was automatic and inevitable, as in countries of immigration characterised by *ius soli* at birth. For many emigrants, Italian nationality became a sort of 'spare nationality' (Quadri 1959: 323), to be used in case of need. This quite sensible treatment of nationality under the liberal regime was disrupted by the rise of Fascism in 1922 and the effect of fascism on colonialism.

3.2 Fascism--the negative legal example for the democracy to come

Colonialism started before the advent of Fascism in 1922. It reached its first relevant conquest in 1911 with the occupation of Libya, but it was strengthened by Fascism and continued until its fall in 1943. From the beginning of the colonial experience to the Twenties, the children born of Italian fathers and African mothers were provided with Italian citizenship when acknowledged by their Italian fathers. The subsequent racist attitudes in the colonies were strictly connected to the general racist turn taken by the Fascists after their alliance with the Nazi regime.

In 1938, 'Special Regulations towards Foreign Jews' were introduced⁵¹. They deprived people of Jewish race if foreigners, though not following Jewish religion (art.2), of the right to reside in the Italian Kingdom and its colonies (art.1) and forced them to leave these territories (art. 4), but it also retrospectively deprived of Italian nationality those who had acquired it after the first January 1919 (art.3). A later decree (no. 1728 of 17 November

⁵⁰ It was progress in comparison with the requirement of 6 years established by the 1906 Act (no. 217 of 17 May 1906), reduced to four years for people who had served the State and three for those who had rendered special services to the country or had married an Italian woman.

⁵¹ RDL, Regulation with the force of Royal Decree no. 1381, 7 September 1938.

1938) introduced new 'Regulations in Defence of the Italian Race'. This Decree prohibited Jews from owning property and barred them from many jobs and public education. It also prevented Italian colonists from intermarrying with the inhabitants of the colonies and declared these marriages void (art. 1), marriages with any alien were submitted to authorization, infringers were punished with imprisonment and fines (art.2), and marriages with foreigners were just forbidden to military, civil servants, union members, members of organisations connected to Fascist party and employees of State controlled enterprises. Besides the other punishments, individuals in these categories could also be fired or dismissed (art.3), but 'For the purposes of arts. 1, 2 and 3, Italians not belonging to the Kingdom are not considered aliens' (art.4).

Art. 4 clearly stated again the co-ethnic principle in Italian legislation: the idea that foreigners of Italian descent were not real foreigners. By contrast, not only anti-Semitism, but racism entered Italian legislation. In Italian East Africa, the law (RDL, *Regio Decreto Legge*, Royal Decree no. 1019 of 1 June 1936) which assigned the status of subjects to all inhabitants who were not Italian citizens or citizens of other states, introduced also a strong racist element: it accepted the declaration of Italian citizenship for the children of unknown parents only 'if it can be reasonably inferred from his or her features and other traits that both parents are of white race'. Avoiding such discrimination has become a characterizing feature of the restored democratic legal system.

Another important feature concerning the nationality law of the Republic to come can also be considered as a reaction to the repressive laws of the Fascist regime. Even before it took on a clearly racist character, the regime had developed authoritarian features. Fascism did not limit itself to suppressing electoral competition by imposing a one party system and disbanding other parties and independent unions; it also repressed opponents, imprisoned them, and sent them into exile. Fascist gangs used to beat them up, and even killed them in Italy and abroad. Political murders were fortunately few, but exiles were deprived of the *status civitatis*, of Italian nationality. The punishment was addressed to all the Italians residing abroad who dared to criticize the regime. The Exiles Act of 31 January 1926 (no. 108) stated that those doing anything liable to 'cause a disturbance of the Kingdom, even if this does not amount to a crime', and those furthering 'the circulation of false information on the state abroad' would be deprived of Italian citizenship. The anti-dissenters (or anti-communist) clause was also present in the democratic Greek legislation after the 1944-1945 Civil War (Christopoulos 2006). Preventing the loss of nationality for political, racial, religious reasons was one of the principles clearly established by the democratic legal system.

3.3 Back to democracy and forwards with co-ethnic privilege

The provisions of the Italian Constitution, which came into force on 1 January 1948, can be considered as an attempt to provide an antidote to fascism. It prohibited the loss of citizenship for political reasons (art. 22)⁵² and forbade discrimination on racial, religious, political, social or gender grounds (art. 3).⁵³ This article later served as the basis for rulings of the Constitutional Court which forced the legislators to reform nationality legislation in accordance with the principle of gender equality.

Cultural changes in family relationships, together with active feminist movements in Italy as in other democratic countries, put pressure on Nationality law making. Gender equality principles in matters of nationality were first embedded in international treaties in the Fifties. The 1957 UN Convention (which came into force in 1958) specified that women should not lose their citizenship in the case of marriage with a foreigner. In 1977, a resolution of the Council of Ministers of the Council of Europe, which came into force in 1983, recommended that people should keep their nationality of origin and that both spouses should be entitled to transfer their citizenship to each other and transmit it to their children. However, the Italian Government implemented gender equality before the resolution, in 1975, within the Family Reform Act (no. 151, 19 May), not because it was imposed by international treaties, but to comply with a ruling of the Constitutional Court (no. 87 of 9 April 1975) which stated that loss of nationality for married women contravened art. 3 of the Constitution. In 1983, following a new Constitutional ruling (no. 30, 9 February 1983), a new Act (no. 123, 21 April) established the right for married women to transfer their nationality both to their children and to their foreign husband. The commentary on the Acts makes explicit reference to the Court's judgments and to the constitutional principle of gender equality. In Italian decision making, Joppke's thesis (1999), which underlined the role of Constitutional Courts, seems to fit better than Soysal's, which focused on International law (1994). However both tend to underestimate the role of civil society and movements in activating otherwise dormant pieces of national constitutions and international conventions.

The recognition of the principle of equality of gender made even more visible the old and unsolved thorny question of dual citizenship. Italy had signed the 1963 Strasbourg Agreement which had severely limited multiple nationality, but on the matter, both international and Italian bodies hesitated. The 1983 Act had entitled Italian women to transmit nationality to their children, but minors holding dual nationality were required to opt on coming of age. The option requirement was eventually suspended in 1986, when the deadline

⁵² Art. 22: No one can be deprived of his or her legal capacity, citizenship or name.

⁵³ Art. 3: All citizens have the same social dignity and are equal before the law regardless of their sex, race, language, religion, political opinions, social and personal condition.

for opting in favour of one nationality was postponed until the approval of a new Nationality Act which, as has been described in the introduction, definitively affirmed the principle of dual and multiple nationality. Before the 1992 Act, when it was possible to keep Italian nationality only if the other nationality was acquired unwillingly (for instance *iure soli* at birth), the Italian Government had to handle the issue. It had accepted the full status of dual nationality with some states, for instance the State of San Marino, and had signed bilateral agreements with some countries of Italian emigration to deal with problems connected with the then still compulsory military service and voting (Giuliano 1965, Clerici 1977). This is the case, for example, with the Treaty between Italy and Argentina, concluded in Buenos Aires on 29 October 1971,⁵⁴ which exactly reproduced the agreement of 17 April 1969 between Spain and Argentina. This was a typical example of dissemination by imitation which is particularly evident between these two Southern European legal systems. The agreement⁵⁵ made it possible to hold two different kinds of citizenship, although it attenuated the consequences by making the status of citizenship of the country where the citizen did not reside dormant, together with all the rights and duties connected with it, such as the right to vote and the duty to perform military service (Bariatti 1996, Pastore 1999 & 2001). Italian nationality, which was suspended after the acquisition of nationality in Argentina, would take effect again as soon as they took up residence in Italy. Other more or less liberal agreements followed. I suggest that we should not dismiss the ‘dormant’ nationality solution. We may find it useful in cases, like the Italian one, which may reconsider the unconditional acceptance of dual nationality and in those cases in which dual nationality is still not accepted or accepted in partial and discriminatory ways.

In Italy, the acceptance of dual nationality was mainly due to the intention to keep bonds with expatriates and their descendants, as in Spain (Rubio Marín 2006) and in other EU countries. In many cases, tolerance or acceptance of dual citizenship can be ascribed to a wider co-ethnic syndrome (De Hart & Van Oers 2006).

The 1948 Italian Republican Constitution, while banning any kind of gender, religious or political discrimination, re-introduced a co-ethnic principle in a sort of stronger version of the criterion embodied in the 1859-1860 Electoral Acts. Art. 51, which allowed the legislator to give citizenship rights (access to public office and to elective bodies) to aliens of Italian culture even if they did not hold Italian nationality. Rules for retaining and measures to reacquire nationality abroad are also inspired by a co-ethnic principle. I have already mentioned them when illustrating the extant legislation, since they belong to the present or exercise their effects on the present. Large numbers of people holding an Italian ‘spare nationality’ are still applying for an Italian passport which will allow them to take residence

⁵⁴ In Italy, it only came into force two years later, with Statute no. 282 of 18 May 1973.

⁵⁵ *Accordo di cittadinanza tra la Repubblica italiana e la Repubblica argentina*: Statute no. 282, 18 May 1973.

in the European Union and be exempt from the visa requirement to enter North American countries.⁵⁶

3.4 A more liberal nationality law for immigrants: a fruit that never ripens?

While many laws have been passed to allow emigrants and their descendants to keep Italian nationality, to date none of the bills aimed at liberalizing the acquisition of nationality by immigrants have been approved.

Though after 1992 centre-left MPs went on presenting reform bills to ease non EU immigrants' naturalisation, this Parliamentary activity went on quite unnoticed. The idea of reforming the nationality law had some small and brief resonance in the press only in 1999,⁵⁷ when the then Minister of Social Affairs Livia Turco made the first serious attempt to change the law with the cooperation of experts and civil servants belonging the Legal Department of the Ministry of the Interior and the Commission for Integration.⁵⁸ Above all, the proposal was designed to favour minors and was openly in tune with the then current trend in Europe. According to the proposal, immigrant parents could request that their child born in Italy acquire Italian nationality when he or she reached the age of five. The idea was to prevent children who were beginning compulsory schooling (which in Italy starts at the age of six) from being foreigners, and from feeling and being perceived as different. It was initially proposed⁵⁹ that parents should also be required to have five years legal residence in Italy at the time of the application. The French system of double *ius soli* for the third generation was included in the draft, as well as the existing system of *ius soli* postponed until the age of eighteen, with the latter amended from the then current requirements of legal status at birth and continuity of residence in Italy. The same Minister of Social Affairs had already carried out an important reform of the legal status of foreigners in Italy together with the then Interior Minister and present President of the Republic Giorgio Napolitano (Statute no. 40/1998 known as the Turco-Napolitano Act, then Consolidated Act no. 386/1998). According to this Act, five years' residence was considered the threshold for passing from the status of legal resident to either citizen or denizen status. After five years of legal residence, it was possible to apply for a permanent residence permit, and in a first draft of the Bill discussed in Parliament, local voting rights were also to be extended to non-EU immigrants after five years

⁵⁶ These are the obvious main motivations to ask for an Italian passport, and they were confirmed also by empirical research (Tintori, 2009).

⁵⁷ 'Reforming Nationality Law', a meeting organised by the Ministry for Social Affairs and the Commission for Integration, 22 February 1999.

⁵⁸ The Commission for the Integration of Immigrants established by the 1998 Turco-Napolitano Law on the Legal Status of Immigrants was abolished by the subsequent centre-right government. In its short life, it was chaired by the author of this report.

⁵⁹ In the official draft and bill, then presented in the Council of Ministers and in Parliament, the number of years of legal residence required became first eight, then seven.

of legal residence. The local vote was then expunged because of the prevailing legal opinion that granting political rights to aliens would imply a Constitutional reform and because prevailing political opinion desired to place expatriates' political rights and the necessary Constitutional reforms first. It was a sort of log rolling between conservatives (political representation for Italian emigrants) and progressives (the local vote for immigrants), but the second part of the deal was never honoured.

The reform of nationality was not included in the 1998 Act because, until very recently, nationality reform has followed a different path from immigration and immigrant policies. Though the relaxation of residence requirements, favouring minors, and double *ius soli* were the result of imitating⁶⁰ the legislation of other European countries of that time, the proposal was eventually stopped in the Council of Ministers, which judged it untimely. The centre-left Government was not prepared to take the risk of politicizing the issue. Thus the caution of the progressives and the reluctance of the conservatives converged in shelving nationality reform.

The guidelines of the 1999 bill were revived in the reform projects which followed, their main aim to favour children born in Italy or who arrived while very young. In Turco's failed proposal we already find the main contents of many future 'liberal' bills, and we also observe some of the recurrent features of Italian nationality reforms. We note the role of comparison at the European level, and the consequent decision to move in accordance with the prevailing European trend, the role of experts in providing (not always accurate and unbiased) comparative analyses to reinforce the assumption, the emergence of more or less intensive friendly fire, the fear of facing elections waving an immigrant rights flag, and what is too often underestimated, the relevant role of individuals, which we have already defined as the human factor.

This is a role that policy analysis studies have already underlined in periods of transition to democracy and in the related charismatic leaders, but is quite disregarded in cases where it is the maintenance of democracy and a plurality of high level politicians that are involved.

It was due to the action of the then Minister of the Interior, Giuliano Amato, that in 2006, the proposal of reforming nationality law was revived. The proposal was fine tuned with EU nationality reforms, then the prevailing trend, and supported by a comparative report prepared by a dependable expert. On the one hand, it reduced the residence time to five years, but on the other hand it introduced a language requirement and reinforced the formalization of the oath of allegiance. Under the same Minister, a chart of basic shared values was approved by a commission in charge of dealing with Muslim minorities. The nationality reform

⁶⁰ According to Bendix (1964), this process led to the spread of legal institutions and rules from more advanced to less advanced political systems.

proposal was firmly opposed by members of the opposition. It is interesting to notice that this opposition was stronger and more vocal in the media than in the Committee of Constitutional Affairs, where Amato's and other nationality reform proposals were debated. This is a classic Buchanan & Tullock (1962) policy making syndrome: politicians bargain more in private than in public, and committees are less exposed to public eyes than the floor or talk shows on television. There it is also easier to 'log roll', to give some concessions to the competing parties in order to receive in exchange something concerning matters more important for the dealer in future. Committees are not necessarily places where all are ready to bargain, and some friendly fire came to Amato's project from MPs of the extreme left who wanted to eliminate linguistic requirements and further reduce (from five to three years) the time of residence.

Nationality had then started to become a contested issue, though not as contested as nowadays. The Committee eventually delivered a Unified Text, slightly different from Amato's and even more liberal, since it kept the possibility of acquiring Italian nationality after ten years without any language requirement. The discussion of the Unified Text was repeatedly postponed and even stopped by the Financial Budget Committee. The fall of the centre-left Government put an end to the parliamentary path of a bill which was increasingly perceived as a political encumbrance by the tottering ruling majority. The overwhelming electoral victory of the centre-right coalition and the increased weight of the anti-immigrant Northern League within the new Government seemed to have put a halt to any intention to reform nationality law in a more liberal direction. The bilateral project re-opened the debate, the results of which we do not know.

4 Concluding remarks- present and future

Current Italian Nationality law is actually shaped more by Italy's mythicized past as an emigration country than by its widely rejected present as an immigration country. Many bills aimed at reducing the time of residence and facilitating the naturalisation of minors have been presented, so far with no results. By contrast, all the measures aimed at allowing expatriates' descendants to keep or reacquire Italian nationality and even to have their own representative in Parliament were passed unanimously. Discrimination and restriction were the only real consequences that immigration was able to produce on Italian nationality law so far: discrimination against non EU immigrants, restriction of *ius soli* and, more recently, restriction of *ius conubii* in order to prevent marriages of convenience. Nowadays, the concept of 'deserved nationality' prevails. The ideological false contrast between citizenship conceived mainly as an instrument of integration (typical of the left) and citizenship conceived as a reward for accomplished integration (typical of the right) is still prominent in Italian political discourse, as well as in that of European countries. Since the cultural

hegemony in this and other matters is moving in the rightist direction, the reward thesis is gaining and is likely increasingly to gain ground in future. It is evident that, on one hand, nationality legislation has always required some signs of either potential (*ius soli*, long residence) or actual integration (observance of the law, knowledge of the language of communication) and that, on the other hand, a generous citizenship regime conveys a public message of acceptance of immigrants as a welcome part of the population and can consequently help integration, though it is in no way definitive. But policies are rarely driven by reason and empirical observation, and nationality policies are no exception. This set of policies is part of a wider sector of ongoing European policy trends concerning immigration and immigrant rights. Immigrant and immigration policies are being conditioned by a set of factors that, to simplify, we can synthesize as follows: over-emphasized fears of terrorism and criminality of immigrant origin, perceived challenges to core national and European values, concerns that in an economic crisis, immigrant labour can displace national labour, and generate downwards competition, concerns that in times of public deficit and reduced welfare resources, immigrants and their families are receiving undue services and allowances. These factors and the political actors capable of profiting from them have fuelled, and are fuelling, a set of trends which can be summarized as neo-assimilationist, neo-utilitarian, and security oriented policies. Factors and actors do not have an impact in the same way everywhere, and trends do not display the same evolution and timing. But, by and large, this can be considered a shared European syndrome.

Nationality laws are obviously touched more by the first of the three trends. It implies increasing requirements of cultural integration and institutional loyalty with texts and courses. Sometimes the assimilationist trend is accompanied by further reinforcement of co-ethnic measures in favour of the already 'similar', of descendants of expatriates, of aliens from former colonies, from culturally similar regions. Though less dramatically, the second trend also affects nationality matters with the requirement of giving proof of economic integration and the request for more expensive application fees. The second trend can run counter to the first one: when co-ethnic immigrants are proving an economic burden, some restriction on them can be conceived, as happened in the German case. The security oriented trend also affects nationality through the increasing attempts to prevent marriages of convenience and by the enlargement of the set of crimes preventing access to nationality and of those entailing its loss. We are not facing only restriction. For instance, in Belgium, in Portugal and Greece also the need to adapt the law to the changed scenario of being immigration countries played a role. Yet the more generous reforms (for instance in terms of residence requirements) also tend to be balanced by neo-assimilationist requests, requests which increasingly accompany also the previously more generous European legislation as in the cases of France and the United Kingdom (Bauböck et al. 2006c).

The role of individuals, which I have underlined until now, also does not necessarily act in a liberal direction. The Italian case offers a suitable example of both possible influences by individuals. On the one hand, Fini's cultural and political evolution re-opened the reformist season and enabled the presentation of a bipartisan bill. On the other hand, Berlusconi's perception of being the target of attacks from the Magistracy put him in need of Bossi's Northern League's friendly support, leading, instead of to the preferential relation between the two leaders, to the devolution of immigrant and immigration policies to the Northern League. Italy offers also an apt example of the fact that sooner or later nationality is doomed to become a contested issue, and an issue capable of dividing both single parties and party coalitions. In Italy it became a relevant and contested issue quite recently, only under the last centre-left Prodi government (2006-2008). At that time, it mainly divided the majority from the opposition. Under the last centre-right Berlusconi government, it became a much more contested issue, but here it mainly divided the centre-right majority. Could the striking victory of the Northern League in the March 2010 regional elections put a halt to liberal reform and encourage further restrictive measures? Will prevailing public opinion in favour at least of facilitating minors be able to overcome this opposition?

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