

**EXPLORING THE
INCLUSION/EXCLUSION DYNAMIC:
Asylum-seekers and refugees in Italy**

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Introduction

The present paper represents an attempt to explore the various processes of inclusion and exclusion that have been produced in Italy during the past decade in response to refugees' inflows. More particularly, it will be analysed the interplay between a widespread logic of exclusion embedded within reception policies and a logic of inclusion that, coming particularly from the local networks, has tried to resist such a logic.

The analysis will depart from the distinction between the *logic* embedded within the 1951 UN Convention and the (national) *criteria* utilised to reaffirm such a logic. It will be argued, in particular, that while a *statist* and unmodified logic seems to have shaped, if not monopolised, our way of understanding asylum policies since the UN formulation, the *criteria* (adopted nationally) have been subjected to a constant process of revision spatially and temporally, according to the contingent political and socio-economic (national) conditions. And such a process of constant revision has clearly dominated the European context in general and the Italian context in particular. Italy, during the past decade has, as matter of fact, become a political space where no clear and always valid policy towards refugees has been expressed neither in positive nor in negative. Such politics of uncertainty have been clearly reproduced in the legislation as well as in the political discourse which still tends to concentrate all the attention on the phenomenon of clandestinity, identifying quite often, asylum-seekers with 'illegal migrants'. The Italian context is consequently a context where policies of reception have been constantly modified, producing mechanisms of inclusion and/or of exclusion, according to the contingent (both local and national) conditions and/or 'moods'. Moreover, the gaps in the legislation have allowed the creation of lots of flexibility, and thanks to such a space 'in-between' the legal gaps it has been possible to introduce *some* inclusive responses, despite a framework dominated by mechanisms of exclusion. But, the existence of legal gaps has determined, at the very same time, such a level of flexibility to allow the production (locally and nationally) of complete different reception policies, and even discriminatory policies, in response to each group of 'refugees'.

The paper will, therefore, try to delineate the highly dynamic context that has characterised the Italian reception policies during the past decade, aiming to offer an answer to the following questions: what is the logic (or logics) that has so far shaped the reception policies? Why have refugees received complete different receptions? Why

some have benefited from more benevolent responses while *others* have been completely ‘abandoned’? Why, and to what extent, the local networks (both official and unofficial) are crucial in producing inclusive and/or exclusive mechanisms?

The argument will be divided into three main parts. In the first part it will be examined the definition of refugee as expressed in the 1951 UN Convention, highlighting why such a definition has a quite limited applicability as result of the incorporation of a *statist* logic, a logic that privileges, first and foremost, states’ (national) protection as opposed to human beings’ protection. And thanks to the introduction of the distinction between *logic* and *criteria*, it will emerge why the end of the Cold-War era has simply witnessed the adoption of new (restrictive) *criteria* leaving completely unmodified the dominant *logic* of exclusion. In the second part, it will be analysed why in Italy, despite the dominance of a logic of exclusion, such a logic has not prevented the emergence of *some* mechanisms of inclusion (or of non-exclusion) particularly from the local (official and unofficial) networks. And in particular, an analysis of the reception adopted during the ‘Yugoslav crisis’ in the Emilia-Romagna region will help to clarify how crucial are local initiatives in producing not simply a policy of reception but, more than that, in producing policy of settlement. It will be, finally, explored why, as result of mechanisms of non-exclusion, it is more appropriate to conceptualise the subjectivity of refugees not *exclusively* as “speechless emissaries”, “non-citizens” and as “non-persons”,¹ but as ‘potentially dialogic entities’.

The international refugee regime

The international community has maintained until recently a sharp legal distinction between the protection of human rights and the protection and safeguard of refugees, despite a close connection between the two.² Although the causes that force people to flee their country are numerous, - war, internal conflicts, poverty, natural disasters, political persecution, ‘ethnic cleansing’, etc. – the mere recognition of human rights abuses is not a necessary and sufficient condition to be *legally* recognised as ‘refugees’.

¹ See respectively Malkki L.H., *Speechless Emissaries: Refugees, Humanitarianism, and Dehistoricization*, in *Cultural Anthropology*, vol. 11, no. 3, 1996, pp. 377-404; Soguk N., *States and Strangers. Refugees and Displacements of Statecraft* (Minneapolis: University of Minnesota Press, 1999); Dal Lago A., *Non-Persone, L’Esclusione dei Migranti in una Società Globale* (Milano: Feltrinelli, 1999).

The legal definition³ adopted in the international legislation differentiates the refugee from the non-refugee essentially because of two interrelated aspects. A refugee is exclusively one who is outside his/her country of origin and the motives that have forced him/her to flee have to be of political nature. And more specifically, the image that comes out of the international law definition is the image of an individual who is

“of necessity an alien for the State where he resides, ... always defined in terms of a particular nationality or lack of nationality, and ... (t)he events which are the root-cause of a man’s becoming a refugee derive from the relations between the State and its nationals.”⁴

The crucial elements that establish *legally* who a refugee is are consequently centred and founded, primarily, on the taken-for-granted assumption of the exclusive and unique state/citizens relation. And it is because of the centrality of such a relation that the dominant images *tend* to represent the refugees as *non*-citizens, as aliens not only living within the national boundaries of a country other than their own, but also as aliens who have entered a world where they do not belong.⁵

Legal classifications, within the present order, become (powerful) tools for differentiating between those who are entitled to receive aid and protection from a country different from their own and those who are left out from such a system. And it is a system that still reflects the very same logic of temporality and exceptionality that prevailed when it was first created during the Cold-War era. And more particularly, as result of the high number of ‘displaced persons’ during the post-World War II, much of the debate that prevailed during the drafting of the 1951 Convention was “devoted to how best to protect the national self-interest of receiving States”, States not obliged to admit *permanently* all refugees arriving at their borders, and States that based refugee law upon a “theory of temporary protection.”⁶

Neither the crossing of borders nor the application for asylum offers any guarantees of obtaining the status of refugee. Only asylum-seekers (people requesting refugee

² Loescher G., *Refugees: a Global Human Rights*, in Dunne T., Wheeler N.J. (eds.), *Human Rights in Global Politics* (Cambridge: Cambridge University Press, 1999), p. 245.

³ For a detailed legal perspective concerning refugees see Goodwin-Gill G., *The Refugee in International Law* (Oxford: Oxford University Press, 1996).

⁴ Vernant J., *The Refugee in the Post-War World* (London: Allen & Unwin, 1953), pp. 4-5.

⁵ See for instance Soguk N., *States and Strangers*, cit.; Huysmans J., *Migrants as a Security Problem: Dangers of ‘Securitizing’ Societal Issues*, in Miles R., Thränhardt D. (eds.), *Migration and European Integration* (London: Pinter Publishers, 1995).

⁶ Hathaway J.C., *Reconceiving Refugee Law as Human Protection*, in *Journal of Refugee Studies*, vol. 4, no. 2, 1991.

status) able to prove not only a well-founded fear of persecution but also that such a fear of persecution derives from his/her “race, religion, nationality, membership of a particular social group, or political opinion” will obtain the recognition of the status.⁷ Even the acknowledgment of serious abuses of basic human rights is not *per se* sufficient for obtaining the Convention refugee status, the sufferings have to be closely linked to civil or political status or, otherwise, the claim to refugee status will fail.⁸ Moreover, the UN definition, as results of a restrictive and subjective idea of persecution (understood quite exclusively as a deliberate act of violence perpetrated by the government against its ‘nationals’) leaves unprotected all those who are victims of systematic violence perpetrated by *non*-state actors as well as the so-called ‘internally displaced people’, who are deprived of any possibility of being protected *in loco*, having failed to cross the borders of their country.⁹ The most tragic aspect of the UN Convention is, without doubt, the consideration that it expresses not only a regime whose ultimate goal is to protect, first and foremost, states’ interests, but also a regime that, more tragically, “fails to pursue a human rights goal.”¹⁰ And, more than that, it is a regime that has fully incorporated a *static* and *statist* understanding of the concept of sovereignty together with the one of citizenship. And such incorporation has directly shaped our way of understanding asylum policies.

And at this point, an important distinction needs to be introduced, the distinction between the *logic* and the *criteria* that inspires and shapes asylum policies. It will be argued that the dominant idea that post Cold-War era has witnessed a radical shift of approach toward asylum is somehow misleading. And thanks to the introduction of the distinction between *logic* and *criteria*, it will emerge more clearly why the end of the Cold-War era has simply witnessed the adoption of new (restrictive) *criteria* leaving completely unmodified the dominant *logic* of exclusion. The inner logic incorporated within the international refugee regime, since its formulation, has been strongly shaped by the East-West political opposition, a logic clearly visible not only in the legal

⁷ See the *Convention Relating to the Status of Refugees*, adopted by the UN Conference on the Status of Refugees and Stateless Persons at Geneva 2-25 July 1951 and entered into force on 22 April 1954. As expressed in article 1A[2], a refugee is someone who “owing a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such a fear, unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as result of such events, is unable or, owing to such fear, is unwilling to return to it.”

⁸ Hathaway J., cit., pp. 121,123.

⁹ See Loescher G., *Beyond Charity. International Cooperation and the Global Refugee Crisis* (New York: Oxford University Press, 1993).

provisions but in the very perception and attitude toward all 'refugees' who successfully escaped from Communist regimes. Based on the implicit assumption of a well-founded fear of persecution, because coming from countries that barred exit, everyone was welcome.¹¹ Everyone deserved to be welcome because s/he was seen as a hero in search of freedom, in search of a live free from terror, abuses and deprivation. Western liberal democracies not only welcome but they even encouraged such outflows from the East. The more were escaping the more effective were Western policies to stigmatise Eastern countries as awful perpetrators of human rights abuses.¹² This open-arms attitude was deemed to persist as long as the Cold-War was in place, as long as the number of the people who actually succeeded in fleeing were reasonably manageable, and as long as refugees were coming as a result of the East-West conflict. Once the barriers have been lifted, starting from the fall of the Berlin Wall, in order to maintain unmodified the *logic* of exclusion embedded within asylum policies, it has been necessary, for most of the Western countries, to modify (in a restrictive way) the legal *criteria* so far adopted. Before the danger of being 'invaded' by uncontrolled influxes of would-be refugees, the introduction of new legal restrictive *criteria* was deemed essential in order to protect and perpetuate the underneath *logic* of exclusion. Although the end of the Cold War has witnessed, within the European context, a radical shift from an 'uncoordinated liberalism' (that has prevailed from the post-World War II up to the 1980s) to an "harmonized restrictionism", where logics of 'restriction, convergence and secrecy' started to dominate the agenda,¹³ what has really changed was not the dominant *logic* but simply the *criteria*.

Today, governments of the so-called 'developed world', having very little reason to accept the compromises inherent in the Geneva Convention, have formulated new 'techniques' in order to prevent huge inflows of unwanted people. In particular, because they are still constrained by the 1951 Convention to which they are signatory, governments after government, particularly in Europe, have started to apply the strictest interpretation of the Convention.¹⁴ And, other than that, because most of the refugees

¹⁰ Hathaway J.C., cit., p. 118.

¹¹ Weiner M., *The Global Migration Crisis. Challenge to States and to Human Rights* (New York: HarperCollins College Publishers, 1995), p. 35.

¹² See Loescher G., cit., p. 59.

¹³ See Joly D., *Whose Protection? European Harmonization on Asylum Policy*, in Cohen R., *The Cambridge Survey of World Migration* (Cambridge: Cambridge University Press, 1995), p. 496; Joly D., *Haven or Hell? Asylum Policies and Refugees in Europe* (London: MacMillan, 1996), pp. 44-46.

¹⁴ Joly D., *Haven or Hell?*, cit., pp. 11-12.

come from economically poor countries, politicians easily justify the introduction of restrictive measure by arguing that they are, *de facto*, economic migrants using asylum procedures to gain entry to the West. Ironically, the very definition of 'economic refugees' was first used, in the 1930s, for referring to Jews escaping from nazi persecution (*Wirtschaftsemigranten*).¹⁵

The implementation of highly restrictive measures by EU Member States has moved the burden of processing asylum applications to the neighbouring states of Central and Eastern Europe.¹⁶ These countries are, consequently, becoming very important partners for Fortress Europe for controlling migration outflows of both their own nationals and that of migrants in transit from other eastern countries. All of Europe's neighbours are considered 'safe third countries' for the simple reason that all of them are signatories of the 1951 UN Convention. The adoption of visa requirements, carriers sanctions, notion of safe country and the so-called 'readmission agreement' between West and East-Central European States¹⁷ clearly aim to prevent and discourage asylum-seekers to gain access to asylum procedures, and to create a 'sanitary belt' that protect the external borders of the EU. All these restrictive mechanisms introduced by EU Member States make evident, more than ever, that the protection of refugees is secondary to the 'protection of the receiving countries.'¹⁸

The Italian framework

Italy, as a signatory of the Schengen and the Dublin Agreements, has not been immune from the process that has slowly led to the development of more restrictive legal criteria. The adoption of a politics that is moving toward exclusion became clearly visible once the number of asylum-seekers increased enormously together with the influxes of the so-called *clandestini* (illegal migrants). During the 1990s, it has been slowly decreed a tighter borders control and the reinforcement of coastlines' patrolling with the specific aim to put a halt to the influxes of '*clandestini*'. The increase of

¹⁵ Loescher G., *cit.*, p.17.

¹⁶ Kpenou C., *Refugees. A Challenge for Europe*, in Den Boer M. (ed.), *The Implementation of Schengen: First the Widening, now the Deepening* (Maastricht: European Institute of Public Administration, 1997), p. 89.

¹⁷ See Schieffer M., *The Readmission of Third-Country Nationals within Bilateral and Multilateral frameworks*, in Den Boer M. (ed.), *The Implementation of ...*, *cit.*, pp. 97-108; Lavenex S., '*Passing the Buck*': *European Union Refugee Policies Towards Central and Eastern Europe*, in *Journal of Refugee Studies*, vol. 11, no. 2, 1998, pp. 126-145.

¹⁸ Joly D., *Whose Protection?* ... *cit.*, pp. 497, 499.

borders' control, as well as the inadequate training of the security forces, has determined, unfortunately, lots of 'unfounded' rejection of would-be refugees at the borders, and the number of those who had actually the possibility to access the asylum procedures has been, consequently, rather low. Within the Italian context, the shift toward a more restrictive policy, which has in general dominated the political agenda of the vast majority of EU countries, has been, however, influenced more from endogenous than exogenous factors, despite the large (ab)use of an 'European' rhetoric. The advocacy of a closed-door policy has been essentially the result of a widespread, though superficial, equation. Immigration, within the Italian framework, has slowly become not only a synonym of illegality/clandestinity and criminality, but the phenomenon of uncontrolled influxes of migrants is considered the main cause of the generalised sense of insecurity perceived particularly within the urban areas. And such a sense of insecurity has been ably manipulated (particularly from the Right) in order to introduce not only a more restrictive policy but also a more repressive policy thanks to the adoption of what might be defined as 'punitive' instruments.¹⁹

While the phenomenon of immigration has received various legal responses, the phenomenon of the influxes of asylum-seekers has been enormously ignored. Suffice is to mention that Italy has not yet enacted any asylum legislation. The only asylum provisions that do exist have been incorporated within the so-called 1990 'Martelli Act' which is an immigration act and not an asylum act. Most of the political and legal actions that have been undertaken during the past two decades, save the 1998 legislation, tended to concentrate quite exclusively on the phenomenon of 'illegality' leaving aside all the social and economic problems regarding job stability, housing and social services. And the problem of housing, which represents the major handicap to family reunion and to a 'normal' life, still remains an endemic problem that does prevent immigrants as well as refugees to settle down, even after having lived in the country for many years. The political instruments generally adopted are not only inadequate, particularly as result of a partial understanding of the migration context, but

¹⁹ Such 'punitive' instruments have moved, at least, towards three directions: firstly more restrictive and repressive norms have been progressively incorporated, within the legislation, together with the increase of police units for the patrolling of the borders. Secondly the adoption of 'co-operation agreements' (i.e. re-admission agreements) are becoming more common particularly with neighbouring Mediterranean countries and/or country which are experiencing big outflows of migrants. Thirdly, the creation of the so-called 'centres of temporary reception and assistance' (*centri di permanenza temporanea e assistenza*) where 'undocumented people' or those that have received a decree of expulsion are detained until the day of their deportation.

because of the constant recourse of 'politics of emergency' during each '*profughi* crises', the outcomes have been consequently rather limited.

At this stage, it is quite important to try to explain the meaning of the term *profughi* as well as why it will be adopted despite of its very negative connotation. But in absence of a more appropriate terminology, its use becomes somehow inevitable, particularly because not only it reflects more closely the Italian vocabulary but also because of the non-legal valence it expresses. The word *profugo* (or *profughi* when used in the plural) is generally translated in English with the word 'refugee' though it does not bear the same legal valence as expressed in the 1951 UN Convention. In the common usage, a *profugo* is someone who has fled from his/her country of origin because political and/or economic reasons. In legal term, a *profugo* is someone who has not been recognised any specific set of rights, save some basic human rights which, in practice, do not confer any right to be protected and assisted nor any guarantee of not being subjected to expulsion or deportation. Only asylum-seekers (*richiedenti asilo*), as result of their legal request for asylum, and refugees (*rifugiati*), as result of their legally recognised status, are protected *de jure*, though not always *de facto*. However, in the common usage, no distinction is generally made between *profughi*, asylum-seekers, and refugees; they are generally and offensively label as *profughi* or as *extracomunitari*.²⁰ And because of the widespread and taken-for-granted assumption of their presumed poor origin as well as of their presumed poor education, many of the reception policies adopted in Italy during the 1990s responded to a logic of providing not only a temporary economic assistance but, worst than that, and assistance based on a logic of *assistenzialismo*.²¹ The kind of reception adopted during the 1990s, because based on the idea of *temporary* reception, were deemed to take place only as long as the crisis in the country of origin of the *profughi* was going on. No plan of settlement was at all

²⁰ The term '*extracomunitari*' is a vocabulary that clearly expresses the dividing line between an 'us' (*comunitari*) member of the European community and a 'them' (*extracomunitari*) which do not belong to it, but to the outside (extra) world. Although it might be translated as 'non-EC nationals', it is important to note that, in everyday discourse, it is generally used in reference to those coming from poor country as well as to non-white migrants.

²¹ The word '*assistenzialismo*', within the Italian context, implies a policy that aims to economically assist individuals, both as single individual or as part of a 'disadvantaged' social group. But, at the very same time, it tends to create processes that not only make people dependent on that economic assistance but does not encourage people to move beyond that policy of assistance, a policy which is not perceived by the beneficiaries as temporary but as a 'way of living'. The word '*assistenzialismo*' connotes consequently a very negative image, because it creates a system that constantly reproduces itself in a sort of circle because it does not allow, even in the long term, to encourage a policy of self-reliance.

examined at the governmental level, because no intention in producing any policies of long-term inclusion has been considered.

Within the Italian framework, it becomes consequently crucial not only to understand the logic that shapes the legal provisions, but more importantly, the distinction between producing policies of reception and policies of settlement. While policies of reception respond quite exclusively to a logic of temporary protection, and consequently to a short-term inclusion, settlement policies respond conversely to a logic of long-term inclusion, thanks to the adoption of mechanisms that move toward integration.

The underneath logic of the 1990s policies has been quite clear. *Profughi* might be accepted, although they are not particularly welcome but, as soon as the conditions of emergency in their home country are over, a plan of 'voluntary' return needs to take place. Other than that, the Italian institutions have clearly opted for providing the minimum service and support with the aim to create something that do resemble a reception policy, but only in the forms and not certainly in the content. As M. Delle Donne has convincingly argued, the Italian institutions, in order to discourage and prevent further influxes of migrants as well as asylum-seekers, have clearly opted for "*la strada dell'oblio*" (the route toward oblivion) as if "such realities do not exist."²² And because of such an attitude, all the initiatives that have been so far adopted do not solve the problems at their roots but simply reduce, only temporary, bigger negative effects, problems that soon or later will explode again. And the little interest in providing serious and effective reception is clearly demonstrated by the fact that the government has generally limited its intervention to enact legislations, quite often very confusing and contradicting, which attributed all the initiatives to the local institutions, which are left completely free to decide whether to produce, or not to produce, any reception plan.

Although Italy has slowly become a hard living context which makes any *full* inclusion for aliens (be they migrants or refugees) rather difficult, it is, however, a reality where *some* positive responses coexist (or struggle to coexist) within a framework where a logic of exclusion seems to dominate. And it is these positive and more inclusive responses that become crucial for *profughi* and asylum-seekers particularly at the initial stage during which what might be defined as a '*physical*

acceptance' is generally granted, an acceptance which *de jure* guarantees no rights save the possibility of remaining (temporarily) in the country. But these inclusive responses might also generate something much more inclusive (or even exclusive), and this 'something' will be referred as *mechanisms* of inclusion or of exclusion.

Exploring the inclusion/exclusion dynamic

What does a 'physical acceptance' mean? What are these 'inclusive mechanisms'? How *some* inclusive mechanisms can be created within a framework pervaded by *many* exclusive mechanisms? Is it possible to draw a clear dividing line between mechanisms of inclusion and of exclusion? What happens in-between these mechanisms? These are some of the key questions that will dominate the following sections.

For *inclusive mechanisms*, it is understood all those initiatives produced by political institutions at all levels (national and local) whose aim is to produce policies of long-term inclusion, i.e. mechanisms that aim to integrate refugees within the society. For *exclusive mechanisms* it is understood, conversely, all those initiatives undertaken from political institutions whose aim is to completely exclude them, to negate them any possibility of receiving even a temporary protection or admission in the country; i.e. all the initiatives which clearly respond to a logic of a closed-door policy. Within these latter mechanisms can certainly be incorporated all the policies of deportation, even to areas where a conflict is still on, and the policies of blockage and of patrolling of the coastlines aiming to prevent anyone to reach the Italian soil. Between these two extreme mechanisms, of inclusion and of exclusion, a myriad of *in-between* mechanisms are created, mechanisms which are neither completely inclusive nor completely exclusive, simply in-between. And within these 'in-between mechanisms' it can be included the condition previously identified as a mere 'physical acceptance' as well as what it is referred to as a condition of a 'negated assistance'.

'*Physical acceptance*' is understood as a condition which tends to characterise *profughi*, the so-called *clandestini* (illegal entrants) and, to some extent, asylum-seekers as well. The 'physical' presence of *profughi* is somehow accepted within that local context, but nothing is done to try to include them within that specific context. Because no specific set of rights is *de jure* granted to *profughi*, nor any medical assistance or

²² Delle Donne M., *La Strada dell' Oblio. Richiedenti Asilo e Rifugiati in Italia* (Roma: Sensibili alle Foglie,

economic support, s/he is completely abandoned to her/himself from the public institutions. Even if an *ad hoc* legislation might be enacted, this period of physical acceptance tends, however, to characterise the initial phase, before concrete actions, if any, are undertaken by the political institutions. The reason for adopting the definition of '*physical acceptance*' is because no action is undertaken whatsoever from the political institutions, and the only help they *might* receive comes exclusively from local voluntary organisations and/or local population. And in the majority of the cases, these initiatives are oriented towards the relief of their living conditions and/or in offering some other (temporary) basic support. But, without a direct involvement of the political institution, it is difficult to envisage the creation of mechanisms of inclusion, though charity networks do play a crucial role both in responding immediately to the emergency and, eventually, in pressurising the institutions to act. The condition of physical acceptance should not, however, be seen as a permanent living condition, though it might even last a couple of years, before they might be entitled to receive a more legal status applying for a (temporary) permit of sojourn (*permesso di soggiorno*), as for instance because of an amnesty, or because an 'emergency' legislation has been enacted. Their condition is certainly a condition of marginality, and even the physical space where they tend to 'survive' is at the margin of the cities, in the countryside and/or in the urban peripheries.

These same tragic living conditions do also apply to those *profughi* and asylum-seekers that live within what might be defined as a *negated assistance*. The difference between 'physical acceptance' and 'negated assistance' is closely connected not with the actual living conditions but with the legislation. While in the former case, they are not entitled to receive any official assistance, because nothing is accorded to them by the legislation, in the latter case, they still receive nothing by the political institutions despite the fact of being *entitled* to it. Their condition is not just of a 'physical acceptance', because an *ad hoc* legislation has been enacted, but it is a legislation that does not find any *concrete* applicability in the local context.

What is important to bear in mind is that whatever mechanisms are produced they are situated within a highly dynamic process, a process that is subjected to revisions and reconstructions. And even the conditions of 'physical acceptance' and of 'negated assistance' represent generally only temporary responses, responses that tend to move

1995), p. 40.

towards other directions and these directions can be represented by more inclusive, or even more exclusive, mechanisms. And it is a highly dynamic process because the actors that do play a role in the process (political institutions, voluntary organisations, local population, mass-media networks etc.) constantly modify their responses not only as result of changed political and economic situation, but also as result of the way the image of *profughi* and refugees is reconstructed.

The absence of any homogeneous responses and the development of different mechanisms of inclusion/exclusion, within each Italian region, make any generalisations rather difficult. But, despite the necessary caution in producing any generalisation, it is, however, safe to affirm that no direct connection seems to exist (nor to have existed) between wealthier geographical areas and more generous and inclusive responses. Within the Italian context, the presence of well-established and organised charity networks remain, indeed, crucial in creating more positive responses, although, it is as well undeniable that, the more the institutions have been prepared to actively operate and participate in the reception activities, the more effective the reception policies have been.

The '*sfollati*' from Former Yugoslavia

The decision of opting for a definition such as '*the sfollati from Former Yugoslavia*' is directly connected with the terminology that has been adopted in the Italian legislation, a terminology which mirrors the inner logic of the 'reception' policy itself. Those fleeing from the conflict have not been defined as refugees but as '*sfollati*' ('evacuees'), which bears a complete legal valence. And in particular being evacuated from a place of danger, which can apply both to nationals and third-country nationals, is certainly not the same of fleeing because of a persecution. Having adopted the term '*sfollati*' instead of '*profughi*' or 'humanitarian refugees,' clearly exemplifies the unwillingness to offer any possibility of a permanent settlement in the country, but simply a temporary protection.

At the time, the government limited its action to the promulgation of various 'emergency' decrees, leaving each geographical region with the faculty of taking the adequate steps and producing eventually a reception policy. The lack of a national governmental plan has determined consequently the adoption of complete different

policies within each region, though in the vast majority of cases, no action has been, however, taken (see table).

In very general terms, since 1991, many legal arrangements²³ have been adopted, but a more coherent response arrived only in 1992 with the enactment of an *ad hoc* legislation. The main legislation, the 390/92 Act,²⁴ provided for the adoption of “extraordinary humanitarian interventions in favour of the *sfollati*” (evacuees) who fled after 30 June 1991 from the new Republics emerged from Former Yugoslavia. Such intervention was limited exclusively to the distribution, upon request, of some financial resources to be allocated to those boroughs (*Comuni*) willing to provide some assistance to the ‘*sfollati*.’ The financial support was supposed to cover all the necessary costs in order

“to face the needs of the evacuees related to reception, transportation, lodgings, board, clothing, hygienic-sanitary assistance, socio-economic assistance and any other necessity related to every-day life.”

Although the legislation clarified the kind of assistance to be provided, it did not create any obligation to the *Comuni* to produce any reception policy whatsoever. The *Comuni* were, consequently, neither obliged to take any steps nor to act within specified deadlines. They were completely free to act, or not to act, as they pleased, because the legislation decreed simply to allocate financial support in case of action.

Another, and closely connected, problematic came from the legal definition. Having defined them as ‘*sfollati*’ allowed the political authorities to leave unspecified the set of rights to be attributed to them as well as the ‘duty’ (if any) of the Italian state to provide any protection. The failure of the Italian authorities to recognise them as ‘*profughi*’ or as ‘humanitarian refugees’ determined not only lots of uncertainties on the set of rights to be recognised (apart from not being rejected at the borders) but it also left unspecified how the category of ‘*sfollati*’ was going to be identified. Until the 1993 decree-law, which guaranteed the permission to work and/or to study, the ‘*sfollati*’ were given a mere temporary permission of stay for humanitarian reason, a permission which failed to clarify what they were allowed to do apart from staying in the country

²³ See *Ibid.*, p. 123.

²⁴ Act 390 of 24th September 1992 (published in *Gazzetta Ufficiale* 26/9/1992, no. 227), which converted the decree-law 24/7/1992 no. 350, “*Interventi straordinari di carattere umanitario a favore degli sfollati delle Repubbliche sorte nei territori della ex Jugoslavia, nonché misure urgenti in materia di rapporti internazionali e di italiani all'estero.*”

and living in refugee camps or collective housing infrastructures²⁵ (some sort of hostels). It took two long years after the beginning of the conflict in the Former Yugoslavia, before the government realised that temporary measures were unacceptable and that Yugoslav *profughi* could not simply be left to themselves without offering the possibility of entering the labour market or having the access to the Italian educational system.

As result of the legal lacuna and uncertainties of the legislation, in the praxis, huge discrepancies, if not discrimination, in the application of the law occurred. The first and more visible discrimination related to the '*sfollati*' belonging to the Roma ethnic group. They were (and still are) generally considered 'Gypsy' and because 'Gypsy' in many cases, they did not received any attention, nor any economic support, because they were assumed not to 'belong' to the category of *sfollati*. Many of them, who arrived before the 30 June 1991 and had already received an order to leave the country,²⁶ could not obtain any permission of stay (art. 2, 390/92), but at the very same time they should not have been send back²⁷ in respect of the so-called principle of *non-refoulement* (i.e. principle of non-deportation). They clearly lived in a condition of 'physical acceptance', in the sense that the only legal document that could legitimise their presence in Italy, could not be issued to them and because lacking such a permission they were not entitled to any support whatsoever, nor even to any medical assistance. In the vast majority of the cases, local authorities allowed them to reside in the country, despite the lack of any valid document. Furthermore even those who were already living 'legally' in the country before the 30 June, could not receive any financial support, despite the fact that they were unable to return to their home country, as well as those that arrived in Italy after that date.²⁸ In some areas of the Italian peninsula, the legislation has been interpreted even more restrictively. In many cases, in order to receive a permission of stay, *profughi* had to prove they were '*sfollati*' providing a

²⁵ Ibid.

²⁶ In most of the cases, the order to leave the country was issued not because having committed any crime but because either possessing no permission of stay, or because living within 'abusive' camps, or because living on 'begging'.

²⁷ Zorzella N., *La Normativa in Materia di Profughi della Ex-Jugoslavia. Aspetti di Tutela delle Minoranze Etniche*, paper presented at Castel Maggiore, 11 may 1996, in *Società multi-etnica. Osservatorio Metropolitano delle Migrazioni*, no. 2 August 1996, available in www.comune.bologna.it/iperbole/immigra/index.html

²⁸ Ibid.

letter from the UNHCR as a legal evidence.²⁹ Despite the constant legal intervention of the Italian authorities to clarify the legislation, such an intervention did not help much in either eliminating the *de facto* discrepancies in the treatment of *profughi* nor speeding up the process toward the adoption of adequate receptions.

The table below offers a clear idea of the number of people, among those of Roma origin, that received assistance as compared to the effective number of those *entitled* to be assisted, according to the legislation (the 390/92). What is tragic is that out of 10,340 living in a condition of 'emergency' and out of 4,400 that were entitled to be assisted, only a small minority of 1,060 people has actually received assistance.³⁰ In the majority of the cities, the local authority has done nothing apart from some investigations in order to have a picture of the numbers of the Roma *sfollati* who were living, or better surviving, within their boroughs. Although they have not been sent back, and although the Italian institutions have not opted for mechanisms of exclusion, however, they have not been included, but *simply accepted* to reside (temporary) in the country without offering them, in the vast majority of the cases, any public support.

In general, the overall picture is certainly quite negative, but some inclusive mechanisms have been however created as in the case of the Emilia Romagna region. And the mechanisms created moved clearly toward a future integration of the *profughi*, and because of that, they somehow departed from the inner logic of the legislation itself. The definition of the legislation as *sfollati* and not as *refugees* implied *per se* that whatever policies were going to be adopted locally, they were supposed anyway to move toward a temporary protection which did not occurred, in the *practice*, in the Emilia Romagna.

The case of Emilia Romagna region

The very positive and inclusive responses that came from the Emilia Romagna region have been the result of a joint effort coming from the local political institutions, C.I.R. (Italian Refugee Council), the University of Bologna, and the voluntary networks, such as the Catholic Church, Caritas Diocesana and Opera Nomadi. And in particular, it was the new Prefect of Bologna who played the key role establishing, soon after his

²⁹ Ibid. It was only in July 1995 the government intervened and specified that the letter from the UNHCR was not necessary in order to issue the permission of stay.

appointment in 1993, the co-ordination and mobilisation of all the local energies crucial for responding more effectively to the '*profughi* crisis'. Before the appointment of the new Prefect, all the local initiatives were limited to the activities of the charity organisations which, though important, did not possess the necessary means to offer adequate support for ameliorating the conditions of the *profughi* living within the so-called *campi abusivi* (abusive camps). Their conditions, already tragic, were going soon to further deteriorate once a dramatic increase of the number rendered their living situation intolerable.

Since 1990 both single individuals and entire families of Slav origin started to establish themselves along the river Reno, creating three big (abusive) camps, which clearly resembled more three shanty-towns than three 'living' camps with no electricity and no hygienic facilities. After a Parliamentary interrogation of a local MP to the Ministry of Foreign Affairs regarding the living conditions of the *sfollati*, the local political institutions offered exclusively, and tragically, a repressive response. It consisted in a repressive response because instead of ameliorating their living conditions through the application of the 1992 legislation, the Prefect opted for eradicating the problem all at once, issuing expulsion decrees to all those living 'illegally' in the area as well as planning the demolition of the abusive camps.³¹ Even the legal situation of those arrived after 30/6/1991 was highly precarious, as no permission of stay was issued from the *Questura* (local police) as long as they lived in the abuse camps which were not accepted as a legal domicile.

A positive response of the local institution finally arrived once the new Prefect of Bologna, Enzo Mosino, was appointed in July 1993 and after having personally visited the camps decided to mobilise all the local energies and give a positive response to the tragic condition of the *profughi*. As described by the personnel of the Italian Refugee Council, who carried out the census in December 1993 as requested by the Prefect, they were surviving begging for alms and their 'living place' was constituted by a

“wreck, made of paper, clipboard, plastic, plywood, kept together with ropes or wire fasten to residues of iron or wood scaffolding; others have bought second-hand or third-hand caravans, already crumbling or have received them from other donors.”³²

³⁰ Osservatorio Comunale delle Immigrazioni – Bologna, *Assistenza ai Profughi: Quadro della Situazione Italiana. I Dati del Ministero dell' Interno*, in *Società multi-etnica*, cit.

³¹ See Galletti I., *I Profughi a Bologna e il Ruolo della Caritas Diocesana*, in *ibid.*

³² Minardi B. & Festi S., *Relazione sugli Sfolati dalla Ex-Jugoslavia sul Territorio del Comune di Bologna* in *ibid.* The C.I.R. carried out two censuses: a first one during middle December 1993 (reporting

The aim of the census was not exclusively to realise how many were actually in need of assistance, differentiating between independent adults and the so-called weaker categories such as children, women and elders, but also to acknowledge their living and health conditions. Only after the whole picture has been drawn and the urgent needs have been assessed, all the local energies were finally activated and concentrated, firstly, on those belonging to the more vulnerable groups. As documented in the census, the vast majority (97%) arrived in Bologna after the 30/6/1991 and were, therefore, *entitled* to be recognised as *'sfollati di guerra'* (war evacuees) as specified in the 390 Act. The Prefect, after two months since the census was carried out, in order to guarantee a co-ordinated and homogeneous plan within the Region, decided to establish three committees, and respectively a Reception Committee (*Commissione Accoglienza*), a Co-ordination Technical Group (*Gruppo Tecnico di Coordinamento*) and a Scientific Committee (*Comitato Scientifico*).

The Reception Committee (formed by the Prefecture and *Questura* of Bologna, the Provincial Administration (*Provincia*), Bologna City Council, C.I.R., *Opera Nomadi* and Caritas) was responsible to organise the reception policies within the Region and to establish the relevant contacts with those cities (*comuni*) that were willing to provide for accommodation and for the basic necessities for those in need, starting with the 'weaker categories'.³³ Thanks to the reception plan elaborated by the Commission, it has been possible to establish 22 reception centres within 14 *comuni* of the Province of Bologna and, from August 1995, thanks to the active participation of the *Provincia*, further reception centres within 8 *Comuni* could be created.³⁴

The Co-ordination Technical Group, formed by the representatives of the *Comuni* and of the Reception Centres, was responsible to organise and, if needed, to establish efficient networks between the reception centres and the *Comuni* as well as dealing with the economic funding and its distribution within the Region. In order to fulfil its task, it areas of concern regarded

882 individuals) and a second one at the beginning of October 1995 (reporting 250 individuals). Regarding the report of the second census see Consiglio Italiano per i Rifugiati, *Relazione sul 2° Censimento di Cittadini Provenienti dalla Ex-Jugoslavia presenti nel campo di via Agucchi del Comune di Bologna*.

³³ Volta C., *Solidarietà con i Profughi Provenienti dalle Zone di Guerra della Ex Jugoslavia: l'Attivazione dei Centri di Accoglienza*, in Società multiethnica, cit.

³⁴ Ibid.

- the analysis and evaluation of the everyday problems as well as the provision of the necessary funding;
- the analysis of the needs of *profughi* as well as the opportunities available locally in terms of accommodation facilities, professional training programmes and job possibilities;
- the analysis of the different strategies of intervention adopted within the social and educational sphere.³⁵

As clarified in the report of the Technical Group, the activities carried out by the reception centres included much more than simply providing for accommodation. They were organised in such a way to take care of the whole 'journey' of the *profughi* moving from a condition of full assistance to a situation of a complete independence. Although the route, in reality, was much more complex and less linear, four basic stages characterised the 'journey' generally undertaken by the *profughi*.³⁶ The four stages were represented respectively by the period of *reception* characterised by a condition of a complete dependence on assistance, a further stage during which they were introduced to a six month professional training to be (hopefully) followed, in the next stage, by the entrance within the labour market and, finally, a fourth stage during which *profughi* were able to economically contribute to the general expenses of the reception centres. To these four basic stages, two further situations should be generally added: what is defined a 'zero stage' (what I defined a condition of 'physical acceptance') which concern all those who have not yet been placed in a reception centre and receive, therefore, no assistance whatsoever. And a fifth stage which characterise all those who are economically as well as socially independent, and have entered the 'integration' process within the host society, though keeping the contact with the reception centres.³⁷

The Scientific Committee was, finally, the one formed by 'experts' whose task was to evaluate and stimulate the creation of the necessary conditions towards integration. The committee was formed therefore by lecturer and professors of both the University of Bologna and Milan, who formed four distinctive groups with the aim to carry out field researches in order to investigate the following areas: the problematic of accommodation, the integration within the labour market and the educational system

³⁵ Ibid.

³⁶ Gruppo Tecnico di Coordinamento, *Articolazione in Fasi dell'Inserimento dei Profughi Provenienti dalla ex-Jugoslavia*, 1995.

and, finally, the evaluation of the environmental impact.³⁸ The creation of the Scientific Committee represented clearly a visible sign of the willingness of the local institutions to create long-term inclusive mechanisms, mechanisms which become crucial for any policy of settlement. It was, in particular, a policy that aimed to offer not simply temporary assistance but, moving beyond the logic of *assistenzialismo*, aimed to respond to a logic of long-term inclusion thanks to the establishment of the necessary and basic conditions for their future social and economic integration. Thanks to the institution of the three committees, of the local institutions, and of the Prefect *in primis*, a clear willingness to economically assist the *profughi*, as well a clear intention of creating a dialogue with them via the experts, has been created. The Yugoslav *profughi* actively took part in the process of integration, a process that did not aim to simply impose decisions upon them but tried to create a framework where the direct beneficiaries had the concrete opportunity to speak up.

After the immense efforts of the local forces in producing long-term inclusive mechanisms as well as the active participation of the *profughi* within the process toward their independence, an important shift was about to occur in 1996. The issue of 'voluntary return,' which characterised in general the majority of European countries, started to dominate the political agenda as result of the end of the Bosnia-Herzegovina conflict. Despite the widespread pressure of the Italian authorities to encourage 'voluntary' returns, the 196 decree-law of April 1996, though expressed in very general terms, envisaged both the possibilities of returning as well as the possibilities of producing some forms of *temporary* integration

"in the interventions ... there are included all those acts that favour alternative forms of reception ... that allow the definitive exit of the evacuees from the governmental reception centres and the gradual closure of them, those [interventions] that can favour the *temporary* integration of the evacuees within the local realities and those aiming to encourage programmes of return, even assisted one." [art. 1(2)]³⁹ (Emphasis added)

Despite the governmental decision to provide further financial support for the *profughi*, as clarified in the decree-law, the logic of the political authorities responded, however,

³⁷ Ibid.

³⁸ Volta C., *Solidarietà*, cit. Regarding the housing condition see Tarozzi A., *Profughi della ex-Yugoslavia e Inserimento Abitativo: Appunti dall'Esperienza Bolognese*; and regarding the job opportunities see Valletti F., *La Situazione Lavorativa dei Profughi*.

³⁹ Decree-law 12 aprile 1996, n. 196 (published in *Gazzetta Ufficiale* 15/04/1996, n. 88) "*Disposizioni urgenti per la prosecuzione ed il rifinanziamento di interventi in materia sociale concernenti la protezione temporanea di profughi e l'attività della commissione di indagine sulla povertà e sull'emarginazione.*"

to a logic of 'temporary integration' and not to the creation of any policies of settlement. The task of 'encouraging' for voluntary returns was, once more, relegated to the local authorities who, as in the case of Emilia Romagna, found the task quite difficult. As explained by A. Tarozzi, a radical shift of the policies adopted until then could certainly not be adopted, and not just for humanitarian reasons, but

"because it will not be perceived by all those concerned and because it will nullify all the efforts made in order to find an accommodation, a job, to send their children to school, to create conditions of awareness and integration."⁴⁰

After having produced inclusive mechanisms toward a future integration, a dilemma clearly arose. How the personnel involved in the projects could possibly encourage *profughi* to return to their home country? And to what extent was it possible to talk of *voluntary* return? According to the results of the questionnaire proposed to the *profughi* of the Emilia Romagna, the percentage of those willing to return home was quite low, if compared with the data of the research conducted by N. Losi in the Southern region.⁴¹ As A. Tarozzi has noted, despite the necessary methodological cautions that need to be taken into consideration when comparing different data, the propensity to return has been closely connected with the reception policies adopted. While those *profughi* in Emilia-Romagna have been included within mechanisms that aimed to their future integration, those in the Southern region have been included exclusively within mechanism that, based on policy of *assistenzialismo*, aimed to produce mechanisms of temporary assistance, which precluded any possibility of settlement. As A. Tarozzi concluded, in his research, a political dilemma clearly emerged. And it is a dilemma because if the political willingness is to provide simply for temporary protection, because aiming to produce policies of 'voluntary' return once the crisis is over, at the very same time, such policies can be more easily achieved "reducing the factors that contribute to render life in Italy decent."⁴² In other words, policy of voluntary return can only be produced adopting mechanisms of non-inclusion, mechanisms that have clearly dominated the vast majority of policies of reception during the 1990s.

And this very logic of temporary protection has been clearly adopted in the regions of Southern Italy. As it came out from the research conducted by Losi, having provided accommodation in refugee camps with no project for a future settlement, once the

⁴⁰ Tarozzi A., *Ricerca sui Progetti di Rientro dei Profughi della ex-Yugoslavia*, in *Autonomie Locali e Servizi Sociali*, no. 2, vol. XX, 1997.

⁴¹ See Losi N., *I Progetti per il Futuro dei Profughi della ex-Jugoslavia* (Roma: F.lli Palombi).

conflict was 'over', the majority of the *profughi* opted for returning home. In the Southern case, mechanisms 'in-between' have been created, mechanisms of *temporary* relief and assistance, mechanisms that allowed exclusively for the creation of policies of temporary protection because responding to a logic of *assistenzialismo*, a logic able to simply envisage and project a *today* in Italy and a *tomorrow* in their country of origin.

Conclusion

It has been argued that it is crucial, when asylum policies are considered, to differentiate between the logic and the criteria, as well as to analyse to what extent the criteria utilised respond to, or depart from, the underneath logic. Within the Italian framework, such a distinction is crucial particularly as result of the total attribution of all the reception competence to the regions. And because it is the local areas that establish which mechanisms that are prepared to produce, it is important to look not merely at the legal provisions but how such provisions are implemented (or not implemented) locally. Although Italy has slowly adopted more restrictive policies, policies of exclusion are not ubiquitous and the historical tradition of solidarity, charity and reception has not been completely abandoned. And the fact that a *restrictive* asylum legislation has not yet been enacted, leaving many gaps (and therefore, much flexibility to the local networks) might represent an element for envisaging the willingness to produce further inclusive mechanisms. If the political institutions aimed to reproduce the very same repressive policy that has been adopted toward illegal entrants (though in many case would-be refugees are identify as if 'illegals'), the legislation enacted would have not been so flexible to allow the creation of inclusive mechanisms at the regional level. It might be consequently hypothesise that Italian political institutions as well as Italian civil society has not opted for mechanisms of exclusion but for mechanisms *in-between*, mechanisms that might allow to conceptualise the subjectivity of refugees not *exclusively* as "speechless emissaries", "non-citizens" and as "non-persons", but as 'potentially dialogic entities'. And they become *dialogic entities* because a dialogue can be created between an 'us' and a 'them', between the host society (us) and the refugees (them). The opposition between

⁴² Ibid.

an 'us' who offer solidarity, charity and humanitarian relief and a 'them' who receive passively whatever is offered cannot be accepted uncritically as the only possible option. Although the dividing line between 'us' and 'them' is strongly perceived, as well as the general unwillingness of political institutions to produce mechanisms of inclusion, the case of the refugees from the Former Yugoslavia clearly exemplify that refugees can be part of a dialogic process not as objects but as subjects, as agents. But in order to produce mechanisms of inclusion as well as to allow the creation of a dialogue with refugees it is crucial (as the case considered has demonstrated) that the *logic* that shapes reception policies is not inspired by a logic of charity and assistance, but by a logic that aims toward integration.

Sfollati from Former Yugoslavia of Roma origin

Prefectures where programmes have been activated	Estimated presence	Census carried out	Sfollati entitled to assistance ex law 390	Sfollati really assisted
Bologna	640	Yes (C.I.R.)	640	520
Florence	480	Yes (C.I.R.)	320	185
Pescara	30	Yes (Questura)	30	30
Turin	150	Yes (C.I.R.)	150	0
Venice	440	Yes (C.I.R.)	400	325
Subtotal	1,740		1,540	1,060
Prefectures where no programme have been activated	Estimated presence	Census carried out	Sfollati entitled to assistance ex law 390	Sfollati really assisted
Bergamo	220	No	170	0
Bolzano	160	Requested (C.I.R.)	160	0
Lecce	200	No	160	0
Milan	250	Yes (C.I.R.)	50	0
Naples	2,200	Requested (C.I.R.)	1,000	0
Padova	330	Yes (C.I.R.)	330	0
Pisa	135	No	130	0
Rome	735	Yes (C.I.R.)	730	0
Trento	60	Yes (Questura)	60	0
Verona	70	No	70	0
Subtotal	4,360		2,860	0
Prefectures affected by the phenomenon	Estimated presence	Census carried out	Sfollati entitled to assistance ex law 390	Sfollati really assisted
Asti	59	No		0
Bari	17	No		0
Brescia	800	No		0
Cagliari	540	No		0
Caserta	100	No		0
Cosenza	120	No		0
Ferrara	130	No		0
Foggia	1,200	No		0
Imperia	17	No		0
Nuoro	8	No		0
Palermo	286	No		0
Parma	50	No		0
Pesaro & Urbino	45	No		0
Potenza	65	No		0
Reggio Emilia	40	No		0
Sassari	37	No		0
Taranto	370	No		0
Treviso	350	No		0
Trieste	6	No		0
Subtotal	4,240			
TOTAL	10,340		4,400	1,060

Source: Osservatorio Comunale delle Immigrazioni – Bologna, Assistenza ai Profughi: Quadro della Situazione Italiana. I Dati del Ministero dell' Interno