

The criminalization of immigration in Italy: extent of the phenomenon and possible interpretations

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Abstract

This article investigates the relationship between immigration and crime in Italy. Although the number of crimes seems to be in constant decline, in Italy the social debate about the threat to law and order posed by immigrants still rages. While public initiatives to encourage the social integration of immigrants are practically nonexistent, policing of these groups has been redoubled leading to a rapid increase in incarceration rates. This article provides a critical interpretation of this process, seen as an instrument available to the political and financial elite in Italy to legitimize themselves in a period of crisis in the labour market and in a society where there are serious inequalities in the distribution of wealth.

Keywords: immigration, prison, inequality.

1. Foreword

In this article I will closely examine the relationship between prisons and immigration. The thesis that I argue in this essay is that the emphasis placed on the threat to law and order caused by foreigners in Italy and the subsequent treatment of them under criminal law should be interpreted critically as phenomena that highlight deep-rooted social processes linked to the conflict dynamics found in every society. To support this thesis, in para. 1.2 I will give a brief outline of the history and the principal stages of foreign immigration to Italy, with emphasis on its structural aspects. In the same paragraph I will also outline the main characteristics of the Italian laws on immigration. As we will be able to see, the relevant legislation appears to be very much orientated towards developing the system of controls on immigrants instead of providing instruments for social integration; indeed, it delegates the role as principal vehicle for integrating immigrants to the labour market. Naturally, this becomes complicated in a context – such as the situation in Italy – where the labour market is marked by large quantities of illicit practices. In para. 1.3 I will deal with the problem of crime in Italy and its relationship to immigration. I should point out right from the beginning that this relationship has already kept scholars busy for almost a century, since the sociologists and anthropologists from the Chicago School starting wondering whether the immigrants living in that city had a particular propensity for crime and if so, why. Since then, the relationship between immigration and crime has been studied in great depth, although the results of studies continue to provide results often in contrast to each other. The subject of para. 1.3 is an analysis that highlights the complexity of a phenomenon that, on the other hand, seems to be “liquidated” in political speeches and in public opinion through the use of propagandistic slogans. As we will see, the incarceration rates that affect the weakest social groups in Italy the most – as they have done in the USA for almost four decades – allow us to make a critical assessment not only of the workings of the Italian judiciary system and the dilapidated state of our prisons, but also of the social processes behind this mass incarceration of the poorest and most vulnerable groups in our society.

2. Origin, development and characteristics of immigration to Italy.

Since the 1980s, Italy has seen an increase in the flow of migrants entering the country. Even though Italy had previously been the destination of migratory flows (above all in the 60s and 70s following the political violence in Africa and Latin America), it was in the last two decades of the 20th century that its economic status and labour market conditions became attractive to an ever-growing number of foreigners. This affected the number of legal immigrants living in Italy, which grew from approximately 300,000 at the beginning of the 80s to 800,000 in 1990 (Melotti, 2004). Later, when the economic growth slowed down and Italy had to adopt stringent measures to limit public spending with a view to entering the Euro zone, the arrival of new immigrants not only failed to come to a halt, but even increased. In 2000, the number of legal immigrants had reached 1,700,000; at the end of 2003 the number was 2,600,000 and at the end of 2009 it was 3,900,000, *i.e.* 6.5% of the total population. If we add to these people all those who are legally in the country and who are waiting to be registered at the civil registry offices, we can argue that at the end of 2009, around 4,330,000 foreigners – 7.2% of the total resident population – were living in Italy. To fully comprehend the extent of the migratory phenomenon in Italy, if we take the youngest and potentially most productive segment of the population – minors and young adults up to 39 years old – the percentage of immigrants even reaches 10% of the total resident population (Caritas/Migrantes, 2009). This constant growth in the number of people entering the country led to Italy becoming one of the European countries with the greatest proportion of immigrants out of the total population in 2008. Even though Germany (8.2%) and Spain (11.7%) reached higher percentages, that year Italy overtook Great Britain in terms of the proportion of foreigners to the total resident population.

The reasons that led to this growth trend continuing despite the slow-down in the development of the economy and the labour market can be identified in the worsening of living conditions in the least economically developed societies in the world (*push factors*), but also in the fact that immigrants tend to insert themselves into the segments of the economy that Italians look down on (*pull factors*) such as domestic service, agriculture and construction: sectors that are also dominated by a high level of ‘cash in hand’ work and that make heavy use of labourers with little or no professional qualifications. Moreover, the system for legalizing immigrants implemented from the end of the 80s onwards has also undoubtedly played a fundamental role in attracting an influx of illegal immigrants. In fact, in little over two decades 6 legislative measures have been approved with the aim of legalizing the position of illegal immigrants (in 1986, 1990, 1995, 1998, 2002 and 2009) and a total of over 1,600,000 people have been legalized. According to many studies, in Italy at least half of all the foreigners legally residing in the country have obtained legalization thanks to an act of indemnity (Blangiardo and Tanturri, 2004: 47). The characteristics of Italian acts of indemnity for immigrants have made our country particularly attractive to the segment of immigrants who fail to meet the necessary requisites for becoming legal residents of other European countries; indeed, in Italy the only necessary criterion for illegal immigrants is to find themselves on Italian soil a day before an act of indemnity is published in the Official Gazette. Obviously, all of this encourages the growth of illegal immigration, which becomes an “endemic” phenomenon regulated mainly through emergency measures.

As far as the make-up of immigrants in Italy is concerned, the biggest group is of European origin (53.6%, of which half from European Union member states), followed by Africans (22.4%), Asians (15.8%) and Americans (8.1%). The individual nations with the most citizens residing in Italy are Romania (over 20% of all immigrants), Albania (around 12%), Morocco (around 11%), China and Ukraine (around 5%) (Caritas/Migrantes, 2009). Regarding the economic significance of immigration, it is estimated that the immigrant population’s contribution to the creation of national wealth accounts for around 9.5% of the total GDP, thus confirming that the economic structure of our country is by now inextricably linked to migratory dynamics. In contrast with this complex situation, the immigration governed by Italian laws seems to be distinguished by its transitory nature and its connection with economic and labour market dynamics. Moreover, in these laws there is a strong portrayal of immigration as a potential breeding ground for crime.

In particular, it was with the Law no. 189 of 2002 – known as the “Bossi-Fini” law – that the centre-right coalition in government at the time tried to provide an answer to the growing fear that Italian public opinion was showing towards immigrants. The stated aim of the law in question was to reduce the number of illegal immigrants entering the country by improving the system of controls both at points of entry and inside the country. In order to do this, they decided to even more closely bind migratory flows to labour market trends. Naturally, in a social context where illicit working conditions are rife even for natives, the mechanism introduced by the Bossi-Fini law has ended up further encouraging the black market economy instead of suppressing it. These are the reasons why the Bossi-Fini law has produced less results than were expected in terms of reducing the number of illegal immigrants. At the same time, the social alarm caused by immigration has not diminished: immigration is perceived more and more as the source of the crime that the mass media depict as rampant, and consequently of the risk to personal safety perceived by citizens. This particular feeling of constant “danger” can also be found in other major European countries, but in Italy public debate has been particularly permeated by news stories recounting heinous crimes and the role played in them by immigrants. Despite the fact that our country is afflicted with other major social problems that affect the majority of the population (for example high levels of unemployment among women and the young; low salaries and pensions; the loss of competitiveness of our production systems on the international market; the pervasiveness of the black market economy and cash-in-hand work; the existence of four different types of mafia and widespread political patronage and corruption in the civil service), both public and political debate seem to be dominated by a total obsession about the link between immigration and crime. In the next paragraph we will try to understand how strong social alarm about immigration is, what the practical consequences of this are for immigrants and to what extent this alarm is based on actual facts.

3. Social representations of immigration as a danger to law and order. Mystification or reality?

As we have already seen, the relationship between immigration and crime propounded in the news stories recounted by the mass media and in political discourse is very strong, both in Italy and in Europe. For example, according to the latest Eurobarometer report, “The majority of Italians believes that immigrants of a different ethnic background represent a threat to safety. This is the opinion of 50% of those interviewed, against 28% who do not agree” (Eurobarometer 71:40). Average figures across Europe are also similar, with 45% of those interviewed considering immigration a danger to society against 37% who do not agree with this link¹. This emphasis on the threat to public safety should not surprise us if we analyze the information relating to the messages that arrive through the major sources of information in the media. For example, according to the first report from the European Safety Observatory (2010), in Italy almost all the anxiety-generating news items presented by the two most-watched evening news programmes (on channel 1 and channel 5 at 8pm) in the first quarter of 2010 were dedicated to crime: to be precise, 72.3% of the news items on channel 5 and 82.3% of those on channel 1. If we examine the individual statistics relating to the airtime given to the most worrying news stories, we discover that in a time of deep economic crisis and widespread unemployment, our main television news programmes reserve less than 20% of the total airtime for informing public opinion about: the economic crisis (around 4%), the destruction of the environment (around 7%), acts of terrorism (around 8%), risks to citizens’ health and wellbeing (around 3%), road traffic accidents (around 2%) and, lastly, accidents at work (around 0.3% of the worrying news). Compared with the most popular television news programmes in France, Germany, Great Britain and Spain, our news programmes on average give double the airtime to news items regarding crime and delinquency, to the detriment especially of information on the economic crisis that affects most of all the weakest segments of society, and information on

¹ Immigration is also seen (and here we can find many objective factors in a time of spending cuts in the public sector) as endangering access to welfare services. Here the common opinion is clear cut: immigrants exploit public services more than they contribute to them through payment of taxes.

the threat of terrorism. At this point, however, it is time to clarify whether the situation in Italian society justifies such enormous amounts of airtime being dedicated to crime and what role immigration plays in this context.

As far as the extent of criminal activities is concerned, Italy does not appear to emerge as a particularly dangerous context when we look at official statistics; on the contrary, there is a general reduction in almost all types of crime. Regarding offences against the person, the homicide rate has been stable for several years at 1 murder for every 100,000 inhabitants, basically the same figure as all the major European countries (Ministero dell'Interno - *Ministry of Internal Affairs* - 2007: 165). However, it must be remembered that in Italy, according to some scholars, the various mafia organizations are responsible for at least 25% of all homicides (Catanzaro 2002). Without the crimes committed by these powerful groups, Italy would have one of the lowest rates of homicide of all the major industrialized countries. Italy also has very low figures compared with the European average when it comes to assault. In fact, in the late 90s in Italy there were 36.5 assaults reported per 100,000 inhabitants, against an average of 316 in the European Union as a whole (Aluzzi del Frate 2002: 288).

Concerning property crime, we again find a rather 'reassuring' situation: 300 reports per 100,000 inhabitants of motor vehicle theft and domestic burglary, in line with the major European countries and with a decreasing trend (Ministero dell'Interno, 2007: 171). However, Italy shows a discrepancy with average figures when it comes to bank robberies, with a much higher number compared with other European countries (8.7 robberies committed per 100 bank branches against a European average that tends to be around 1 robbery per 100 branches).

On the other hand, as far as corruption in politics, the civil service and local authorities is concerned – the so-called “white collar” crimes – the situation becomes very worrying for Italy. *Transparency International*, a non-governmental organization, draws up a list every three years rating the perception citizens have of corruption in public authorities using the CPI (Corruption Perception Index), which goes from 10 (complete lack of corruption) to 0 (widespread corruption). In 2010, Italy had a CPI of 3.9, against a European average of over 7 (Transparency.org, 2010) and stood in 65th place in the world ranking. The perception that Italian citizens have of living in a country tarnished by corruption is supported by the significant percentages of people interviewed who stated that, in the last 12 months, they had paid a bribe to a representative of: the law (28.8%), customs and excise (13.9%), the public real estate sector (12.9%), the health service (10%), the utilities sector – telecommunications, electricity, etc. – (8.7%), the national tax office (6.9%), the civil service (6.4%), the education system (5.6%) and the police (3.8%) (Transparency.org, 2010). This type of crime is acknowledged to be very dangerous, although it does not seem to create any particular alarm for citizens. The damage that these crimes cause is not only linked to the money taken from the pockets of citizens, but also to the fact that they weaken the bonds of reciprocal trust between citizens that are the basis of democracy. The feeling that everyone is corrupt can be easily translated into cynical attitudes towards the political classes and a general lack of interest towards one's fellow members of the national community.

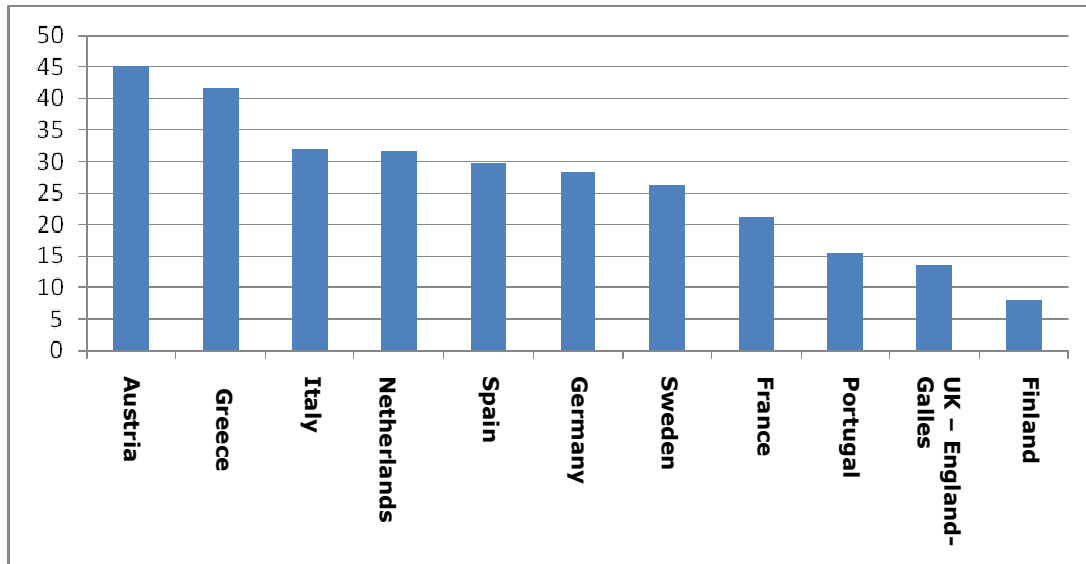
From this brief examination of the crime situation in Italy, we can see that the picture presented by the country is not particularly alarming as far as the most common crimes are concerned. The emphasis that the channels of information place on crime news does not appear to find justification given the basically limited extent of the phenomenon. I will now attempt to scientifically analyze how real the link between immigration and crime in Italy is.

The first – and scientifically incorrect – way to grasp an idea of the relationship between immigration and crime is to assess the proportion of foreigners to the total number of people sentenced to prison terms. A prison sentence is not a reliable indicator for understanding how much danger a specific group poses, as this danger is the result of a social process that is influenced by numerous intervening variables, such as: a) the social and cultural status of the accused; b) the social alarm caused by the crimes committed; c) the type of social and family networks supporting the accused; d) the degree of sophistication in understanding the law and the workings of the judicial system; e) the intensity of the controls carried out on certain groups. However, for the reasons listed above, incarceration is an excellent indicator that allows us to assess the degree of integration or criminalization of immigrants in a specific national context. As Melossi points out (2002: 267), in criminal law forms of “structural” discrimination against foreigners are always at

work, *i.e.* crimes that can only be committed by immigrants, such as violations of the laws on immigration and violations committed in order to get around these laws. Moreover, foreigners can make less use of the legal dispensations available to avoid prison terms or obtain suspended sentences than the native population, as these measures require a series of criteria that foreigners often cannot meet (a suitable residence, a job and an income, and a social network that will cooperate with the magistracy). With this inevitable form of discrimination in mind, as I will try to demonstrate later the extremely high rates of incarceration of immigrants in Italy and in many other European countries also highlight much deeper social processes of a punitive and discriminatory kind that affect people’s daily lives and are linked to national political and economic dynamics.

Before presenting the statistics on the prison population in Italy, I should point out that in Europe from the 1980s onwards, there has been a fairly general increase in incarceration rates, with immigrants and ethnic minorities – *i.e.* the poorest classes and those with the least rights – present in disproportionate measure. Indeed, while the percentage of resident immigrants tends to be around an average of 7% of the total population – as shown in Table 1 –, immigrants represent on average around 30% of the prison population in Western Europe.

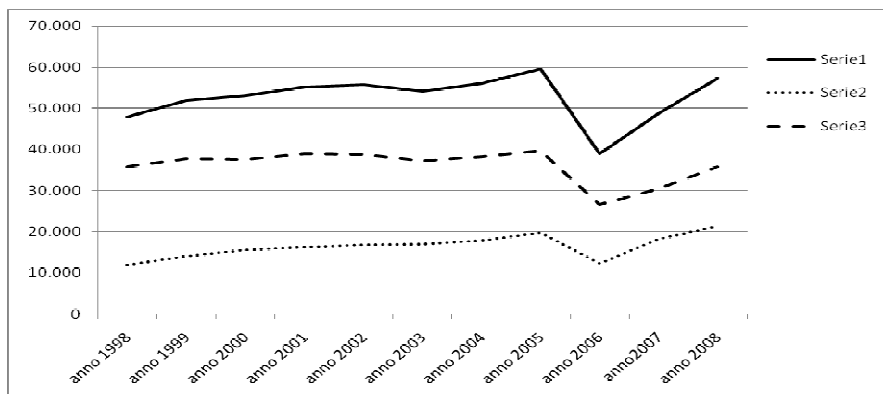
Table 1: percentage of foreigners in the prisons of Western and Mediterranean Europe halfway through 2000.



Source: Re (2008)

To more closely examine the situation in Italy, if we analyze the data provided by the Ministry of Justice we can see (in Table 2) how the prison population in Italy grew steadily over the course of a decade (Series 1), above all because of the presence of immigrants (Series 2), while the number of Italians remained basically unchanged (Series 3).

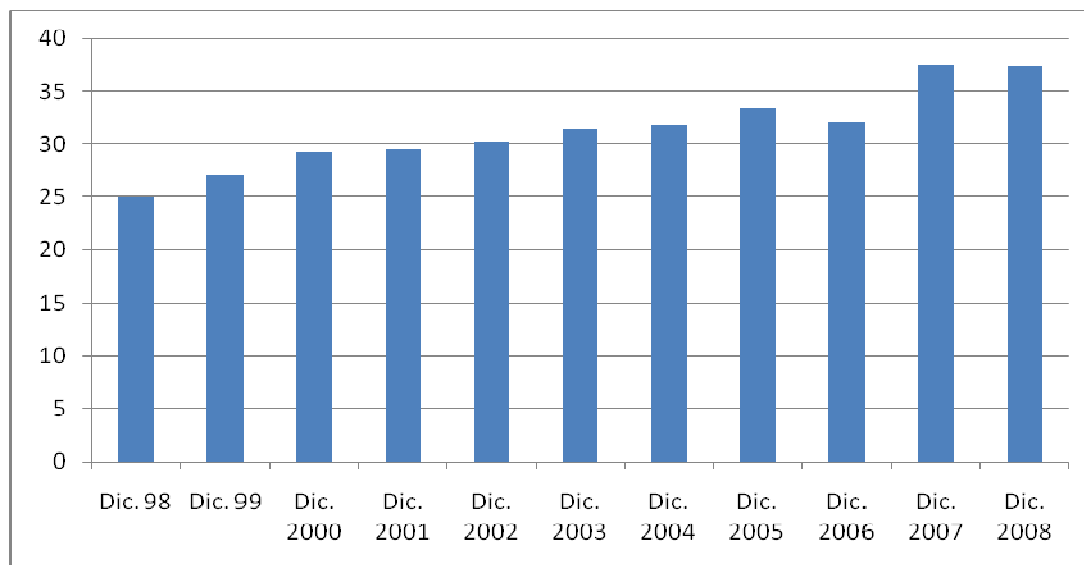
Table 2: Make-up of the Italian prison population, historic series December 1998-December 2008



Source: Ministry of Justice, Prisons Administration Department.

The percentage of immigrants in Italian prisons, therefore, constantly increased until it reached almost 40%, as shown in Table 3.

Table 3: Percentage of immigrants in Italian prisons, historic series 1998-2008



Source: Ministry of Justice, Prisons Administration Department.

The over-representation of immigrants in Italian prisons is one of the main causes – together with the criminalization of drug use and the lengthening of the time taken for cases to come to trial and reach sentencing – of the dramatic overcrowding in Italian prisons. Despite the total capacity being little over 43,000 places, there are currently almost 70,000 people behind bars; this means that Italy has an overcrowding rate in its prisons – 157.1 inmates for every 100 places available – that is around 50% higher than the European average – 95.6 inmates for every 100 places available (*Associazione Antigone*, 2010). We must not forget that one of the effects of this overcrowding of prisons, within the context of a situation marked by extremely long waits for sentencing and a general lack of occupation for inmates, is the high number of deaths among inmates. Between 2000 and 2010, 1700 people died in Italian prisons, about one third of which through suicide (*Ristretti Orizzonti*, 2011).

Precisely by bearing in mind that prison sentences are the result of the interaction of extremely complex social processes, some scholars have tried to better understand whether immigration really poses a threat to maintaining law and order in Italy. Although assessing the relationship between two social phenomena is always a complex operation, numerous studies have been carried out on the link between immigration and crime, starting with the classic studies developed by the Chicago School. As Melossi reminds us, even though this issue is the subject of lively debate in the scientific community, many scholars highlight a positive correlation between various forms of deviancy and ethnic or racial background (Melossi, 2002: 266-267); however, the groups of immigrants that show the highest levels of criminal activity often find themselves in social conditions that place them in a position of net disadvantage compared with the natives. The problem that emerges, therefore, is the difficult assessment of the influence exerted by these social marginalization variables in generating deviancy, variables that could also apply to other groups if they found themselves in the same situation. One of the most recent examinations of the relationship between immigration and crime in Italy was made by Marzio Barbagli (2008), who examined the statistics on reported crimes from 1998 to 2006. As we will later see, this interesting study also stresses the role played by social variables (status; ability to enter the labour market; levels of pay; levels of integration into the social fabric) in generating deviancy.

According to Barbagli, in the reports made to the police authorities a significant over-representation of immigrants emerges. In fact, while in 2007 immigrants accounted for around 5%

of the resident population, they accounted for between 25% and 68% of reported criminals, depending on the type of crime (Ibidem: 104). It should be noted that the vast majority of the charges were brought against illegal immigrants (80% of the foreigners reported), while legal immigrants accounted for a higher percentage of charges for sexual assault compared with Italians, although this type of crime displays the characteristic of being committed for the most part against women belonging to their own social circles. If we consider the different types of crimes, we can note how the proportion of foreigners to the total number of people reported to the police varies greatly depending on the type of crime. In 2007, 24% of the charges brought for voluntary homicides were against immigrants; for attempted murder the number rose to 32% and for theft to 47% (Ibidem: 53). If we look at the geographical distribution of reported crime – leaving out attempted murder and sexual assault – for all the other crimes it is in the central and northern regions (the richest ones economically speaking) that the majority of charges brought against immigrants are found. Nonetheless, Barbagli warns that this comparison between legal immigrants and natives should be made under equal social conditions. Since in Italy it is the labour market to be entrusted with the process of social integration while there is no minimum standard of services and aid for immigrants on a national level, it is clear that the economic conditions and standards of living of these people and their families tend to be worse than those of Italians. According to Barbagli, it is likely that with the same economic conditions and levels of family integration the gap in the propensity towards crime between legal immigrants and the native population would disappear (Ibidem: 105).

Some of the most important sociological theories on criminology hold that there is a situation of structural tension that is produced by the gap between the goals emphasized by the local social culture and the actual chances the population has of achieving those goals. The more a group finds itself impeded from accessing the positions and material assets that constitute the symbols of social success due to objective conditions, the more likely it is that that group, finding itself in a situation of anomie, will develop “forms of adaptation” that could even lead to criminal activity². Therefore, the link between immigration and crime seems to be influenced by many other social variables, for example the make-up of the population and the distribution of wealth in a particular region; the actual disposable income individuals have; growth trends in crime rates; the approach of the police forces; the amount of resources invested locally in the social integration of immigrants or the measures used to repress crime; and, last but not least, we must not forget the type of laws that regulate the phenomenon of immigration. According to some scholars, many of these variables that influence the make-up of the population reported to the police display positive correlations with the presence of immigrants, but they are not *causally* linked to immigration in itself. For example, in a well-known study on the relationship between crime and immigration promoted by the national bank of Italy, *Banca d'Italia*, the above-mentioned variables were processed using a statistical and econometric model to analyze the period 1990-2003. The study shows that, while all the different types of crime appear to have a positive correlation with the presence of foreigners on Italian soil, if we proceed to isolate the variables that act contemporaneously to increase both immigration and crime, we find that this correlation basically disappears, except for a tiny percentage of property crime (robberies). But, since this type of crime constitutes between 1.5% and 1.8% of the total number of crimes reported to the police, the overall contribution made by immigration to the increase in crime in Italy is almost negligible (Bianchi M., Buonanno P., Pinotti P.: 2008).

The fact that immigrants are over-represented in the statistics on reported crimes could be due to the influence exerted by other social processes. For example, the comparison between immigrants and natives should take into consideration the fact that the two populations have a very different composition, in terms of both gender and age. If a homogeneous comparison is made for these two variables, no differences emerge between Italians and immigrants as far as involvement in criminal activities is concerned. In any case, we can state that, while the number of foreigners on Italian soil has increased considerably, the number of crimes has remained basically stationary, or even decreased slightly. Even the number of charges brought against foreigners is very small compared

² See Merton, R.K., “Social structure and anomie” in Merton, R.K., *Social Theory and Social Structure*, in Vol. 2 of the Italian translation, ed. Il Mulino, Bologna, 2000.

with the increase in the number of foreigners residing in the various regions of the country (Caritas – Migrantes, 2010).

Naturally, it is impossible to state definitively how much basis the perceived link between immigration and crime has in reality. The statistics that we have examined here highlight that fact that numerous other social conditions affect a process that leads a significant proportion of the immigrant population along a path of crime. While the immigrant population has become vital to the construction of national wealth, in Italy the only national policy for controlling and governing the serious problems caused by immigration seems to be imprisonment. But why does this happen? It seems clear that, in social contexts where the resources to be distributed get scarcer and scarcer while the number of people in need increases, the stress on punishing the weakest groups in society (of which immigrants are one) through incarceration constitutes the instrument the political and economic elite use to try to legitimize themselves in the eyes of the population without having to overcome any questioning about their position or the deficiencies and inequalities brought about by the dominant economic models. According to many authors (among whom we find Wacquant, 2002; Melossi, 2002; Harvey, 2005 Italian translation 2007; Garland, 2001), we are currently witnessing a transformation of the capitalist system and a crisis in traditional welfare models. In this context, immigrants – or in other words the new underpaid and under-qualified proletariat – work very nicely as “scapegoats” who help to hide the injustices produced by the new economic system and by the political elite’s lack of capacity for action. In the case of Italy, although we must not forget the conflicts at times generated by the cultural differences displayed by foreigners, as I tried to show above the obsessiveness with which the most-watched information channels present stories of crimes and the “immigration threat” is accompanied by a deafening silence when it comes to the serious problems relating to both the economic and the political spheres. Here I would just like to mention that, out of the 30 OCSE nations, our country ranks 6th for the gap between rich and poor. In Italy, the richest 10% of the population owns 42% of the national wealth, compared with the OCSE average of 28% of the national wealth owned by the richest 10% of the population. Moreover, Italy has one of the lowest rates of upwards social mobility for the poorest classes, while even health, education and public construction tend to reproduce the inequalities in wealth found in the population in greater measure than the OCSE average (OECD 2008). As well as the corruption and political patronage found in bureaucracy and politics, and the interweaving of politics, the economy and organized crime, the significant inequalities among the Italian population are among the most serious problems our country has had to live with for many decades now. Within this framework, the reproduction of the dominant systems of social relations also operates through the criminalization of immigration, termed simply as the main source of danger perceived by citizens. The picture of Italy that emerges from official statistics does not portray it as a context where personal safety is especially at risk. Offences against the person and property crime are well within European averages – at times even below the average figures – despite being a country where four different types of mafia operate. Only one type of crime is shown to be particularly widespread in Italy, and that is the crime of the elite, the so-called “white collar” crime: corruption in the civil service and in the political classes.

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