MIGRANTS AND ITALIAN CITIZENSHIP

ABSTRACT

Italy does not value migrants as citizens-to-be. A migrant non-EU citizen is eligible for nationality after ten years of residence. Children born in the country to migrant parents can become Italians only when they turn 18. However, the spouses of Italians can naturalize after six months of residence. The rules are still bound to a perception of Italy as an emigration country. A change is necessary: the law has to concur with the establishment of an agreement between the country and migrants who aim to achieve full political integration.

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Political participation without citizenship

According to the Italian Constitution, migrants have opportunities to participate in public life. The law guarantees them certain political liberties, such as the right to form an association (even a political one) and the right to join political parties, and thus to participate in civil society. However, regardless of how long they have lived in Italy, migrants who are not EU citizens cannot vote or stand as candidates in local or regional elections, and local governments are not authorized to give the right to vote to migrants. Indeed, in 2004, the Municipality of Genoa approved statutory norms granting resident non-EU immigrants the right to vote in municipal elections – but in 2005, on the advice of the Council of State, the government annulled this provision.

The state does nothing to implement policies promoting political participation, such as providing information on existing opportunities or supporting organizations. The relatively low number of electoral registrations by EU citizens for local elections was partly blamed on the lack of such policies. Only a small number of cities have migrant-elected consultative bodies who discuss the policies that most affect migrants. The Prodi government has created a body for consultation but it is not active at this moment.

According to the Migrant Integration Policy Index (MIPEX)[1] published in 2007 by the British Council, Italian policies for political participation scored only "halfway to best practice" (with Sweden designated as having the best practice).

Actions have been initiated in favour of granting political rights to foreign residents at the local level. Right wing proponents, Gianfranco Fini in particular, have supported the notion of giving immigrants the right to vote in local elections, but these initiatives have not borne results. There is good reason to believe that, even if limited to the local level, political rights could foster involvement and hence integration, as shown by the experiences of other EU countries. In our opinion, however, the main road to facilitating the full participation of immigrants in public life remains access to citizenship.

Access to Italian citizenship

The Italian state does not value migrants as citizens-to-be and does not facilitate viable pathways to nationality as an indispensable means of integration. Despite decade-long initiatives to open access to citizenship (Arena, Nascimbene and Zincone 2006), Italy's policies remain unfavourable to migrants.

The 1992 *Nationality Law* (No. 91 of February 5) and related regulations introduced considerable new restrictions on foreigners applying for Italian citizenship – a migrant is only eligible for nationality after ten years of legal and uninterrupted residence (with only short periods of absence), provided he or she has no criminal record. For nationals of EU member states, the required period of residence is only four years, because EU citizens are considered foreigners, but with special cultural and political affinities. It should be remembered that Romanians have become, in just a few years, an important component of the population, both in absolute and in relative terms: in 2007, their numbers reached almost 400,000 (Blangiardo 2008). In the case of refugees and stateless persons, five years of residence are required.

While no specific financial criteria are mentioned in the Law as a condition for acquiring Italian nationality, it is in reality very difficult for migrants with low incomes to acquire citizenship, and lack of sufficient income is the most frequent cause for the rejection of an application . The procedure for citizenship application is quite lengthy and during the time it takes, migrants usually have an "irregular"

status. Indeed, it is estimated that about 70% of immigrants currently residing in Italy have been living in the country as undocumented residents – so, in actual fact, migrant non-EU citizens generally naturalize after 15 to 20 years of residence.

Authorities also consider whether or not the migrant is "integrated" and this is determined on a case-by-case evaluation, without public criteria, at the discretion of the authorities, and without a true statement of justification (Bariatti 1996). It is like a political issue. While the authorities carry out assessments of the applicants' linguistic skills and knowledge of the country's institutions, the evaluation is undertaken on a case-by-case basis or with "secret" criteria.

Although a citizenship ceremony doesn't take place, new citizens take an oath, as part of a bureaucratic requirement.

The children of newly naturalized migrants acquire Italian citizenship if they reside with their parent or parents. However, children born on Italian soil to migrant parents who both do not have Italian citizenship are only eligible to become citizens through facilitated naturalization. They can become Italian citizens by application when they turn 18, as long as they have lived in Italy without interruption with only short periods of absence. However many children of migrants are likely to have spent long periods of time with their grandparents in their family's country of origin. School attendance is unimportant. People under the age of 18 who were born in Italy to non-Italian parents have no way of acquiring Italian nationality before the age of 18. Even though these children are likely to be more integrated into Italian society than people of Italian descent living abroad, the latter are the most favoured by laws as regards the acquisition of Italian citizenship (Arena, Nascimbene and Zincone 2006). Only in situations where parents are stateless or do not transmit their own citizenship to their child, in accordance with the legislation of their country of origin, is the child automatically granted Italian citizenship, following the principle that every person has the right to citizenship.

However, according to article 5 of the 91/92 Law, the spouses of Italians can naturalize after living in Italy for just six months, or after three years of marriage without residence. This type of naturalization is granted by entitlement; it does not rely on the discretion of public authorities, who can only refuse the application if there are serious impediments such as a criminal record or evidence that the marriage is not genuine (Bariatti 1996, Arena, Nascimbene and Zincone 2006). The 1992 *Nationality Law* is very "familistic" (Zincone 2006). In fact, in the case of Italy, family ties in general – not only descent – are the main gatekeepers of nationality. In the last few years, approximately 87% of new citizenships have been granted through marriage (Arena, Nascimbene and Zincone 2006) and, logically, marriages of convenience have become widespread.

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Previously, the state suggested that migrants seeking naturalization give up their nationality of origin. These days, however, migrants and their children can choose to retain their foreign nationality. According to MIPEX, Italian acquisition of nationality policies are "unfavourable" to integration (with Austria as being the most unfavourable).

During the 2006 national elections, a *Nationality Law* reform was part of the electoral platform of the centre-left coalition, which eventually won the elections. In August 2006, the Minister of the Interior, Giuliano Amato, brought in a government bill reducing from ten to five the number of years of regular residence required for non-EU citizens, and introducing the requirement (also applicable for acquisition of citizenship by marriage) of "real linguistic and social integration" and the acquisition of citizenship at birth, or *jus soli*, linked to five years of legal residence by at least one parent. However, the centre-left coalition rested on a very narrow majority and the proposed bill was not passed, in light of the anticipated dissolution of Parliament in 2008.

In 2007, the Fondazione ISMU – Iniziative e Studi sulla Multietnicità (ISMU Foundation – Projects and Studies on Multiethnicity) presented a document containing a detailed proposal of reform.

In general, the public and the political class in Italy are unable to recognize that effective citizenship policies are central to a long-term strategy for successful integration and, consequently, there remains a lack of debate about national identity and national values as they relate to the *Nationality Law*. The attention strongly focused on policies for the control of immigration because immigration is still generally perceived as an "emergency" measure.

A necessary change

The existing regulations are based on the principle of *jus sanguinis* and remain closely tied to a perception of Italy as an emigration country (Italy embraced *jus sanguinis* in order to expand the opportunities for descendants of emigrants – the Italian "virtual people" (Pastore 2001) – to recover Italian nationality). They are also tied to the way citizenship is perceived, that is in "ethnocultural terms," where a political community stems from people united by original common bonds and traditions, which can be traced prior to the creation of a political agreement. The 91/92 Law did not take into account the fact that Italy had become a country of immigration, even though this was a well-established reality in the early 1990s when it was passed by Parliament, and by 2002, Italy still behaved as if it were a country of emigration (Zincone and Caponio 2002).

Its rules are deeply rooted in the earlier legislation and in the traditional approach to modes of acquisition of citizenship (Arena, Nascimbene and Zincone 2006).

But now, Italy is definitely a country of immigration, with more than 4 million resident foreigners (Blangiardo 2007). In this context, for several reasons, it is necessary to properly manage the foreign population. Granting citizenship under natural circumstances should contribute to giving a legitimate status to immigrants. However, based on recent experience (reference should be made to the no more than 30,000 new citizenship acquisitions in 2005), this process has proved slow and inadequate (Blangiardo 2007). Faced with sustained entry flows, there is a risk that within a few years, several million adults will be permanently residing in Italy without citizenship and will be destined to remain in this situation for a long time, with a real democratic deficit.

Furthermore, the law has to concur with the establishment of a precise "agreement" between the country and the migrants who aim for full political integration (Codini 2007, Codini and D'Odorico 2007). Therefore, it is necessary to reduce – for non-EU citizens – the number of years of regular residence required for citizenship, because citizenship must become a realistic goal.

Furthermore, the law must include an actual integration process in the granting of citizenship (even in the case of acquisition through marriage). In Italy, more than in other countries, poor knowledge of the national language is the most frequent barrier to integration – especially political integration – because without a minimum level of language proficiency, any understanding of political debate and democratic life is practically impossible. Hence, the exact level of linguistic proficiency required must be established. It is also necessary to prepare and advertise special tests aimed at ascertaining and improving immigrants' knowledge level of Italian history, current affairs, institutions and, most importantly, democracy and rule of law. Our preferred choice would be for "civic citizenship" (MacCormick 1997), a model where the political community is founded less on pre-political bonds than on an allegiance to shared principles of political justice, more specifically to a common constitutional order, *Verfassungspatriotismus* (patriotism toward the Constitution of one's country) (Habermas 1994). From this perspective, citizenship ceremonies could play an important role by giving a symbolic significance to awarding citizenship, and be a kind of rite of passage.

It is our opinion that income, on the contrary, is not important. Even beyond the human rights question (political rights are human rights), it seems strange to grant the right to vote on the basis of property ownership, thus subordinating people to a certain income level. This, in a country whose history has benefited greatly from the extension of voting rights to all classes, including some at the subsistence level, if not below it.

Finally, as to immigrant children, it is important to recognize the relevance of education as a fundamental factor of integration and to tie school attendance with early access to Italian citizenship, in an effort to improve the integration process.

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Note

[1] MIPEX is an assessment of migration policies across 25 EU member states and in Canada, Norway and Switzerland.