

## SUMMARIES

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Maria Chiara Lipari, *The Foreigner's Dignity*

The aim of this essay is to describe the unusual way in which legal provisions addressed to protect human dignity are restored and re-affirmed after they have been violated. While on the one hand rights in general become positively relevant only when they are denied, *de jure* or *de facto*, on the other hand, in the special case of human dignity, this slight logical recursiveness and impurity turns into an insoluble doubt, a true aporia. The author's view is that dignity cannot be a fully-fledged subjective right *per se*, since a clear-cut distinction between its assertion and its denial cannot be drawn in practice, such that every step in the analysis of this notion will be a further step toward extreme aporetic outcomes.

Costanza Margiotta, *Breaking Borders. The Value and Aporias of Territorial Choice*

Working against a background of moves for secession, the author considers questions pertaining to the choice of territorial loyalty and the significance of borders. The specific nature of secession resides in its constituting the crisis of all previously consolidated borders and the expression of tension in relation to them, although at the same time it does not appear to be so much a revolutionary as a conservative concept, as it does not oblige the classical concepts relative to the nature and structure of the state to be reappraised. The author then relates the commonest meaning of secession (the separation of a concentrated group of territories from a sovereign state) to individual forms of secession. In the process, she notes on the one hand how both forms of secession are still expressions of the constant (and at times dramatic) significance of borders and of their material substance and, at same time, how they both tend to deprive the fixed, stable nature of borders (the very foundation of the international community) of all their sanctity. On the other hand, she also notes that, while collective secession is relegated to the margins of rationality, as it contradicts the sovereign demarcation of spatial relations treated systematically by the international law of state borders, the individual right of secession (i.e. the right to migrate) premises the dissolution of sovereign political identities, obliging every kind of state organisation, national space and community thinking to be reappraised.

Javier de Lucas, *A Wasted Opportunity. The European Project and Citizenship For Immigrants*

This article discusses the need to overcome the derogatory focus that still pervades the EU in its approach to immigration policies, as the challenge of immigration reaches much further than the difficulty of adapting statistics and tools to suit the re-

quirements of the labour market, or the measures to be adopted to maintain the standard of public order. Migratory flows are the catalyst that obliges us to face up to the need to reappraise the roots of our responses to the democratic construct of the social and political bond: responses that now feature a high deficit of inclusion and plurality in the extent to which they institutionalise the exclusion of immigrants as actors in the public space, their conceptual impossibility of managing to become citizens. The failed EU constitutional treaty was a lost opportunity to define an inclusive, plural notion of citizenship that could have opened up the possibility of full equality of rights to immigrants, including political rights. The article argues in favour of opening access for immigrants to a multilateral form of citizenship based on the notion of residents and residence that takes shape gradually, starting after three years of stable and legal residence.

Chiara Calderoni, *The Argentineans of Italian Origin: A Case of the Administrative Misapplication of the Law?*

The legal rules regulating Italian nationality (Law N° 91 of 1992) say that the son or daughter of an Italian mother or father is automatically an Italian citizen. Nowadays, approximately one third of Argentina's population is of Italian origin: according to this principle, if certain other prerequisites are satisfied, they should be entitled to be recognised as Italian nationals.

Nevertheless, in the real world, although many Argentineans possess the necessary prerequisites, they encounter many difficulties when they attempt to have this Italian law implemented and their right of citizenship recognised.

Considering this topic in the light of socio-legal theories on the implementation of law, this paper tries to single out the bureaucratic barriers encountered by Argentineans of Italian origin in the long process of achieving recognition as Italian citizens. An attempt is also made to understand whether this can be considered to be a case of the administrative misapplication of law.

Anna Piasecka, Pietro Saitta, *The Hidden Normative Process Behind the Construction of European Migration Policies*

This paper examines how legal science can provide a new perspective and instrument of analysis for understanding how action is produced by legal rules in a given system.

By treating legal rules as a factor of explanation in perceiving political action, the authors aim to use them as a scientific perspective that will reflect whether there is a normative determination to generate harmonised legislation with regard to immigration and a multicultural society in Europe, or whether there is opposition based on various different national reasons and interests in EU member states.

Tools provided by the science of norms, as defined by the Swedish scholar H. Hydén, are applied to observe immigration policies, both at the supranational (Euro-

pean) level and the national (Italian) level. The results suggest that there is a process of disarticulation of these policies in the heterogeneous position typical of the European Union, which noticeably shows a lack of will to co-ordinate the actions of individual member states and induce them to share common visions on the question.

Edwige Rude-Antoine, *Forced Marriages in Belgium, France, Italy and Sweden: A Comparative Study of Legislation and Political Actions*.

The aim of this article is to discuss forced marriages in Belgium, France, Italy and Sweden. Admitting the difficulty of defining what constitutes a forced marriage and the psychological, medical, legal and material consequences of such unions, the analysis then looks at civil and penal law in the light of internationally recognised regulations in the field of human rights and demonstrates the importance of taking political action to prevent such forced marriages, reduce their number and provide the basis for an effective commitment.

Anna Simone, *The Frontiers of Exclusion. The Case of Italy's Temporary Holding Centres after the Bossi-Fini Act*.

Italy's temporary holding centres constitute a sort of black hole for the law. Established to detain migrants pending their expulsion from Italian and European Union soil, they shot into the news headlines and the socio-political and legal debate because, in addition to institutionalising reception, they have drained all meaning from one of the most important articles in the Italian Constitution ("The freedom of the individual is inviolable"). This is because migrants are detained for up to sixty days in these temporary holding centres by virtue of the Bossi-Fini Act solely because of having taken the step of migrating, which under normal circumstances should not constitute a crime.

There is such scanty literature about this topic that the only way to achieve an understanding of its sociological nature is to make a comparative study of other models of detention, such as the open prison, the closed prison or closed institutions. This method of analysis immediately shifts the focus to the types of society that establish forms of custody of these kinds. It therefore follows that the contemporary societies that establish temporary holding centres to contain and manage migratory flows seem to be obsessed by the risk and by an almost pathological need for security which, however, only makes itself felt with regard to certain types of social actors. These actors are stigmatised and considered to be "socially dangerous" or liable to become so merely because they have no fixed position in society and in the working world. The dynamics of contemporary societies therefore tend to construct black-and-white mindsets (citizen *v.* non-citizen, legal *v.* illegal etc.) which, as such, produce new forms of exclusion, as well as an evident "dual regime" in law. As a result, temporary holding centres become the paradigmatic space of a society shaped by a world "outside" and another world of the "internees", the latter regularly managed by a staff

dedicated to what goes by the name of “humanitarian” work: a society shaped by a real, happy and productive world and by a world populated by “discarded lives”.

Andrea Brighenti, *Beyond Integration. An Exercise in the Sociological Imagination of Migration*.

This paper aims at incorporating the concept of migration into mainstream thinking and revealing that there are better ways of understanding it: rather than a sectoral phenomenon taking place within a specific social sub-system, it should be seen as an integral part of contemporary society. Accordingly, the theoretical stake when describing, understanding and researching migration points to the creation of concepts and categories for imagining societal structure and its change as a whole.

The paper considers three conceptual shifts in the study of migration, constituting three progressive steps to overcome the curbs in the sociological capacity to imagine the phenomenon. The first one comprises overcoming the distinction between immigration and migration, entailing a passage from a nation state-based perspective of migration to a systemic (or ecological) view of migration. The nation state-based frame is already insufficient for understanding the broader socio-economic implications of migration, not to mention for intervening and regulating it. The second step is to overcome the assumption that migration is an essentially one-way process oriented towards the integration and final settlement of migrants. In this respect, integration can be regarded not so much as a ‘sociological problem’, i.e. a problem sociology faces in the description of external social phenomena, but more as a ‘problem of sociology’, i.e. a problem that calls sociology into question as a discipline, with both its conceptual apparatus and its links to the social world. Finally, the third step is to overcome a naturalist conception of territory and to undertake the consequent shift towards a relational conception of territory. This means that territory is not land, but a social process that need not be anchored in space, as it cuts across scale levels, visibility thresholds and actors themselves. A relational conception of territory ultimately enables migration to be regarded integrally as legal pluralism, radically understood, i.e. legal pluralism not simply as a coexistence of concurrent legal orders, but as a multiplicity of relational forms that shape the architecture of human interaction at each scale level.

Pietro Chiari, *Immigration from Ecuador to Genoa*.

Migration to the city of Genoa has increased noticeably in recent years, to the point that there are now some 40,000 foreigners living there (and this figure only takes legal residents into account). From a numerical point of view, the Ecuadorean community is the largest of all, constituting a very active presence in the city and displaying quite unusual characteristics with regard to methods of arrival and permanence.

The tendency for increasing proportions of women to number among Ecuadorean immigrants, their employment as domestic servants and their arrival through ethnic networks are the main subjects debated in this article. It ends with some considerations of immigration into Genoa for the future, also from a legal standpoint, though its validity is not restricted to the city itself, as immigration certainly constitutes a challenge both for the native population and for the civil authorities throughout Italy.

Alessio Lo Giudice, *Do Collective Actors Exist? Or, Do Collective Actors Have Conceptual and Practical Autonomy vis-à-vis Their Constituent Individuals?*

In order to answer this question, the article refers to Philip Pettit's theory of the collective actor. Pettit conceptually challenges the widespread eliminativism concerning the idea of the collective actor. The alternative view taken into account is that of Michael Bratman, as it shows the influence of ideological precepts when tackling the question of collective actors.

The aim of this comparison is to identify two elements in particular. The first is that, if the starting point of the elaboration coincides with an excessively individualistic precept, it will be hard to recognise the conceptual and "mental" autonomy that collective actors display in practice. The second is that, on the basis of Pettit's ideas, it might be reasonable to attribute conceptual, cultural and social personality to specific post-national collective entities. This would be a rather significant outcome in a multicultural perspective that calls for a legal form of regulation.

Lucia Bellucci, *Immigration, Excision and Law in France.*

Excision (female genital mutilation) is a very ancient practice whose exact origins are still unknown.

The aims of this essay are:

1) To explain the main reasons why some immigrants still perpetrate it on their daughters, also showing how this practice changes with the geographical area and with time;

2) To analyse the legal response to this practice in France, through a qualitative study of the judgements pronounced by the main criminal courts of the country: the Tribunal correctionnel and the Cour d'Assises.

Marco A. Quiroz Vitale, *Providing for Foreign Victims With a Non-Violent "Living Law"*.

Over the last decade or so, foreign victims of human trafficking have been on the receiving end of a variety of complex and contradictory rules and regulations at both supranational and national levels, a process that has peaked here in Italy with the re-interpretation of the crime as a case of enslavement.

The figure of the foreign victim, the passive object of heinous crimes who is often forced to submit to humiliating practices, including forced prostitution and its exploitation, is nevertheless still difficult to locate in the sociological taxonomy of the images of foreigners, just as the legal status attributed to him or her in the legal framework of the Italian state is uncertain and ambiguous.

This paper therefore aims to clarify the reasons why it is so difficult to achieve a focus on the victims of human trafficking in the context of the socio-legal reconstruction of the law of migration, through a “critique of the violence” that these victims suffer. Lastly, it aims to offer a potential interpretation for reconstructing the social relations of those foreigners (also victims) who manage to break free of the power of organised crime and of the manipulations of states, in terms of a “living law” whose salient characteristics are non-violent.

Pio Marconi, *Globalisation, Labour, Goods*.

The author analyses the problem of the free circulation of people in the system of globalisation, with a special focus on the question of labour. The system of globalisation facilitates the movement of goods, but does not always enable employed labour to settle in new markets. What vested interests and which social obstacles block the freedom of labour in the third millennium?

Valerio Pocar, *Migration and Migrants: Some Points for Consideration*

The author describes how steps taken by the institutions to tackle migratory flows are connoted by essentially repressive mindsets that seem to be in breach of fundamental human rights, following an emergency logic that, on the one hand, is in practice incapable of controlling a phenomenon that is becoming structural in the process of globalisation and, on the other, obstructs adequate theoretical elaboration of the problems and thus knowledge of the varied phenomenology of migratory flows, making it difficult to prepare suitable tools for their legal and social regulation.

*(English texts revised by Pete Kercher)*

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