Tough Talk vs Tough Action* Policymaking and information in the post-Covid era

DOI: 10.46932/sfjdv3n2-068

Received in: February 15th, 2022
Accepted in: March 1st, 2022

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ABSTRACT
Following the mid-2017 inbound migration peak of third countries’ nationals in Italy, the then Italian Minister of the Interior Marco Minniti signed a Memorandum of Understanding, with the purpose to curb illegal immigration and “liberate our lands from traffickers”. The MoU marked the first step towards a stricter set of national regulations, intensified by the succeeding Minister of Interior Matteo Salvini, and adjusted by the current Minister Luciana Lamorgese. The fight against human trafficking shape the political agenda and steer Italy’s public opinion, deepening the gap between those who support the pushback of migrants, on one side, and those who advocate compliance to regulations and treaties, not to mention the respect of human rights. Empirical evidence shows that adopted policies have at least partly achieved their objectives, discouraging irregular migration to a certain extent, but at the expense of migrants’ living conditions and their perception by national citizens. The paper provides an overview of the policy instruments deployed by the Italian Government to control the irregular migration wave, and what kind of resistance policymakers have had to confront during the implementation phase from the press and the public opinion. A section of the paper is dedicated to the importance of, and the need for, fair and truthful communication: fact-checking and debunking fake news are presented as necessary tools to inform and guide policymaking in the post-Covid era.

Keywords: migration policy, talk, action, fact-checking, pandemic.

1 FOREWORD
Migration is often a matter of concern for national governments and local administrations, since it has a major impact on both the working and private lives of national and non-national citizens. In
order to be tackled effectively, the challenges posed by migration often require the support and intervention of a diverse range of stakeholders, including private organizations and NGOs.

Being so closely connected to the daily routine of every person living within national borders, regulating migration is far from being a “modern” struggle: rules for incoming flows have been a common topic entrusted to the Ministries of Home and Foreign Affairs in most of the countries around the globe. Italy is no stranger to it and current regulations governing the migration of non-EU citizens to Italy are informed by a set of laws which combine the control of the inflow of individuals with the fight against irregular immigration.

The first section of this paper offers an overview of the legal framework developed between 1998 and 2020, with particular reference to the rules issued after the 2016 migration peak in Italy, governing inbound migration, with particular reference to the Consolidated Act and the so-called “security decrees”. The second section describes the complexity of public communication, focusing on the critical (and often criticized) role of mass and social media in the construction of public opinion around irregular migration. The third section highlights the inconsistency between the “tough talk” funnelled by some of the media and the (not so) “tough action” implemented by applicable rules and regulations, highlighting the potential of mass and social media to be used as tools to spread truthful, checked information and support integration policies.

2 REGULATIONS IN ITALY BETWEEN 1998 AND 2020

This section offers an overview of the current legal framework governing inbound migration in Italy between 1998 and 2020, with particular reference to the Consolidated Act and the so-called “security decrees”.

In Italy, access to the national territory is allowed to those who are in possession of a passport (or an equivalent document) and a visa at border crossings. The State periodically publishes the 'flow-decree', that is, a specific Decree of the President of the Council of Ministers, as provided for Italian Law no. 40/1998, setting the maximum number of foreigners who may be granted access to Italy for employment or self-employment purposes. The Law also provides for special employment conditions, such as seasonal contracts.

The State, Regions, and local Administrations, in collaboration with the trade unions and the authorities of the countries of origin, promote the integration of foreign citizens who are regularly present in Italy in the framework of programmes which:

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• Provide information on the rights and opportunities for integration or reintegration in the countries of origin
• Promote language, civic, and professional training
• Promote access to the job market.

The Territorial Councils for Immigration, established at each Italian prefecture, monitor the presence of foreigners locally and the level of social and work integration, in order to promote targeted local integration policies, in collaboration with other institutions and private social organizations. These bodies connect the central government and local bodies for all immigration-related issues, securing the consistency of policies for migration management throughout the territory.\textsuperscript{2}

A critical principle underpinning the current immigration regulations is the adoption of measures to combat irregular migratory behaviours, and in particular, on one side, pre-emptive measures aimed at preventing migration outside the official channels (irregular immigration) and, on the other side, repressive measures which punish foreigners who have entered irregularly, the violation of administrative provisions regulating legal stay and, finally, the potential criminal behaviour of immigrants.

In the development of measures and policies to respond to irregular immigration in Italy, a major role has been played by the external constraint exemplified by the adjustment of domestic laws to the Schengen requirements, which resulted in the interruption of internal border checks.

Italian Law 40/1998 was then followed by Italian Legislative Decree 286/1998\textsuperscript{3}, also known as the “Consolidated Act of Provisions concerning immigration and the condition of third country nationals”, that highlighted that the most effective instrument to combat irregular immigration is an effective border control aimed at stopping the flow of irregular immigrants and preventing their entry into the country by rejecting them, and, on the other hand, at identifying and punishing those who facilitate the irregular entry of foreigners, often for profit.

Rejection is essentially a law-enforcement operation aimed at preventing the irregular entry of immigrants, that may be of two types:

\textsuperscript{2} Italian Ministry of Home Affairs (2021), Migration Policies, https://www.interno.gov.it/it/temi/immigrazione-e-asilo/politiche-migratorie

• Immediate rejection\textsuperscript{4}, carried out directly by the border police against those who show up at border crossings without meeting the necessary requirements for entry into the national territory.

• Deferred rejection\textsuperscript{5}, carried out by order of the Chief of Police, that consists of taking the foreigner back to the border, in two different cases: firstly, if the foreigner is found missing the required documents at border crossing but was allowed to enter the territory being in need of assistance; secondly, when the foreigner managed to cross the border without the required documents and was put is detention in the border vicinity.

Rejection is not carried out in case of political asylum, recognition of refugee status, temporary protection of foreigners for humanitarian reasons\textsuperscript{6}, or against foreigners who may be subject to persecution in the State of origin\textsuperscript{7}.

The Consolidated Act entrusts the function of border control to the Ministries of Home and Foreign Affairs. It is up to the Ministers to adopt, for their respective competences, a general plan for the strengthening and improvement of border control measures\textsuperscript{8}.

Moreover, Italian Law no. 189/2002\textsuperscript{9} established the Central Directorate of Immigration and Border Police as part of the Department of Public Security of the Ministry of Home Affairs, transferring the competences carried out in the past by the Central Directorate for Road, Railway, Postal, Border and Immigration Police, that was renamed Central Directorate for Road, Railway and Communication Police and for Special Units of the State Police\textsuperscript{10} (not included as a novelty in the Consolidated Act).

In this way, the immigration control functions were acquired by a specific and dedicated Department at the Ministry of Home Affairs.

The new Directorate is entrusted not only with the functions of border police and the fight against irregular immigration, but also with the management of public security regarding the entry and stay of foreigners.

At the local level, the Consolidated Act entrusts the Prefects of the Provincial Authorities of border areas and the Prefects of the regional capital cities of coastal areas with the coordination of

\textsuperscript{5} Ibid., art. 10, par. 2
\textsuperscript{6} Ibid., art. 10, par. 4
\textsuperscript{7} Ibid., art. 19, par. 1
\textsuperscript{8} Ibid., art. 11, par. 1
\textsuperscript{10} Ibid., art. 35
border controls and maritime and land surveillance, as provided for by the Directives adopted by the Minister of Home Affairs. Moreover, Prefects supervise the implementation of immigration-specific rules and regulations.

Both the Ministries of Home and Foreign Affairs may promote agreements, covenants, and pacts with the countries of origin or transit of irregular flows aimed, in general, at collaborating in the fight against irregular migration and, moreover, aimed at speeding up the completion of investigations and the issue of documents related to the procedures provided for by the Consolidated Act (such as expulsion-related procedures). Cooperation agreements may also provide for the free transfer of equipment and means which are necessary for the prevention of irregular immigration11.

This was indeed the case for the events that followed the late-2016 immigration peak that affected Italy and called for the adoption of new and stricter measures by the then national Government.

As provided for by Italian Law Decree no. 241/200412, the Ministry of Home Affairs could establish special "units" within the territories of the countries of origin, aimed at fighting irregular flows13.

The Consolidated Act on Immigration provides for a set of rules which complement the provisions for border controls14.

Firstly, the crime of aiding and abetting irregular immigration is specifically included to punish those, such as the so-called "scafisti"/smugglers, who irregularly transport citizens coming from non-EU countries into the national territory for a profit.

This is a serious crime for which arrest in flagrante delicto and confiscation of the means of transport are mandatory.

Italian Law 189/2002 supplemented the criminal profile considering aiding and abetting irregular migration, but also any other activities facilitating the irregular transfer from Italy to another State (irregular immigration in transit) are crimes, thus implementing EU Directive 2002/9015, concerning the “definition of aiding and abetting irregular entry, transit and stay”.

In addition, Italian Law No.189/2002 reset penalties depending on aggravating factors (such as the initiation of prostitution). Such penalties would then be worsened by Italian Legislative Decree 241/2004, also providing leniency to cooperating witnesses.

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11 Ibid., art. 11, par. 4
13 Ibid., art. 11, par. 5-bis, introduced by art. 1-bis of the decree-law No. 241 of 14 September 2004
In this regard, the redefinition of the crimes of enslavement and trafficking in human beings, as provided for by Italian Law No. 228/2003\(^\text{16}\), resulted in the adjustment of some immigration-related provisions of the Italian Penal Code.

A second group of provisions regulates police operations aimed at combating irregular immigration. The Consolidated Act empowers the police forces operating in border areas and at sea to control, inspect and search means of transport during operations to combat trafficking related to irregular immigration, and, if necessary, to seize these vehicles and other assets that may be used\(^\text{17}\).

The Consolidated Act on Immigration provides for different types of expulsion of foreign citizens, which can be basically divided into two legal categories:

- Expulsion as an administrative sanction, required by the administrative authority (Minister or Prefect) in case of violation of the rules on entry and stay.
- Expulsion applied by the judge in the context of criminal proceedings (expulsion as a security measure and expulsion as a substitute or alternative sanction to a criminal sanction).

They have two different purposes: the first affects those who violate the procedures established for the entry and residence of foreigners and therefore are necessary sanctions; the second affects the criminal behaviour of foreigners, regardless of the regularity of their administrative standing. However, some forms of "judicial" expulsion can only be carried out against foreigners who are subject to administrative expulsion.

The Consolidation Act also provides for a series of circumstances for which expulsion may not be implemented\(^\text{18}\).

Expulsion and *refoulement*, are prohibited if in the State the foreigner is expected to be extradited to, he or she may be subject to persecution "due to his or her race, gender, language, nationality, religion, political opinion, personal or social conditions".

In addition, only *refoulement* but not deportation is permitted in the following cases:

- Minors, except for the right to follow the expelled parent
- Holders of residence permits, unless there are serious reasons of public order, pursuant to art. 9 of the Consolidated Act
- Person cohabiting with spouse or relatives within the fourth degree of Italian nationality
- Pregnant women or women with children under six months of age

\(^{16}\) Italian Parliament (2003), Legge 11 agosto 2003, n. 228, "Misure contro la tratta di persone". Italian OJ No. 195 of 23 August 2003

\(^{17}\) Ibid., art. 11, par 7-8

\(^{18}\) Ibid., Art. 19
A foreigner may be expelled in the above-mentioned circumstances if an administrative expulsion is implemented by the Minister of the Home Affairs for the purpose of public order.\textsuperscript{19}

Following the late-2016 inbound migration peak of non-EU nationals in Italy, the then Prime Minister Paolo Gentiloni signed a Memorandum of Understanding\textsuperscript{20} with the Libyan Government of National Accord (GNA) led by Fayez al-Sarraj, with the purpose to curb irregular immigration and “liberate our lands from traffickers”, based on the negotiations carried out by the Italian Minister of the Home Affairs Marco Minniti.

Irregular migration had been going on for several years and over 500,000 people had left their home countries in Africa and the Middle East to seek for a job or to the EU fleeing from local conflicts. Migration routes were crossing the African continent and a major role was played by traffickers residing in, or travelling to, Libya. Minniti decided to offer an agreement to Libyan tribal chiefs. The agreement provided that the Italian Government funded and strengthened the GNA that had been established after the civil war, in exchange for the GNA’s opposition to the traffickers who were trying to reach the northern shores of the Mediterranean Sea to smuggle migrants. The GNA was also requested to improve the conditions of the local refugee camps which had been compared to WWII concentration camps by several international organizations, including the UNHCR.

The Agreement and the set of rules and regulations that followed it, partly achieved the expected results.

Regardless of the clear deterioration of the migrants’ living conditions across the whole northern African continent, that is not the subject matter of this paper, the number of irregular migrants reaching the Italian shores was severely reduced, thus reaching the quantitative objectives of the Agreement and the following “security decrees”.

Minister of Home Affairs Marco Minniti was succeeded by Matteo Salvini. Being the leader of the far-right wing Lega and a champion of the “defence of the nation against the foreign invasion”\textsuperscript{21}, Salvini promoted a stricter and stricter approach to migration management focusing on the threat coming from the “invaders” and building consensus on the quantitative results secured by the “closure of ports”. Minniti’s agreement and the “security decrees” promoted by Salvini were later criticized by several political parties and part of the world’s civil society, resulting in an unprecedented polarization of the public opinion, both in Italy and abroad.

\textsuperscript{19}Italian Parliament, “Immigrazione – contrasto dell’immigrazione clandestina”, https://www.camera.it/cartellecomuni/leg14/RapportoAttivitaCommissioni/testi/01/01_cap09_sch03.htm
\textsuperscript{20} F. Gianassi (2017), Memorandum di intesa tra Italia e Libia firmato a Roma il 2 Febbraio 2017, www.osservatoriosullefonti.it
\textsuperscript{21} ANSA (2017), https://www.ansa.it/sardegna/ notizie/2017/11/26/salvini-500mila-migranti-da-espellere_c9ebdae6-e60e-4c70-b17b-9d9413afaf4b.html
3 THE NARRATIVES

Polarization has characterized the public debate on migration for several years, also due to the peculiar development of both mass and social media.

In 2017, communication was changing rapidly and demanding for “breaking news” on a daily basis, for continuing “crises”, “ultimate solutions”, “victims and wrongdoers”22.

To date, the fight against human trafficking has shaped the political agenda and steered the public opinion, deepening the gap between those who support the pushback of migrants, on one side, and those who advocate compliance to regulations and treaties, and the respect of human rights.

Much research has focused on the role of narratives in migration affairs especially in Europe, both with respect to policymaking dynamics23 and migrants’ experiences and perspectives.

By presenting the same issue in different ways, media have the power to affect people’s perceptions24 and, therefore, social reality. This is particularly true at a time when there is a wide range of sources of information and an overall promptness and thoughtlessness in sharing “second-hand” information, as the spread of fake news has shown worldwide.

Media can actually set the context where a specific issue is placed and framed. This can help attach a positive or negative connotation to the selected issue, so as to cause “changes in the standards that people use to make political evaluations”25. Social experiments have shown that, by emphasizing certain aspects rather than others, media are able to influence how people position themselves in relation to specific issues, such as terrorism or migration26.

Media analyses have fashioned several language registers to speak about migration and related interpretations of justice that only a few years ago were the prerogative of right-wing populist parties such as the Front National (National Front) in France, Lega Nord (Northern League, now renamed as Lega) in Italy or Fidesz in Hungary.

Today, the language of polarization is largely used by more moderate parties. As a result, various shades of Westphalian justice claims have legitimised restrictive migration measures and even a disregard or a violation of the rights of migrants.

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23 B. Burscher et al. (2015), Owning the Issues of Crime and Immigration: The relation between immigration and crime news and anti-immigrant voting in 11 countries”, DOI:10.1016/j.electstud.2015.03.001
24 M. García-Carmona et al (2021), Migration to the EU: a survey of firstline practitioners’ perceptions during the COVID-19 pandemic. PERCEPTIONS project (Grant Agreement No 833870)
Therefore, one of the core issues related to the public debate on migration-related information is that, due to the complexity of migration and the different interpretations of concepts such as “freedom” or “rights”, part of the debate seems to be an interpretation of partial datasets.

Public opinion does not seem to easily spot “fake” (or “partially fake”) news and the success rate of fact-checking activities is significantly reduced by the uninterrupted involvement of opinion-leaders, columnists, and pundits in both traditional and social media.

The proliferation of “partially fake” or “fake” news is likely to be connected the different perspectives offered by the media “lenses” which are hardly informed by purely objective data.

During the last two years, the information on migrant-related issues funnelled by the media has intertwined with the threats of the pandemic.

Once again\(^\text{27}\), the threat to public health has given some political leaders a powerful instrument to shift public opinion and exacerbate the debate connected to foreigners and their presence on the national territory.

Just like WWII, migrants (and in particular “unwelcome” individuals, such as irregular migrants coming from poorer countries) started being associated with fear, allegedly justified by the glooming threat of COVID-19.

In 2020, the national press announced that refugees and migrants were “immune” to coronavirus\(^\text{28}\). The message was later changed, and journalists claimed that migrants were virus carriers, following a release by the National Police Union announcing twenty-five alleged cases of Coronavirus at the Lampedusa Refugee Camp\(^\text{29}\). The piece of news was later refuted by Mayor Totò Martello, who said: "I categorically deny the presence of Covid-19 cases in Lampedusa. The swabs tested on migrants are all negative. Stop with fake news"\(^\text{30}\).

The exploitation of migrants as “news material” facilitated an othering process among the Italian (and EU) public opinion, associating fear to irregular migration. However, evidence showed that between February and June 2020, only 239 out of 59,648 migrants (0.38%) living in Italian

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27 Archiwum Panstwowe w Lublinie, Nazi Propaganda Poster “Jews Are Lice: They Cause Typhus”, https://perspectives.ushmm.org/asset/1366
Extraordinary Reception Centres, tested positive for Covid-19, accounting for 0.001% of all the Covid-19 cases reported in Italy during that period of time\textsuperscript{31}.

Refugees and irregular migrants were required to comply with strict quarantine procedures with an initial antibody test, a 14-day isolation, and a swab test at the end of the quarantine, resulting in the worsening of their living conditions, which are still critical. Among them, those who have been granted a permit of residency by local authorities, have had access to health care and social security services. However, the vast majority of refugees in Italy (around 80%) do not have a residency permit and are, therefore, ineligible for public benefits\textsuperscript{32}.

The lack of a consistent sharing of information has resulted in a widespread information chaos that has facilitated fear and made misinformation possible.

The media (in particular those affiliated with populist parties and movements) seem to have played a critical role, having exploited key communication platforms to convey this message to the broader audience, trying to win the audience’s trust over highly politicized and divisive subjects.

Similarly, the voice of those who stress the importance of taking a humanitarian stance toward refugees and migrants, has risen as well, with particular reference to individuals and organizations championing the protection of all human beings and compliance with UNHCR positions\textsuperscript{33}.

These two different approaches are the expression of clashing political stances, but also embed a specific view of global political justice.

Seeing world governance as \textit{just} when it is made up of sovereign states whose main moral imperative is to protect their citizens and respect the other’s sovereignty is quite different from viewing global justice as putting human beings at the centre of ethical considerations.

Interestingly, the “tough talk” funnelled by the media was rather disconnected from the objective content of applicable rules and regulations, which, despite being rather strict and resulting in major legislative “glitches and side effects”\textsuperscript{34}, still included effective safeguard clauses for the protection of human rights on the national territory, making expulsions extremely hard to be fully implemented if and when safety was not guaranteed for the expelled irregular migrant.

\textsuperscript{33} P. Musarò (2019), Aware Migrants: The role of information campaigns in the management of migration. SAGE, https://doi.org/10.1177/0267323119886164
\textsuperscript{34} The so-called “security decrees” promoted by Minister of Home Affairs Matteo Salvini hindered the irregular migrants’ access to national healthcare services, thus affecting national health and resulted in President of the Republic Sergio Mattarella’s statement addressed to the Italian Parliament, to reconsider the text of the decrees and adjust it to make public health services available to irregular and illegal migrants.
4 CLOSING REMARKS

Past and current experiences seem to suggest that, despite the strict policies implemented by the Italian government(s) since 1998, which achieved some major results in the fight against irregular migration, much effort and importance has been attached by policymakers and the media to the narratives connected to such policies.

The tough talk presented by the Italian Ministers of Home Affairs have often turned out to be much stricter than the actual actions put in place. Much effort has been made to build a scene where the protection from the “other” or the “public enemy” justified any action implemented or envisaged by the then Minister.

Since interdisciplinary research suggests that the future political debate will be more and more polarized and that the political talk will become tougher and tougher, much effort should be made to make sure that politicians and the press use platforms in an ethical and evidence-based way.

Traditional and, above all, social media are expected be the main source of information in the future, for both the public opinion and migrants alike.

Several works have shown how the so-called “2015-16 refugee crisis” reinforced the processes of securitisation of migration already underway in European countries and triggered collective securitisation.

In this process, the European Union adopted measures to “save Schengen” by strengthening border controls, establishing selective hotspots, and externalising migration policies and border control to third countries.

This was the case with the 2016 EU-Turkey “deal”, the 2017 Italy-Libya agreement, and the EU’s prioritising of anti-smuggling over search and rescue.

In order to turn the threats behind contemporary communication approaches and techniques into opportunities, research on social media should further focus on how to improve non-partisan fact-checking and how to build trust around media platforms, making sure they become a force for good and a safe tool to inform and guide policymaking in the post-Covid era.

36 K. Ayhan (2009), Islam, Migration and Integration: The Age of Securitization, Palgrave
41 Coordinamento Italiano NGO Internazionali (CINI) and Concord Europe (2018), Partnership or Conditionality? Monitoring the Migration Compacts and EU Trust Fund for Africa. Concord Europe Publisher
ACKNOWLEDGMENTS

The authors wish to thank: Marco Caleresu, Assistant Professor in Political Science of the University of Sassari, for his help throughout the drafting of this paper; Quirico Migheli, Full Professor of Plant Pathology of the University of Sassari, for his vision and stimulus; Valentina Cappi, post-doctoral researcher in Sociology of the University of Bologna, for her support and scientific contribution.
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