

MIGRATION AND DETENTION: DOUBLE-FACED INTERCULTURAL EXPERIENCES INSIDE A PENITENTIARY COMMUNITY

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Abstract: *In people's eyes, migration reminds of a controversial attempt to overcome cultural, economic discrepancies and conflicts between the richest societies and the poorest ones. Meanwhile, suffering and struggling migrants are stuck in the middle of nowhere, running the risk to be offsite and wrapped in a 'double absence' paradox (Sayad, 2002): the absence and distance from their homeland versus the absence from illusory shelter communities, in which they are incorporated but excluded too, at the same time. As if migration itself were considered equivalent to criminality and being immigrates were a crime in disguise, regardless of illusions, shattered expectations (Sayad, 2002, 2004), or patriotic nostalgia, social exclusion becomes dangerously the anteroom of their criminal involvement really, leading to judicial troubles, up to imprisonment as the worst end of their hopeful journeys. Just considering life conditions of foreign delinquents in Italy, they are the most marginalized repentant people among the marginal inmates themselves (Vatrella, 2015), victimized by a double exclusion (Delle Vergini, 2004). Not only in the case of adult inmates. After committing crimes, juvenile immigrates seem penalized too: being more excluded from legislative benefits as foreigners and more exposed to vulnerability as minors behind the bars (Maurizio, 2006). Therefore, this paper focuses also on how penitentiary educators are called to feed and personify the intercultural vocation of inclusion and mediation: to let every prison apply for educational city community (Federighi, 2016) from the inside out and avoid to be misconceived as a place at risk of ideological extremist radicalization, nowadays.*

Keywords: *immigrates; inmates; juvenile prison; penitentiary educator; community*

1. MIGRATION: BETWEEN PREJUDICES AND PARADOXES

Migration is one of the most controversial issues we are talking and thinking about nowadays. Why? What migration reminds of in people's eyes? It seems embodying a controversy itself, so often closed to turn into a political and ideological conflict, worldwide based upon the discrepancies and unbalances between the eastern or southern underdeveloped poorest societies where migrants and immigrates come from generally, and the western richest ones towards they are generally directed, in order to get sheltered and multiply their chances for better lives and existential conditions. In the common opinion, all the efforts made by migrants for trying to overcome troubles of any sort (poverty, illness, war, persecution, economic and cultural deprivation, etc.) are overshadowed by a lot of consistent prejudices radicalized in the western world. No exception made for Europe, nor for Italy. In fact, regardless if migrations have changed their physiognomy, trajectories, routes and reasons

specially in the last decade, the old reassuring prejudices have remained quite the same, especially towards male migrants and immigrates. As following: "they are all illegal immigrants!"; "they all come here in our country!"; "we should avoid let them build up mosques because we are not allowed to build up churches in their countries"; "they come here to steal our jobs, working in the black market"; "whoever come here, they are the worst!"; "less immigrates, less criminals"; "in fact, they are all imprisoned"; "they come here to get health assistances paid by us"; "they are privileged in the assignment list to obtain a house"; "they steal away our women"; "for our sake, there is a strong nationalist conservatory right party"; "it would be necessary school classes only for foreign immigrates"; "some would allow them to vote for politics just because they vote all for left parties"; "they don't want to be integrated"; "we have to stop their disembarkations on our lands!"; "how is possible they accept to work for few money in return?"; "we must help them in their countries!" (Civati *et al.*, 2010:1-15).

Thus, we should wonder if the integration patterns of migrants depend on the objective situation lived by the foreigners or on the social representation about them, based also on the pervasive and quite dysfunctional mass-media messages which are widespread throughout different educational agencies. It might be recognized the influence not only of the objective factors, referring to the real migrants and immigrants life conditions, but also of the subjective ones, referring to representations and imagines about migrants themselves, which are strong enough and efficient to determine conditions, characteristics and even the results of the social integration patterns (Catarci, 2015:39).

We cannot deny migrants and foreign immigrants are forced to face prejudicial and stigmatizing walls, alongside the material and spiked impassable ones, currently dividing the most welcoming societies by the most rejecting ones, the paradise they dreamed for salvation by the hell on earth recreated by blindful hyper-nationalist politics. Meanwhile, suffering and struggling migrants rest stuck in the middle of nowhere, as happened on Samo and Lesbos islands in Greece, or on the Balkans in Serbia, just to nominate the most emergency cases denounced by Medecins Sans Frontiers and other humanitarian organizations (MSF, 2017). Thus, they feel stuck in the middle of a limbo, because they are not free to go ahead and improve their lives, neither to go back still traumatized by the factors that have pushed them to migrate and abandon their native but no more hospitable lands.

Migrants run the risk to be offsite and wrapped in a 'double absence' paradox (Sayad, 1999/2002:178-185): the absence and distance from their homelands versus the absence from illusory shelter communities, in which they are only physically or temporary incorporated but excluded too, at the same time. They mourn the loss of their socio-cultural roots and the chance to be free where they feel to belong too. This is not the only risk they run to be deprived of their freedom. Migrants are particularly vulnerable to deprivation of liberty in our western societies. Two different types of deprivation are applied, in particular, for not so complementary purposes: the immigration detention, also known as administrative detention of migrants, and the imprisonment for who commit a crime.

2. THE IMMIGRATION DETENTION

In the first case, as underlined by António Guterres (2014:5), United Nation High Commissioner for Refugees,

locking up persons fleeing for their lives or at risk of persecution has become, in some countries, a routine – rather than exceptional – response of governments to managing their borders. It is particularly alarming that children and families are not exempted from this expanding practice, and some spend long periods behind barbed wire or iron bars. Oftentimes, asylum-seekers and refugees are detained in maximum security prisons, alongside very dangerous individuals, or live in substandard conditions, and are treated as though they had committed a criminal offence.

It seems as if migration itself were considered equivalent to criminality and being immigrants were a crime in disguise, regardless of illusions, shattered expectations or patriotic nostalgia. In addition, according to Sayad's perspective (2004:282),

any trial involving a delinquent immigrant puts the very process of immigration on trial, first as a form of delinquency and second as a source of delinquency,

which represents both a radical breakthrough in comparison with the approaches to immigration dominant in the 1960s and 70s, and a continuity link to Pierre Bourdieu's social critique (1979/2001:82) about the way even immigration conception is constructed by different social actors. Immigrant himself/herself should be at the same level of an agent who is socialized in a 'field', an evolving set of roles and relationships in a social domain, where various forms of 'capital' such as prestige or financial resources are at stake. As the agent accommodates to his or her roles and relationships in the context of his or her position in the field, the agent internalizes relationships and expectations for operating in that domain. But, what happens instead when there is no chance for immigrants to operate with appropriate own agency in the domain they come into?

This seems the case of current social scenario, where immigrants are stopped, blocked, restricted and confined preventively, as a result of selfish or self-centered western politics based on the fears and worries about diversity, otherness, heterogeneity represented by people so far from us. As represented by the European Union Agency for Fundamental Rights (FRA, 2015:1)

in light of the significant number of asylum seekers and migrants reaching the EU's external borders and moving onward to other EU Member States, there is danger that deprivation of liberty may be resorted to excessively and in cases where it is not necessary.

Children and youth people are included too, no matter what their frail ages and specific needs. For instance,

children in immigration detention include unaccompanied migrant children, children in families (including young infants), asylum-seeking and refugee children, and children whose parents are seeking asylum or are refugees (Farmer, 2013:14).

They have punished the same in some way, just for having passed borders and frontiers, escaping from war, violence, hunger, persecution, exploitation, and seeking for shelter, health, peace and restitution of human dignity.

Even though immigration detention has an administrative character, not meant to be punitive in either purpose or effect, it can betray its own nature and finality. This is the reason why this juridical measure is monitored also by institutions such as APT, Association for the Prevention of Torture, underling how much is, therefore,

incumbent on the State to mitigate the loss of liberty as far as possible by ensuring that the treatment and conditions are respectful of the dignity and non-criminal status of immigration detainees (APT, 2014:27),

in accordance with the most representative basic principles released about the safeguard of the human rights of migrants.

First of all, by the WGAD, Working Group on Arbitrary Detention: established by Commission on Human Rights resolution 1991/42 and entrusted with the investigation of instances of alleged arbitrary deprivation of liberty, according to the standards set forth in the Universal Declaration of Human Rights and the relevant international instruments accepted by the States concerned. Defining administrative detention

as arrest and detention of individuals by State authorities outside the criminal law context, for example for reasons of security, including terrorism, as a form of preventive detention, as well as to restrain irregular migrants (WGAD, 2010:30),

it has recommended that

if there has to be administrative detention, the principle of proportionality requires it to be the last resort. Strict legal limitations must be observed and judicial safeguards be provided for. The reasons put forward by States to justify detention, such as the necessity of identification of the migrant in an irregular situation, the risk of absconding, or facilitating the expulsion of an irregular migrant who has been served with a removal order, must be clearly defined and exhaustively enumerated in legislation (WGAD, 2010:24).

Then, François Crépeau, Special Rapporteur on the Human Rights of Migrants (2012:4) has confirmed that

in order not to violate the right to liberty and security of person and to protect against arbitrariness, detention of migrants must be prescribed by law and necessary, reasonable and proportional to the objectives to be achieved. Legitimate objectives for detention are the same for migrants as they are for anyone else: when someone presents a risk of absconding from future legal proceedings or administrative processes or when someone presents a danger to their own or public security.

It is not so easy to define if and how much right these procedures are, not only from an ethical and educational point of view, but also from the human holistic perspective. Hence, all the barriers and obstacles put between ‘they’ and ‘us’ seems to invalidate a priori *the human relationship approach* phase defined by Banks (1996:64), which aims to promote feelings of tolerance and collaboration among people belonging to different ethnic groups, cultures and religions specially inside the socio-educational contexts of the western societies, regardless of their long or short immigration tradition (Albarea & Izzo, 2002:152). Unfortunately, the current tendency seems to be still inclined to recognize migrants and immigrants more as ‘housemates’ holding limited rights than equal citizens for all legal purposes (Sirna Terranova, 2001:111).

3. THE DETENTION OF CRIME-AUTHOR IMMIGRATES: EDUCATIONAL ISSUES

The second type of liberty deprivation frequently suffered by immigrants is the detention occurring after the committing of a crime, whatever bearable or serious ones. The Italian scenario is currently connoted as follow: 19.268 adult foreign inmates, belonging to more than 140 worldwide nationalities, over a total prison population of 56.436 people (about 34%), are estimated inside 191 ordinary prisons on April 30th 2017, and 194 foreign juvenile and young adult inmates (aged 14-24 years), whom nationalities belong to at least five different continents, over a total prison population of 460 people (about 42%) are estimated inside 16 Penal Institutes for Minors (IPM) on April 15th 2017, according to the data provided respectively by the Department for the Penitentiary Administration (DAP, 2017) and the Department for the Juvenile Justice and Community (DGMC, 2017:21-23). What about

foreigners' conditions, considering two different types of imprisonment context?

Some study-case and ethnographic researches realized in Italian penitentiaries, based on the biographical narrations released by foreign adults inmates, show life conditions of foreign delinquents as they are the most marginalized repentant people among the marginal inmates themselves (Vatrella, 2015:80). Tragic voices from the inside talk about questionable surviving strategies, such as the recourse to self-defeating gestures, even extreme ones, in order to attract the attention or to be heard really, pointing out the finger towards the encountered difficulty to preserve and safeguard even the relational health (Baccaro, 2007:198-199). This is especially true as they were victimized by a double exclusion from the social and welfare protection and from the legislative benefits provided by the State for the permission of alternative or substitute not-detention measures (Delle Vergini, 2004:117).

Imprisonment is a very heavy stressful condition to face for minor and juvenile immigrant inmates too, because every prison is a kind of container of discomforts and disadvantages, wherein people's sufferings are dropped in and, very often, people run the risk to lose their psycho-physical wellness first of all (Petrucci & Verrastro, 2007:298). From bad to worse, then, for those who are vulnerable at all, because of diagnosed psychopathologies or drug addictions.

Even though the percentage of juvenile foreign immigrant inmates has floating throughout years and decades, according to criminological and socio-political assets, in Favaro's opinion (2004:14-15) we can distinguish three different paths of migrations which mark the identities, the projects and the life plans of immigrant youth people, outside and inside the prisons: a) the second-generation immigrants, in the strict sense, are the ones born in Italy or arrived in Italy in their early childhood. They are foreigners juridically until the majority, but are Italians *de facto* because they have been socialized, acculturated, linguistically educated in Italy; b) the unaccompanied minors, who have arrived in Italy on their own, alone, or by the side of self-declared relatives, or as the result of tragic traffic of minors; c) the pre-adolescents and adolescents who arrive in Italy for family reunifications.

Beyond these categorical differences, immigrant guys and girls share common characteristics anyway. Firstly, they have suffered the troubles and failures of their migratory projects, or even for the clandestine state of being, attracted by the idealized socio-economic wellness

of those countries they perceived as richer and more comfortable than theirs, escaping from lands at high risk of internal wars, dryness, endemic poverty, etc. Push factors and pull factors of their migrations towards Italy are not dissociated but seem to be combined: they leave their homelands because of lack of opportunities, to find a job, to follow the footprints of already departed friends and relatives (Moro, 2006:129-130). They look for a better future but, instead, they are left empty-handed in socio-economic precariousness, cultural deprivation, emotional deprivation, absence of parental and familiar bonds. In so many cases they live in an abandon state (e.g. unaccompanied minors) or without a fixed dwelling (e.g. nomads, Rom, Sinti, Travellers, etc.). The more vulnerable and fragile they are, the more they are exposed to the bad aims of criminal organizations which exploit juvenile laborers for their criminal intents (e.g. robbery, theft in houses, extortion, racket, etc.) and traffics of drugs or even of human beings (e.g. some cases of immigrant minors involved in the crews of boats full of illegal immigrants, crossing Mediterranean sea, are already registered unfortunately). In this way, adult criminals take advantages of penalty reduction provided for minors in the case of sentences by the Italian judiciary. Sometimes, juvenile immigrants themselves fake to be underage, autonomously or instructed this way, to use that penal law shortcut, considering how much difficult can be to verify their real age legally, if they do not own passports or other identity documents. On the other hand, sometimes they opt for adult-like behaviors and lifestyles themselves, rushing into things too big to manage well such as premature parenthood and nuptials, according to the traditions of their birth cultures. On the contrary, sometimes, their level of identification, belonging to and affinity with the birth culture can generate an interior conflict when they meet and experience the national culture of the country where they are hosted. Especially in the cases of immigrants who arrive in Italy in the adolescent age of transition, for a reunification with their parents, after spending quite a lot years in the origin country and being raised by other relatives (e.g. grandmothers, grandfathers, uncles, aunts, elder brothers or sisters, etc.).

The complexity of the family relationship network of these boys and girls must be taken into consideration by the juvenile penitentiary educators who take care of them, throughout the mandatory re-educational treatment process provided by the Italian law, according to the penitentiary rules set up to manage the life inside every single prison nationwide. For instance, we

can imagine the effort to let immigrant inmates keep in contact with their families, living so far from Italy maybe, in order to use only four telephone calls per month allowed generally (one per week, only ten-minute long for each, except for particular restrictions), especially in the case of impossibility to be visited by family members in prison. Most of all, penitentiary educators can help them to find and verify the right telephone numbers, even with the help of a socio-cultural and linguistic mediator, just before requesting the necessary judicial authorization to make the allowed calls.

Moreover, educators help them to find clothes and personal hygiene products, if they have not, to get few institutional economic subsidies if they are really poor, or to earn some money by means of public utility working activities inside the prison, which have a high enough level of symbolic and educational value also. In the same way, in order to improve the life conditions of immigrant inmates, educators direct them to attend the lessons of prison school courses: for some, it could be useful to learn better speaking and writing in Italian, for others to follow up the studies made in their origin countries, to reinforce their schooling and cultural skills, or to get a diploma in the end. Sometimes, literacy objectives can be achieved by the help of the socio-cultural and linguistic mediators requested by the educators both in the school-time and in the spare-time of the daily routine.

The same educational synergy should be experienced to explain immigrants the content of the judicial measures and documentation, if they cannot handle Italian language. Sometimes immigrant inmates seek help from penitentiary educators to understand and demand explanation for the different treatment that juvenile judiciary seems to reserve them. If we consider the DGMC's statistical records (2017:27) of the last decade about crime-author foreign minors (almost 50%, in average, in the whole juvenile prison population), Italian penal system seems to pivot around imprisonment both in the case of precautionary measures applied to foreigners, in the span of time from the crime committing to the trial, and of the application of not-detention alternative measures, during the time after the definitive sentence. Why?

In the pre-sentence case, the choice of imprisonment is obliged seemingly by the tendency of juvenile immigrant delinquents to run away and escape from educational communities or foster-houses which are less afflictive places than prisons (Belotti, 2006:94). In the post-sentence case, instead, alternative measures cannot be

granted to whoever has not a job, a home, or a solid connection to the social environment. On one hand, juvenile immigrant authors of crime lack adequate enough resources to be provided by families and public or private socio-educational territorial services; on the other hand, civil society is not always available to help them concretely, demanding to apply them a more punitive treatment than the indulgent one reserved quite only to the Italians. Therefore, immigrants are victimized at the same time by a 'double penalty' determination, for being vulnerable and socially excluded minors, and criminalized for being a foreign immigrant (Maurizio, 2006: 203-204), and by a 'double-suspect' prejudice about their cultural unfamiliarity and affinity to crime committing (Santoro, 2004: 48). As a result, the re-educational finality of the penalty provided by the Italian Constitution (article 27, clause n° 3) and the residual application of imprisonment provided by the juvenile penal procedure code are disobeyed. To make matters worse, sometimes immigrants inmates are penalized in a third way too when they are called to face a sort of 'penitentiary migration': from an IPM to one other, as a punishing lesson after their involvement in bad behaviour episodes generating disorders and relational unbalances among the inmates or after violating internal regulations. In this cases, they need to be supported as more as possible by the educators of the recipient institute, to overcome the sense of estrangement and separation by every type of referring point they had: old friendly inmates, families and relatives, sentimental relationships, familiar penitentiary operators, lawyers, the court itself where trials are still in progress. But how?

4. MAKING COMMUNITY IN PRISON

The educators are called firstly to help inmates for activating their training and resilience potential (Calaprice, 2010:297). This goal can be achieved only if inmates are allowed to try a personalization and a research of sense of all the rules which the prison context is made of and based upon. This way, inmates can shape their sense of belonging to a prison community and to a collective project organization. In fact, a penitentiary, even a juvenile one, should be considered as an educational city community (Federighi, 2016: 22) and transformed into it, recognizing its affinity with the social texture, even though the society tends to remove prison from the inside out. In agreement with Turco (2011:141-142), the acceptance of the prison condition passes through an attitude change from the inside, with the direct

participation of every single inmate to the knowledge of the inner workings which regulate the daily life inside a prison. Therefore, educators become the referents of this transformative process, and are recognized as trustworthy figures by the whole prison community, only if they are able enough to explain, share and apply clearly and equally the criteria which regulate the admission and assignment of inmates to all the activities promoting their 'human training' behind the bars (Brancucci, 2016: 38). Especially educators should be helped by all the penitentiary operators to get a chance for modeling the prison not only as a social educational community but also as a very open-minded social institution (Sartarelli, 2004:121-123), which educates to legality, equality and safety, both physical and intellectual, at least.

In fact, an excessive closing of the penitentiary context can be preparatory for any kind of violence, intolerance, extremism, fight for cultural or religious supremacy. Even for extreme radicalization to prevent, avoid and to be afraid of. At the light of recent terroristic attacks across the Old Continent, the European Commission (CE, 2016:4) urges to support a campaign for the prevention of any radicalization phenomenon leading to the violent extremism, even inside the prisons wherein can be generated causative factors, such as: strong sense of personal and cultural alienation; the perception of suffered injustices or humiliations sharpened by social marginality, xenophobia and discrimination, low level of education, few chances to find a job, criminal context rules, political factors, ideological and religious dimension, not structured family bonds, personal trauma, other psychological problems. As a consequence, inmates who keep in a state of vulnerability, frustration, self-isolation run the risk to be manipulated and recruited by other already radicalized and extremist inmates. Most of all, Italian State and public opinion are especially worried about the signals of an Islamic attempt of radicalization behind the bars. Although it is less easy to estimate the size of the problem from a statistical point of view than to generate a suspicious attitude towards a specific category of inmates, anyway Justice Ministry is carrying on specific training courses and initiatives addressed to Penitentiary Police agents, educators and operators, and even the inmates themselves, specially the adult ones, in order to monitor and circumscribe the real situation (Dazzi, 2016). However, the justice and penitentiary systems might avoid a methodological and prejudicial mistake of re-create victimization patterns. There should be paid more attention to the rights of

religious inmates generally, and the foreign inmate ones particularly, putting them at the center of penitentiary improving practices. In the name of intercultural perspective, knowledge of cultures and religions of the others help us to understand, deconstruct prejudices, distinguish the religious inmates from the radicalized ones, the radicalized inmates from the most violent radicalized ones (Gonnella, 2017). So, to rediscover the deepest meaning of a 'culture of encounter', based on the respect of the minority people's identities and the recognition of their primary needs as important rights. Maybe, hoping for a redefinition of current migration politics which are making impossible the regular immigration, generating a dangerous drift towards deviance, illegality and crime committing, even for juvenile immigrants.

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