Int. Migration & Integration (2016) 17:289–302
DOI 10.1007/s12134-014-0410-0

Mandatory Integration Measures and Differential Inclusion: The Italian Case

Paolo Cuttitta

Published online: 7 December 2014

Abstract Since 2012 migrants arriving regularly in Italy must sign an integration agreement and declare their agreement with a 'Charter of the values'. Insufficient integration (measured through a point-based system) results in deportation. While the point-based system discriminates against the poor, the less educated and qualified, the subordinate workers, and the nomads, the Charter is inspired by stereotypical and stigmatizing visions of Islam. This paper identifies the cases of discrimination, both legal (freedom of thought, presumption of innocence, principle of non-discrimination, right to an effective remedy, laicism of state) and symbolical, of the integration agreement, and analyses Italian integration measures before the background of the concept of differential inclusion: the incorporation of regular migrants requires them to pass under a symbolic and legal yoke, which increases their hierarchical differentiation. The integration agreement is also analyzed with regard to its relationship with border controls and with the concepts of 'illegalization' and 'deportability'.

Keywords Integration · Regular migration · Discrimination · Differential inclusion · Italy

Introduction

Since 2012 migrants arriving regularly in Italy must sign an integration agreement. Failure to reach a minimum level of integration, which is measured by a governmental body, results in deportation. By signing the contract, newcomers also declare their agreement with a 'Charter of the values' adopted by the Ministry of Interior.

With the adoption of such measures, Italy followed the example of other European countries. Indeed, the last two decades have witnessed a double shift in integration policies across Europe. The first shift was from policies that were primarily concerned with the structural integration of migrants (facilitating the access of immigrants to the work market as well as to education; granting immigrants comparable rights, responsibilities and opportunities to those of citizens) to policies concerned primarily with

P. Cuttitta (✉)
VU University Amsterdam, De Boelelaan 1105, 1081HV Amsterdam, Netherlands
e-mail: p.cuttitta@vu.nl

their cultural integration, whereby the idea of cultural integration presupposes not only the learning of the language and civic life of the host country, but also the acceptance of purported national and European 'values'. The second shift was from the idea that integration opportunities should be offered to migrants on a voluntary basis to the idea that integration should be an obligation.[1] Imposing integration requirements is generally justified by the need to preserve the 'homogeneity' of the 'culture' and 'values' of the hosting country. The two shifts are therefore closely linked with one another.[2]

Three categories of mandatory integration measures can be distinguished: a) Pre-entry measures aimed at preventively selecting whom to allow entry on the grounds of what is thought to be their ability to integrate[3]; b) Post-entry measures aimed at verifying the integration process of migrants holding a short-term resident status[4] and c) Measures making naturalization dependent on the degree of integration reached by the applicant.[5]

Italy, while adopting neither pre-entry tests nor integration tests for naturalization, requires short-term residents to sign an integration agreement and reach a certain level of integration within a period of 2 to 3 years. The Italian regulation is possibly the strictest in Europe, as insufficient integration is sanctioned with expulsion (while it is sanctioned with fines or with the limitation of welfare benefits in other countries).[6] Furthermore, the Italian integration agreement is discriminatory and likely unconstitutional from many points of view. Finally, the Italian case is interesting because foreigners applying for resident status must declare that they agree with a Charter of the values drafted by the Italian Ministry of Interior. While similar documents also exist in other countries (Ferrari 2008), the Italian Charter of the values is exemplary, if only for the way it constructs national 'tradition' on religious grounds and as antithetical to Islam (Cuttitta 2013; Russo Spena and Carbone 2014).

[1] The Netherlands was the forerunner for both turns (Joppke 2007; Vasta 2007; Schinkel 2013). Other countries followed the Dutch example, while the EU adopted three directives (the long-term residents directive, the family reunification directive, and the blue card directive) that expressly allow member states to require certain categories of third-country nationals to comply with integration measures and conditions (De Vries 2012).

[2] The shift towards cultural integration through mandatory civic integration programmes is often seen as a move from multiculturalist towards assimilationist policies (Brubaker 2001; Alexander 2013). However, it is also argued that the opposition between multiculturalism and assimilationism, or between integration and assimilation (Schneider and Crul 2010) is to be found more in political discourses than in actual practices, which in fact remain largely multiculturalist (Banting and Kymlicka 2013). In the end, if it is true that multiculturalism and assimilationism are but two sides of the same coin, as no multiculturalism exists without a certain amount of assimilationism (Hage 2011), it seems that the coin of integration policies tends to fall more and more often on the assimilationist side.

[3] Pre-entry measures (including language and civic culture tests for categories such as family migrants, highly skilled migrants and religious ministers) have been adopted by Austria, Germany, the Netherlands and UK. France and Denmark have adopted milder versions that don't completely preclude entry (Groenendijk 2011).

[4] Newcomers and/or immigrants applying for long-term resident status are required to attend courses and/or pass tests on language and/or civic culture in Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal and UK (ICMPD 2005; Carrera 2006; Jacobs and Rea 2007; Joppke 2007).

[5] Migrants applying for citizenship status must pass tests and/or attend courses of language and/or civic culture in Estonia, France, Germany, Hungary, Latvia, Luxembourg, Malta, the Netherlands, Portugal, the Slovak Republic and UK (European Migration Network 2012).

[6] Austria also sanctions insufficient integration with deportation, but the deadline for reaching the requested degree of integration is longer (3 to 5 years).

This article provides an in-depth analysis of the Italian integration agreement. "The Italian Integration Agreement: An Overview" provides an overview of the relevant provisions; "The Point-Based System" and "The Charter of the Values" focus on the two pillars of the integration agreement. The "Conclusions" offer a critical review of the Italian integration agreement before the background of the concept of differential inclusion (Mezzadra and Neilson 2013). Indeed, mandatory integration measures are revelatory of policies that aim not only at masking "exclusionary moves" through "liberal rhetoric" (Triadafilopoulos 2011, 873) but also at providing the ground for a hierarchized differential inclusion of migrants through their symbolic and legal discrimination. The integration agreement is also analyzed with regard to its relationship with border controls and with the concepts of 'illegalization' and 'deportability' (De Genova 2002).

The Italian Integration Agreement: An Overview

The integration agreement was introduced into Italian legislation upon the initiative of Roberto Maroni, Ministry of Interior of a centre-right government, in 2009.[7] However, it was actually implemented only on 10 March 2012, after the executive regulation came into force.[8] The 'Charter of the values of citizenship and integration', which is a crucial component of the integration agreement, was instead adopted by Giuliano Amato, Ministry of Interior of the previous centre-left government, with a view to incorporating it in naturalization procedures, as early as 2007.[9]

The provisions require newcomers applying for a permit of stay (which they can do within 8 days after legal entry) to sign "an integration agreement, based on credits, committing them to fulfil specific integration objectives".[10] More specifically, the executive regulation requires migrants to commit themselves to reach a certain level of knowledge of both the Italian language (level A2) and the Italian civic culture and life,[11] to guarantee the fulfilment of school obligation of their minor children, and to satisfy tax obligations. Furthermore, they must recognize the principles upon which Italian society and law are based, by declaring that they agree with the Charter of the values.[12]

In exchange for this, the state "ensures the enjoyment of fundamental rights and equal social status of people regardless of gender, race, language, religion, political orientation and personal and social status, preventing any form of racism and discrimination".[13] Furthermore, it ensures access to the health and education systems,

[7] Article 1, paragraph 25, law 94 of 15 July 2009 ("Disposizioni in materia di sicurezza pubblica"). Since then, this specific provision constitutes article 4-bis of the "Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero" (Legislative decree 286 of 25 July 1998, as amended), hereafter *Testo unico*.

[8] Decree of the President of the Republic 179 of 14 September 2011 ("Regolamento concernente la disciplina dell'accordo di integrazione tra lo straniero e lo stato").

[9] Decree of the Ministry of Interior of 23 April 2007 ("Carta dei valori della cittadinanza e dell'integrazione").

[10] Article 4-bis, paragraph 2, of the *Testo unico*.

[11] In Italian: "*della cultura civica e della vita civile in Italia*" (Annex A, article 4, of the regulation).

[12] Annex A, article 1, of the regulation.

[13] Annex A, article 2, of the regulation.

guarantees the respect of the rules protecting subordinate labour, and commits itself to facilitate "the process leading to the full integration of the person concerned".[14]

While state obligations are, in fact, nothing more than what is already foreseen by international conventions and national law, the obligations of migrants (and the grave consequences of not meeting them) are a novelty. Indeed, signing the integration agreement is not only a "necessary condition for the issue of the permit of stay".[15] Once the agreement has been signed, the permit is also made dependent on the number of credits gained or lost within the point-based system, and "losing all credits results in the withdrawal of the permit of stay and in the expulsion of the foreigner".[16]

Another critical point of the Italian law is the discretionary power granted to the state authorities. While the law states that the holders of specific categories of residency permits (such as long term residency, family reunion, asylum or other forms of humanitarian protection) are exempted from expulsion,[17] the regulation states that not fulfilling the agreement will have consequences for such persons "solely for the purpose of future discretionary decisions on migration".[18] Such vague formulation opens the way for arbitrary decisions from the administration.

More generally, the law introducing the integration agreement is likely unconstitutional because of the excessive power granted to the executive (Scevi 2010, 104–106; Zorzella 2011). Indeed, article 10 of the Italian constitution states that "the legal status of foreigners is regulated by law". Therefore, only the legislator can define and modify the legal status of immigrants. Instead, law provisions regarding the integration agreement leave it to an administrative regulation, which is not subject to parliamentary scrutiny, to set the rules on crucial details like the ways to gain and lose credits, which can affect the right to lawfully reside in the territory, resulting in deportation.

In the following two sections, I will analyze the two pillars on which the integration agreement is based ("The Point-Based System" and "The Charter of the Values"), and I will point out the cases of legal and symbolical discrimination characterizing the Italian integration agreement.

The Point-Based System

The governmental regulation specifies that the integration agreement has a duration of 2 years, that can be extended for a further year. At the end of the 2-year period, the degree of integration is assessed by the relevant *prefettura* (local representative of the national government). The result can be as follows: a) the fulfilment of the agreement, if the final number of credits is 30 or more, provided that a certain level in both Italian language and Italian civic culture and life has been reached; b) the extension of the agreement for a further year, if the final number of credits is from 1 to 29, or if the minimum standard in both Italian language and Italian civic culture has not been reached in spite of the number of credits being 30 or more; c) the expulsion of the foreigner, if the final number of credits is 0 or less, or if the foreigner—irrespective of

[14] *Ibidem*.
[15] Article 4-bis, paragraph 2, of the *Testo unico*.
[16] *Ibidem*.
[17] *Ibidem*.
[18] Annex A, article 5, of the regulation.

the final number of credits—has not guaranteed the fulfilment of school obligation of their minor children.

In any case, regardless of the credits, two conditions must be met for the integration agreement to be fulfilled: school obligation of minor children must be guaranteed, and a certain level of Italian language and Italian civic culture and life must be reached. The integration agreement is fulfilled if these two conditions are met and the final number of credits is at least 30. Once the integration agreement is accomplished, no more integration requirements will be put upon the foreigner.

The regulation explains how credits can be gained and lost. Upon the signature of the agreement, every foreigner is awarded 16 credits, corresponding to level A1 of Italian language (10 credits) and to the minimum level of Italian civic culture and life (6 credits). The credits can be increased or curtailed after the final assessment. Besides language and culture, other criteria for gaining and losing credits are set in annexes B and C of the regulation.

How to Lose Credits

According to annex C of the regulation, credits can be curtailed if the migrant commits a crime, an administrative or fiscal offence, or is detained. Administrative and fiscal offences can cost from 2 credits (for fines of at least 10,000 Euro) up to 8 credits (for fines of 100,000 Euro or more). In all cases, credits can be curtailed only if the court sanctions have been ruled definitively. Surprisingly, instead, provisional detention measures can result in the loss of 6 to 10 credits, and a conviction for a criminal charge in the first-instance court ruling is enough for curtailing from 2 credits (for a fine of at least 10,000 Euro) up to 25 credits (for a 3-year or longer prison sentence). Thus, migrants run the risk of being expelled even if they are already very close to the 30-credit-threshold, if only they happen to be convicted in the first instance on a criminal charge for which they will be proved not guilty by following court decisions. This is a violation of two basic law principles: the presumption of innocence and the right to an effective remedy.

How to Gain Credits

It is important to analyze how credits can be gained, not only because every credit gained contributes to reaching the 30-credit threshold and thus fulfil the integration agreement, but also because every credit gained makes up for every credit lost. The more additional credits one gains, the more crimes or administrative offences one can commit without running the risk of being expelled.

There are many possibilities to gain credits in addition to learning the Italian language and the Italian civic culture and life. According to annex B of the regulation, credits can be gained by attending school, university or professional training courses, by obtaining degrees, by being granted awards of civil merit, by carrying out certain professional or voluntary work activities, by choosing a family doctor, and by buying or renting a flat.

From 4 to 30 credits are awarded, for example, for successfully attending secondary school or professional training courses, while university and higher education courses are worth 30 to 50 credits. School and university degrees are rewarded with 35 (professional qualification) to 64 (PhD title) credits.

The legitimacy of such rules is questionable. Indeed, the beneficiaries are only those who have already some prerequisites (such as the relevant school degree for going to university, or a university degree for earning a PhD title), or those who have enough time and money to attend courses. Therefore, such rules discriminate individuals on the ground of their personal conditions while granting preferential treatment to others.

Even more striking is the fact that four additional credits can be granted to those who carry out "entrepreneurial activities", and 54 credits can be granted to university lecturers. The simple fact of carrying out a particular work activity is considered as a sufficient reason for a preferential treatment. Subordinate workers are not granted any credits for their work activities instead: arguably, they are considered per se as less integrated. It must be stressed that subordinate workers have received their entry visa for work purposes within the yearly quota system exactly because they are subordinate workers. It is therefore ironic that they can also be expelled for exactly the same reason.

Finally, 6 credits are granted to those who can prove that they have purchased or rent a flat for them to live in. This clearly discriminates against already vulnerable groups such as homeless or nomads,[19] which both are conditions allowed for by law.

In sum, the rich, well educated and settled (especially entrepreneurs and university professors) have a double advantage. Not only can they reach more easily and quickly the 30-credit-threshold (although it is not clear what their conditions have to do with the concept of integration), but they can also commit crimes without running the risk of being expelled (except in particularly grave cases). On the contrary, the poor, the subordinate workers, the nomads and the less educated must be aware that even an unlawful detention, even a conviction at first instance for a crime they have not committed, could cost them the permit of stay and result in their deportation.

The Charter of the Values

By signing the integration agreement, migrants also declare that they agree with the *Carta dei valori della cittadinanza e dell'integrazione* ('Charter of the Values of Citizenship and Integration') and commit themselves to respect the principles stated therein.[20] This document was drafted by a committee (including five academics, a prefect and a vice-prefect),[21] which was appointed by the Ministry of Interior in 2007. While it was never used for the naturalization procedure of would-be citizens, which was the reason why it had been created, the Charter ended up becoming part of the integration agreement.[22]

The charter begins with a preamble, followed by six sections[23] divided into thirty-one paragraphs. According to the decree adopting it, the charter outlines "the principles

[19] Ironically, living in a luxury yacht would be a disadvantage as well.

[20] Annex A, article 1, of the regulation.

[21] Roberta Aluffi Beck Peccoz (Università di Torino), Carlo Cardia (Università Roma Tre), Khaled Fouad Allam (Università di Trieste), Adnane Mokrani (Università Gregoriana, Rome), Francesco Zannini (Pontificio Istituto di studi arabi ed islamistica, Rome), Franco Testa (prefect) and Maria Patrizia Paba (vice-prefect).

[22] Before the provisions regarding the integration agreement came into force, the charter had been used only once, when seven Islamic organizations declared to accept it as the basis upon which to build up relationships with the state (Colaianni 2009).

[23] Section titles include "Human dignity, rights and duties", "Social rights - Work and health", "Social rights – Schooling, education, information", "Family – The new generations", "Secularism and religious freedom", "Italy's international commitment".

inspiring Italian law and society in the reception and regulation of the migratory phenomenon, within a framework of cultural and religious pluralism". Furthermore, the Ministry of Interior should steer "relationships with immigrant and religious communities towards the common respect of the principles of the Charter, with a view to integration and social cohesion". While raising doubts about the legal validity of the Charter, Colaianni (2007) suggests that the document might be compared, if at all, to service charters adopted by public administration bodies.

What I want to point out first is that the Charter, despite all efforts to place it in a context of "cultural and religious pluralism", is not culturally and religiously neutral, nor is it equally addressed to all "immigrant and religious communities". In 2007, when it was adopted, Minister Amato himself declared that the Charter was particularly inspired by the awareness that there are "specific problems for Muslims". Islam, indeed, is considered as a problem per se, and Muslims are regarded from a point of view which is affected by stigmatizing stereotypes linking Islam with the oppression of women and, more generally, with backwardness: according to Amato, "the question of women is the most crucial issue when we are confronted with the entry of communities arriving from *backward* countries" (my italics) (Camera dei Deputati 2006). Significantly, the chair of the committee that drafted the Charter speaks of "cultures and religions that have not experienced the Western evolution", and of "traditions denying equality between men and women" (Cardia 2008, 2). Indeed, such 'cultures', religions and 'traditions' are depicted as antithetical to the Western/Christian/Italian ones, thus obliterating the 'traditional' subjugation of women in Western, Christian and Italian society.[24]

Secondly, the Charter reproduces neither the entire constitution, nor a coherent selection of most important constitutional norms (e.g. those contained in the first two sections, outlining the fundamental principles and stating the rights and the obligations of citizens). Far from doing this, it mixes up a number of selected constitutional norms with a number of selected ordinary norms. While some important constitutional norms are not mentioned at all, the selection of both constitutional and ordinary norms is fully arbitrary. Besides being arbitrarily selected, all norms (both the constitutional and the ordinary) are also arbitrarily reinterpreted and reformulated according to the opinions of the committee.

Finally, the preamble of the Charter goes back in time until classical antiquity to make a historical reconstruction of the origins of Italy's political, legal and religious values.

Such arbitrary selection of principles and laws, such arbitrary interpretation of legal norms, religious traditions and history, is what migrants applying for a residency permit must declare they agree with.

[24] Besides other more common discriminations (e.g. regarding the right to sell or buy real estate property, or the right to vote) characterizing Western, Christian and Italian 'tradition', a particular one deserves to be mentioned: until 1981 the Italian penal code recognized so called honour killings. If a woman was caught by her husband, brother or father with a man other than her legitimate spouse, her husband, brother or father could kill the woman and/or the man, and he would be given only a milder sentence (from 3 to 7 years prison). In spite of this, discourses on integration often present honour killings as peculiar to the Islamic tradition.

Critical Passages from the Charter

Here, I will analyze some passages from paragraph 17, paragraph 26 and the preamble.

Paragraph 17 (in the section "Family – The new generations") states that "Italy forbids polygamy, it being adverse to women's rights. This is also in line with the principles affirmed by European institutions". This statement presents us with several problems.

First, the experts who drafted the document probably mistake polygamy for polygyny, or possibly don't know the difference between the two concepts. In fact, Italian law forbids polygamy, not just polygyny.[25] Secondly, Italian law doesn't explain why polygamy is forbidden, but the fact that polygamy has always been forbidden by Italian law since Italy's unification in 1861, even when grave discriminations against women existed (in the Italian legal system as well as in Italian society in general), demonstrates that the reason for forbidding polygamy was never the protection of women's rights. Third, polygamy is not addressed by any of the European human rights charters, which only affirm the principle of equal rights of spouses. The authors fail to specify which "European institutions" have set what principles that are at odds with polygamy.

Such interpretation of the prohibition of polygamy suggests that the authors had Islam in mind when drafting the document: indeed, Islam famously allows for polygyny,[26] which is often used to postulate an equation between Islam and backwardness and discrimination against women.

Concerns about Muslim habits, emerging from the reference to polygamy, reappear in paragraph 26, in the section dedicated to "Secularism and religious freedom". Here, after writing that "there are no restrictions on people's attire, as long as it is chosen freely and it is not detrimental to his/her dignity", the authors declare that "[i]t is not accepted to cover the face because this impedes the person's recognition and hinders establishing relations with the others". Famously, the use of veil, burqa and niqab is often linked with Islam, the submission of women, the abuse of women's rights, and backwardness. Moreover, placing the issue of clothing in the section devoted to "Secularism and religious freedom" rather than in the section "Human dignity, rights and duties" further demonstrates that the way immigrants dress is being linked with their religious background. However, the formulation used in the Charter is ambiguous. In fact, Italian law does not prohibit wearing clothes that cover the face if there are reasonable reasons (including religious ones) for wearing them. Therefore, while the authors can't say that such clothes "are forbidden", they say that they are "not accepted" (without specifying by whom!), in order to suggest that they are forbidden without literally saying it.

Furthermore, a fictitious reason for forbidding face-covering clothes is invented: they are accused to hamper social interaction. In fact, the only existing Italian law on this issue forbids the use in public spaces of helmets and any other items covering the face in such a way as to prevent the identification of people (unless there are reasonable reasons and provided that the person wearing such items accepts to be identified upon the request of authorities). The law doesn't mention any other reason besides identification.[27]

[25] Article 556 of the *codice penale*.

[26] But not for polyandry, which is still practiced in other contexts instead.

[27] The relevant provision (article 5, law 152 of 22 May 1975, as amended by article 2, law 533 of 8 August 1977) was adopted in a period in which left- and right-wing political terrorism was the most acute problem of public order in Italy.

Let alone all considerations about the religious connotation of the Charter, it must be pointed out that obliging migrants to agree with subjective interpretations of laws is at odds with the principle of the freedom of thought, which is set by the Italian constitution as well as by the main international human rights conventions.

Finally, the stereotypic picture of Islam is painted in contrast not only with Christianity (which surely was the dominant religion in today's Italy in the last two millennia) but also with Judaism. The preamble of the Charter, indeed, says that Italy "has developed in the perspective of Christianity that […], together with Judaism, has paved the way to modernity and to the acquiring of the principles of freedom and justice", and it also argues that "The geographic position of Italy, its Jewish-Christian tradition, and its free and democratic government institutions are the foundation of its receptive attitude toward foreign peoples".

With such formulations, not only do the members of the committee defy the constitutional principle of laicism, but they also rewrite Italian history. Of course, it would be impossible—and, in the end, it would make little sense, if at all—to precisely measure the contribution given by each religion in the establishment of moral and legal norms as well as of the values characterizing a society. However, it would be easy to put the attitude of receptivity of, say, the Christian emperor Frederick II towards Sicilian Muslims into question. Similarly, it could be easily argued that Christians didn't prove particularly receptive towards Jews, when they expelled them from Sicily and Sardinia (1492) or from Southern Italy (1510–1541). Furthermore, the fascist repression of Jews in the twentieth century casts more than a shadow over the receptivity of unified Catholic Italy. Finally, the authors do not explain why Judaism has played a greater role in the establishment of the principles of freedom and justice than, for instance, Islam. In fact, Jews were always a small minority in Italy (and were totally absent from large part of its territory for centuries, after their deportation), while Islam was the dominant religion in almost 10 % of the Italian territory (Sicily) for long.

In sum, foreigners applying for a permit of stay must agree not only with an arbitrary interpretation of arbitrarily selected constitutional values and ordinary laws, but also with an arbitrary interpretation of Italy's history.

Conclusions

The conclusions to be drawn are manifold. First, I will make two points concerning the relationship between residency permit and mandatory integration measures. I will then make a further reflection on the relationship between mandatory integration measures and border controls (and, more specifically, with the concepts of 'illegalization' and 'deportability'). The last sub-paragraphs deal with the legal and symbolic discrimination in the integration agreement, and with the concept of differential inclusion.

Integration and Residency Status

Before the implementation of the integration agreement, being granted a permit of stay depended primarily on the fulfilment of the main condition for issuing an entry visa (e.g. a work contract within the yearly immigration quota). Of course, there were already other criteria that could also play a role, say, in issuing visas to certain

categories of persons or to citizens from certain countries rather than others. However, the role played by such criteria, as important as it is, is limited to a preliminary selection of persons to be granted an entry visa. Now, since the 2009 law came into force, there is also a requirement to be fulfilled immediately *after* entry, and, most importantly, by *all* foreigners applying for a permit of stay. Moreover, the fact that they must declare their agreement with the opinions of a committee appointed by the executive is not just a further bureaucratic requirement, but also a symbolic yoke they must pass under. While I will get back to this point later, I now want to make a second point regarding the relationship between residency permit and mandatory integration measures. Surely, the resident status was already precarious before the integration agreement was adopted, because its extension was dependent on conditions not easy to meet (Santoro 2006). However, the point-based system has made it much more precarious by making it also dependant on the ability of migrants to meet integration criteria set by public authorities. Since failing to meet such criteria results in deportation, it is necessary to make a further reflection on the relationship between mandatory integration measures and border controls.

Integration, Border Controls and Deportability

The adoption of mandatory integration measures in an increasing number of European countries (as outlined in the introduction) has turned integration policies to an essential part of border control policies, thus blurring the traditional distinction between the two domains. Pre- and post-entry integration measures now play a role in determining who can enter and who must leave a state territory, which had not been the case until two decades ago. Mandatory integration measures also produce spatial effects in terms of outward and inward flexibilization of the official demarcation line of state borders (Walters 2002; Cuttitta 2007; Shachar 2007), just like other instruments of migration control.[28] Pre-entry conditions make the check of entry requirements shift from the border to the location in the country of origin where tests take place. Integration thus turns to an instrument for the outward flexibilization of the border. The Italian integration agreement, instead, applies to those who have already entered Italian territory and ask for a permit of stay. Refusal to sign it and to agree with the Italian Charter of the values results in the permit of stay being denied and, as a consequence, in expulsion. Similarly, expulsion is the sanction imposed on those who fail to reach the 30-point threshold within the Italian point-based system. From this perspective, the integration agreement becomes an instrument for the inward flexibilization of the border.

More specifically, the link between the Italian integration agreement and border controls is the illegalization of the non-integrated—the fact that people failing to fulfil the integration agreement lose their permit of stay and must be deported. In analysing the concept of 'illegality' of migrants, De Genova argues that illegality is produced by immigration societies through their legal systems, and that the production of illegality aims less at deporting migrants than at making them deportable: "It is deportability, and not deportation per se, that has historically rendered undocumented migrant labor a

[28] e.g. visa obligations, carrier sanctions, cooperation with third countries, patrols on the high seas, police liaison officers, detention centres, externalization of asylum and diffused internal identity checks.

distinctly disposable commodity" (De Genova 2002, 438). From this point of view, the integration agreement is a further instrument for the ex post "legal production of migrant 'illegality'" (De Genova 2002): while other instruments make people deportable at the very same moment of (irregular) border-crossing, the integration agreement confronts migrants with the risk of turning 'illegal' and deportable long after their (regular) border-crossing. Deportability, in Italy, is not only the actual condition of all 'irregular' migrants, but it is also the potential condition of all 'regular' newcomers.

Legal Discrimination

The Italian integration agreement also raises serious legal concerns, insofar as it openly defies human rights and basic constitutional principles: the freedom of thought, the presumption of innocence, the principle of non-discrimination, the right to an effective remedy, and the laicism of the state.

The obligation to agree with the content of the Charter of the values and to respect its principles likely violates the freedom of thought (by imposing on foreign citizens to agree with an arbitrary reconstruction and interpretation of Italian history, laws and values) as well as the prohibition of discrimination (Italian citizens are not required to agree with their constitution and their ordinary laws—they are just required to respect them, nor are they required to agree with the opinions of the members of a committee appointed by a minister). Moreover, the content of the Charter challenges the laicism of the state, insofar as it traces national principles and values in religious traditions.

The point-based system violates the principle of the presumption of innocence and the right to an effective remedy, by curtailing credits based on first instance court decisions and provisional detention measures. Furthermore, it defies the principle of non-discrimination, by granting a preferential treatment to certain categories of persons on the grounds of their personal conditions, to the detriment of others.

Claims of unconstitutionality might be raised either by a judge during a legal proceeding, or by the State. As for now, it is unlikely that the State takes the initiative. Only if and when a dispute regarding the application of the integration agreement arises (e.g. an appeal against an expulsion order), will there be chances for an intervention from the Constitutional court.[29]

Symbolic Discrimination

The 'measurement' of migrant integration through the point-based system can be seen, following Schinkel (2013), as an attempt to 'imagine' the host society and to answer the question of 'who we are'. This is, indeed, a question that can hardly be answered positively (Schiffauer 2008), and is therefore mostly answered negatively, through a process of othering, by indicating what we do not want to be and whom we consider to be different from us. Generally speaking, the categories discriminated—and thus othered—by the integration agreement are the poor, the less educated and qualified, the subordinate workers and the nomads. However, the Charter of the values reveals that Italian integration policies are especially directed to Muslims and inspired by

[29] At the time of writing, the first assessments of the integration level of migrants have just begun.

stereotypical and stigmatizing visions of Islam (as linked with the oppression of women and with backwardness). While other countries, like France, partly disguise their anti-Muslim policies behind the veil of religious neutrality, by calling on the secular character of the state (Onasch and Weide 2012), Italy expressly traces the origin of its values in its religious heritage. More particularly, the invention of a Jewish-Christian tradition in the Italian Charter of the values aims at strengthening the construction of a new Italian, European and Western identity, while erasing historical responsibilities for the persecutions carried out by Christians in the past (Attia 2013). Moreover, such a blatant distortion of history supports the construction of the racialized category of 'Muslims' (Meer and Modood 2010; Taras 2013) as antithetical to the Jewish-Christian.

Differential Inclusion

The concept of differential inclusion "describes how inclusion in a sphere, society or realm can involve various degrees of subordination, rule, discrimination, racism, disenfranchisement, exploitation and segmentation" (Casas-Cortes et al. 2014, 25). Indeed, the exclusionary character of migration and border regimes always leaves space for partial, temporary, subordinate and discriminatory options of inclusion: "exclusion always operates in tandem with an inclusion that is never complete" (Mezzadra and Neilson 2013, 161). Not only is the inclusion of migrants incomplete, but it is also extremely segmented and differentiated, far beyond what the classical dichotomy opposing the 'regular' (or 'legal') and the 'irregular' (or 'illegal') residents may suggest.

Indeed, the multiplication and qualitative differentiation of territorial borders characterizing the global migration regime (a multiplication and differentiation which is most clearly visible in the above-mentioned process of flexibilization) goes along with a multiplication and differentiation of non-territorial status borders, which results in the production of a highly differentiated and hierarchized (and still extremely mutable) order in an increasingly heterogeneous global space (Cuttitta 2007; Mezzadra and Neilson 2013).

Such processes of 'bordering and ordering' are only made possible by processes of 'othering' (van Houtum and van Naerssen 2002), producing the categories that are necessary for the hierarchical differentiation of migrants and the proliferation of borders. Some categories can then be organized in dichotomous oppositions. While classical dichotomies oppose forced migration to voluntary migration, refugees to economic migrants, legal to illegal, skilled to unskilled, the increasingly important role played by integration requirements shows that another dichotomy has gained momentum: the one opposing the integrable (or integrated) to the non-integrable (or non-integrated).

In such processes of othering, difference is not seen as entirely and irremediably negative: markers of difference are mostly not only markers of exclusion, but also of inclusion. First, there is a differentiation between 'good' and 'bad' diversity (Lentin and Titley 2011), between more and less integrable diversity. Secondly, the degree of integrability is not determined once and for ever through categorization. As Walters (2004) puts it, the actual aim of migration and border policies "is not to arrest mobility but to tame it", and even Muslims can be 'tamed' and integrated, in spite of their category being "a metonymy for undesirable non-Western migration, for bad diversity"

(Lentin and Titley 2011, 35): they are marked as less integrable but only until evidence to the contrary is given. In Italy, the first evidence they must provide is to accept to pass under the symbolic yoke of the Charter of the values, by declaring their agreement with its content and by committing themselves to respect its principles. They will then face the legal discrimination of the point-based system, and the risk of illegalization and deportation. As De Genova (2013, 1184) puts it, "incorporation is permanently beleaguered with the kinds of exclusionary and commonly racist campaigns that ensure that this inclusion is itself, precisely, a form of subjugation". While De Genova specifically refers to those who have been already converted to 'illegal' and 'deportable' migrants, this is also true for the 'legal' ones, for those who are now faced with an increased risk of illegalization by mandatory integration measures. Indeed, the Italian integration agreement requires the entire category of the regular newcomers to pass under a double—symbolic and legal—yoke. In the end, it arguably aims at measuring the willingness and ability of migrants to go through discriminatory and exclusionary processes in their struggle for inclusion and participation.

Acknowledgments I am grateful to Karin de Vries for her helpful comments. Earlier versions of this paper were presented in Agrigento ('Razzismi, discriminazioni e confinamenti' conference), Bergamo ('Mapping Conceptual Change in Thinking European Borders' conference), Bergen aan Zee (VU Migration Law Seminar 'Bergen VI'), Palermo (postgraduate seminar, Scuola di dottorato in Diritto sovranazionale e diritto interno, Palermo University) and Bologna (graduate seminar, Dipartimento di Scienze politiche e sociali, Bologna University). Thanks go to the hosts—Antonella E. Castronovo, Mario Grasso, Michele Mannoia, Marco A. Pirrone and Alessandra Sciurba (Agrigento); Gianluca Bocchi, Chiara Brambilla, Jussi Laine, James Scott (Bergamo); Juan Amaya Castro, Daan Bes, Evelien Brouwer (Bergen aan Zee); Aldo Schiavello, Guido Smorto and Isabel Trujillo Perez (Palermo); Sandro Mezzadra and Irene Peano (Bologna)—as well as to the participants for the inputs received. I also acknowledge feedback from two anonymous reviewers.

References

Alexander, J. C. (2013). Struggling over the mode of incorporation: backlash against multiculturalism in Europe. *Ethnic and Racial Studies, 36*(4), 531–556.

Attia, I. (2013). Privilegien sichern, nationale Identität revitalisieren. *Journal für Psychologie, 21*(1), 1–31.

Banting, K., & Kymlicka, W. (2013). Is there really a retreat from multiculturalism policies? New evidence from the multiculturalism policy index. *Comparative European Politics, 11*(5), 577–598.

Brubaker, R. (2001). The return of assimilation? Changing perspectives on immigration and its sequels in France, Germany, and the United States. *Ethnic and Racial Studies, 24*(4), 531–548.

Camera dei Deputati. (2006). *Risposta del ministro Giuliano Amato all'interrogazione dell'onorevole Luca Volontè (Iniziative volte all'immediata redazione di una Carta dei Valori)*. Rome: Camera dei Deputati.

Cardia, C. (2008). *Carta dei valori e multiculturalità alla prova della Costituzione*. Stato, chiese e pluralismo confessionale

Carrera, S. (2006). *A Comparison of Integration Programmes in the EU. Trends and Weaknesses* (p. 1). Challenge Papers.

Casas-Cortes, M., Cobarrubias, S., De Genova, N., Garelli, G., Grappi, G., Heller, C., et al. (2014). New keywords: migration and borders. *Cultural Studies*. doi:10.1080/09502386.2014.891630.

Colaianni, N. (2007). *Una 'carta' post-costituzionale?* Stato, chiese e pluralismo confessionale.

Colaianni, N. (2009). *Alla ricerca di una politica del diritto sui rapporti con l'Islam (Carta dei valori e Dichiarazione di intenti)*. Stato, chiese e pluralismo confessionale.

Cuttitta, P. (2007). *Segnali di confine. Il controllo dell'immigrazione nel mondo-frontiera*. Milan: Mimesis.

Cuttitta, P. (2013). L'accordo di integrazione come caso di discriminazione istituzionale in Italia. In M. Grasso (Ed.), *Razzismi, discriminazioni e confinamenti* (pp. 257–273). Rome: Ediesse.

De Genova, N. (2002). Migrant 'illegality' and deportability in everyday life. *Annual Review of Anthropology, 31*, 419–447.

De Genova, N. (2013). Spectacles of migrant 'illegality': the scene of exclusion, the obscene of inclusion. *Ethnic and Racial Studies, 36*(7), 1180–1198.

De Vries, K. (2012). *Integration Requirements in EU Migration Law*. EUI Working Paper MWP 20.

European Migration Network (2012). Ad-Hoc Query on Citizenship Tests. Requested by AT EMN NCP on 27th April 2012. Compilation produced on 28th September 2012. http://www.sisekaitse.ee/public/ERV/ad_hoc/muu/2011/2012/EMN_NCP_AT_Ad-Hoc_Query_on_Citizenship_Tests_22062012_open_compilation.pdf. Accessed 18 June 2014.

Ferrari, S. (2008). La carta dei valori della cittadinanza e dell'integrazione. In I. S. M. U. Fondazione (Ed.), *Tredicesimo rapporto sulle migrazioni: 2007* (pp. 265–277). Milan: Angeli.

Groenendijk, K. (2011). Pre-departure integration strategies in the European Union: integration or immigration policy? *European Journal of Migration and Law, 13*, 1–30.

Hage, G. (2011). Multiculturalism and the ungovernable Muslim. In R. Gayta (Ed.), *Essays on Muslims & multiculturalism* (pp. 155–186). Melbourne: Text Publishing.

ICMPD. (2005). *Integration agreements and voluntary measures*. Vienna: International Centre for Migration Policy Development.

Jacobs, D., & Rea, A. (2007). The end of national models? Integration courses and citizenship trajectories in Europe. *International Journal on Multicultural Societies, 9*(2), 264–283.

Joppke, C. (2007). Beyond national models: civic integration policies for immigrants in Western Europe. *West European Politics, 30*(1), 1–22.

Lentin, A., & Titley, G. (2011). *The crises of multiculturalism. Racism in a neoliberal age*. London: Zed Books.

Meer, N., & Modood, T. (2010). The racialisation of Muslims. In S. Sayyid & A. Vakil (Eds.), *Thinking through Islamophobia: global perspectives* (pp. 69–83). London: Hurst & Company.

Mezzadra, S., & Neilson, B. (2013). *Border as method, or, the multiplication of labor*. Durham: Duke University Press.

Onasch, E., & Weide, M. (2012). Teaching integration in France and Finland: a comparison of national discourses within civic integration programmes. In H. Vad Jønsson, E. Onasch, S. Pellander, & M. Wickström (Eds.), *Migrations and welfare states policies, discourses and institutions* (pp. 174–215). Helsinki: Nordic Centre of Excellence NordWel.

Russo Spena, A., & Carbone, V. (2014). *Il dovere di integrarsi. Cittadinanze oltre il logos multiculturalista*. Rome: Armando Editore.

Santoro, E. (2006). La fine della biopolitica e il controllo delle migrazioni: il carcere strumento della dittatura democratica della classe soddisfatta. In P. Cuttitta & F. Vassallo Paleologo (Eds.), *Migrazioni, frontiere, diritti* (pp. 293–321). Naples: ESI.

Scevi, P. (2010). *Diritto delle migrazioni.Profili penali, civili, amministrativi*. Piacenza: La Tribuna.

Schiffauer, W. (2008). *Parallelgesellschaften. Wie viel Wertekonsens braucht unsere Gesellschaft? Für eine kluge Politik der Differenz*. Bielefeld: Transcript.

Schinkel, W. (2013). The imagination of 'society' in measurements of immigrant integration. *Ethnic and Racial Studies, 36*(7), 1142–1161.

Schneider, J., & Crul, M. (2010). New insights into assimilation and integration theory: introduction to the special issue. *Ethnic and Racial Studies, 33*(7), 1143–1148.

Shachar, A. (2007). The shifting border of immigration regulation. *Stanford Journal of Civil Rights and Civil Liberties, 3*(2), 165–193.

Taras, R. (2013). 'Islamophobia never stands still': race, religion, and culture. *Ethnic and Racial Studies, 36*(3), 417–433.

Triadafilopoulos, T. (2011). Illiberal means to liberal ends? Understanding recent immigrant integration policies in Europe. *Journal of Ethnic and Migration Studies, 37*(6), 861–880.

van Houtum, H., & van Naerssen, T. (2002). Bordering, ordering and othering. *Tijdschrift voor Economische en Sociale Geografie, 93*(2), 125–136.

Vasta, E. (2007). From ethnic minorities to ethnic majority policy: multiculturalism and the shift to assimilationism in the Netherlands. *Ethnic and Racial Studies, 30*(5), 713–740.

Walters, W. (2002). Mapping Schengenland: denaturalizing the border. *Environment and Planning D: Society and Space, 20*(5), 561–58.

Walters, W. (2004). Secure borders, safe haven, domopolitics. *Citizenship Studies, 8*(3), 237–260.

Zorzella, N. (2011). L'accordo di integrazione: ultimo colpo di coda di un governo cattivo? *Diritto Immigrazione e Cittadinanza, 13*(4), 58–71.