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Registration as a Border: Shaping the Population at the Local Level in Italy

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# Shaping the Population at the Local Level in Italy

**Introduction**

Over the last decades, cities have acquired a growing importance in regulating and controlling people's mobility. In many cases, they enact internal controls on immigrants' papers, or regulate the access to local services and provisions. In this way, cities have to comply with national laws and regulations. Their conduct is regulated by a more or less complex and articulated political and legal system. This is a multilevel structure of authority, which has changed its shape and features over the centuries. Currently, local administrations in the better part of the world are not granted the autonomy to prevent specific categories of people from entering their territories or exclude them from local services and provisions.

Nevertheless, in many countries, central governments assign to cities an important task, that of registering all the individuals who enter their territory. This is a delegated power meant to administratively include those who are present within each municipal space. It is a strategic matter from the point of view of state authorities: correct and complete registration aims to monitor and keep track of the individuals who live and circulate within state boundaries. It is a strategic matter also from the perspective of those who live in a municipality: registration is the "bureaucratic door" to the effective exercise of many rights.

In some cases, the requirements for registration are selective and hard to pass. Generally, however, registration is granted to all national citizens and "legal" foreigners; basically, those who are legally allowed to stay in a country are therefore authorized to move freely within its borders and enter and reside within the territory of each of its municipalities.

Yet in some countries municipal authorities decide, albeit illegitimately, to regulate registration in an autonomous way. They thereby establish special kinds of borders, namely, *administrative borders*, which do not take the form of walls, fences or material object and devices that physically impede individual movement, but rather that of

administrative acts and provisions or bureaucratic actions excluding certain individuals from official status and rights.

This article deals with such kinds of borders, focusing on Italy, a country in which there is a well-established system of civil registers, ruled by national laws and administered by municipalities, which confer a legal status called residency, and there is also a widespread tendency to deny this status on the part of many municipalities, which act illegally, namely, in violation of national laws and regulations. Basically, the Italian registration system draws a line between those who are formally recognised as local members and those who are not. In this way, it distinguishes between those who can locally exercise their rights and those who cannot. Local governments that limit the right to registration, therefore, pervert the function of civil registers, namely, that of monitoring the people who live within municipal territories, by using them instead as a device for *selecting* "deserving" and "desirable" local citizens. In so doing, they illegitimately raise administrative borders against specific individuals and groups.

By analysing the ways local administrative borders are erected in Italy, this article aims to contribute to critical border studies. Within this field of enquiry, several concepts have been proposed to capture the many ways that processes of establishing, contesting, tearing down, and rebuilding borders continuously take place. The notion of borderwork, for instance, indicates all the activities of bordering, de-bordering and re-bordering carried out by different actors (Rumford 2006). The concept of borderscape instead stresses the variegated political and cultural space made by the different interactions among diverse actors who have a certain interest in physical borders (Brambilla 2015). The complexity of contemporary bordering, then, is expressed by the idea of multiplication of borders (Mezzadra and Neilson 2013), which highlights the increasing presence of boundaries, barriers and obstacles in an increasing globalised world. This set of borders has been conceptualised also as a regime, namely, as the "entanglements of discourses, power relations, and subjectivities" (Horvath, Amelina and Peters 2017, 305), which cannot be "ordered in the form of a central logic or rationality", rather entailing "a space of negotiating practices" (Tsianos and Karakayalı 2010, 375).

Of course, such a regime of complex, differentiated and multiple division lines is not only made of physical barriers and devices. Indeed, borders can be territorial or non-

territorial (Cuttitta 2015). The latter "include any category whose members share the same status, the same condition, be it state citizenship, juridical status, ethnic origin, religious faith, economic condition, education, familial status, professional or language skills, etc." (ibid., 243). All these immaterial lines "are therefore nothing but status borders" (ibid.).

Not all status borders are equal: some of them are effective and pervasive, while others are less powerful in stratifying and segregating. Moreover, among them some are formally established by laws or regulations and, on the contrary, others are rather defined by norms which have no juridical meaning. Status borders of the first kind are legal positions which produce material effects and arise from legal and administrative acts and decisions aiming at regulating mobility and identifying, as well as categorising, individuals. Such status borders are established through procedures of identification (Breckenridge and Szreter 2012; Caplan and Torpey 2001; Noiriel 1991) and bureaucratic inscription (Horton and Heyman 2020), and are accompanied by documents like passports (Torpey 2019), visas (Bigo and Guild 2005; Infantino 2016), pink cards (Cabot 2012) and ID cards (Alimia 2019) that set forth, symbolically and juridically, one's formal condition.

Legal status borders are not created by the practices carried out by individuals; rather, they are what *perform* those practices. In other words, it is not the condition of undocumented people that brings about the distinction between "legal" and "illegal" migrants, but it is laws and regulations on mobility that brings this distinction to exist (De Genova 2005; Tuckett 2018). In more philosophical terms, legal statuses are institutional facts, namely, facts which exist only within human institutions and arise when an empirical fact is assigned a function[1] (Searle 1995). Concretely, when a social fact such as a certain way of moving within space or dwelling in a territory is attributed juridical and political relevance insofar as it is considered worthwhile to limit and regulate it, this gives rise to a legal status that allows or impedes movement and sets rules on modes of dwelling. Since institutional facts exist only by human agreement, they often require official representations (Searle 1995, 119), namely, documentation. Documents are therefore the

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[1] On the application to legal statuses of Searle's distinction between institutional and empirical facts, see also Mindus 2020.

indicators of legal statuses, being the visible proof of their existence and cogency, and basically constitute "paper walls".

This article focuses on a specific status border – residency – produced by an act of bureaucratic inscription – enrolment in the civil register – from which an identification document stems – ID card. This is a *membership status*, as it sets forth one's belonging to a local community, and hence makes up an urban border (Fauser 2013; Varsanyi 2007), which is part of a local border regime (Lebuhn 2013). As we will see, in Italy the misuse of registration brings into being a process of everyday bordering (Yuval-Davis, Wemyss and Cassidy 2019) which produces administrative invisibilisation (Brambilla and Pötzsch 2017; Jusionyte and Goldstein 2016) and an ambiguous condition of political visibility/invisibility (Tazzioli 2019). Such a process of everyday bordering worsens already existing phenomena such as civic stratification (Morris 2002) and differential inclusion (De Genova 2010; Mezzadra and Neilson 2013). Membership statuses are *precarised* as they are made unstable and always at risk of being revoked. This form of precarisation has to do with the "precariousness of status" described in other research with regard to the instability of the stay permit (Bernhard et al. 2007; Lafleur and Mescoli 2018), but at the same time diverges from it, since it regards the local level and does not establish a condition of "illegality", but rather an ambiguous state of *municipal undocumentedness*.

This article seeks to provide an empirical and theoretical contribution to the critical debate on urban borders. To this end, it follows a path of research focused on registration and its uses and misuses that has been existed for more than ten years and has led so far to several publications (particularly, Gargiulo 2012, 2015, 2017, 2021). In the following pages, I will not stress the concrete practices that make registration actually work, having already focused on that topic in the aforementioned publications. Rather, I will focus on the specificities and features of registration as a status border, especially when considered in historical perspective and in the light of the purposes and consequences of its uses and misuses.

This article is structured as follows. The first section gives information about methods and the research path on which the paper is grounded. The second historically retraces the persistence of urban borders and focuses on the role of cities in keeping track of individual's movement and regulating it. The third stresses how registration should work

and actually does work in Italy and shows the implications and the effects of a person's being unregistered. The fourth analyses how registration works as a border by illustrating the ways it shapes the population. The conclusion summarises the main findings of the article and adds more critical elements on the relation between invisibility and security.

**Methods**

This article is based on a path of research within which several methodological strategies have been employed: the analysis of political discourses (from official documents and media releases) and legal norms (laws, decrees, regulations, ordinances, circulars, and by-laws), interviews with key informants and local civil servants, and the collection of data from municipalities.

More specifically, the research underlying the present article began in 2010 with a focus on the procedures of exclusion from civil registration that had been adopted by numerous municipal administrations since 2007. Procedures of this sort, which were often very visible and widely advertised by the media, became particularly common after the issuing of the so-called "Security Package" in 2008,[2] which increased mayors' ordinance power.

At this stage, my research chiefly concerned the content and discourses of the measures and provisions adopted by local administrations, as well as the categories of subjects involved (Gargiulo 2012). In this respect, given the lack of any complete and official catalogue,[3] I collected, partly by drawing upon the work previously carried out by another researcher (Lorenzetti 2009), the texts of around 100 ordinances, by-laws and mayors' circulars concerning the issue of residency. I followed no specific geographical criterion in this. Nonetheless, it was clear that most of them came from municipalities in Lombardy and the Veneto, which are characterised – as demonstrated by other studies (Ambrosini 2013; Guariso 2012; Lorenzetti 2009) – by a high number of exclusionary acts and

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[2] This is Law no. 92 of 2008, later converted into Law no. 125.

[3] There is no "official" register of ordinances, by-laws and circulars either at the national or provincial level.

measures in the field of registration. I therefore chose to focus my attention on these two Regions, as they are quite representative of such forms of exclusion.

The focus of my research then shifted to the actual application of the measures and provisions aimed at denying registration (Gargiulo 2015, 2017). The question became: do these ordinances and other policies only serve as a propaganda tool – despite their potential to have indirect material repercussions – or are they meant to concretely exclude people? In the attempt to answer this question, I contacted ninety-five of the municipal administrations that had issued by-laws, ordinances or circulars concerning registration, asking them for the number of rejected applications for enrolment in the civil registry in the years 2007-2013, the provenance and citizenship of the applicants, the reasons for their rejection, and the paperwork used for the verifications. Forty-five of them replied and provided the requested information.

In order to better interpret the data, I performed telephone interviews with civil servants and employees from roughly half of the municipalities involved. The municipal staff were asked to provide details concerning the procedures followed for the recording – or non-recording – of the rejections. At the same time, interviews were carried out with key informants: trade unionists, members of organizations, and lawyers.

Over the following years, I have extended my attention to other Italian territories, analysing documents and doing interviews with civil servants, lawyers and political activists acting in cities and urban centres of other Italian Regions. In this way, I have had the opportunity to appreciate not only how widespread the phenomenon of registration denial is, but also the difference in the exercise of discretionary power between the local authorities of huge cities and those of medium or small size towns. I have also analysed the forms of reaction and resistance against exclusion from registration (Gargiulo 2021). Towards this specific end, I interviewed occupants and activists who were denied registration on the basis of Art. 5 of the Housing Plan of 2014.

Moreover, on various occasions I have had the opportunity to participate, as a researcher and expert, in legal and political actions aimed at countering discrimination or contesting exclusionary legislative and administrative innovations in the field of registration. I have also contributed to writing reports (Medu 2019; Naga 2019) on exclusion from residency,

and undertaken some participant observation in professional courses, conferences and meetings addressed to registry officers and lawyers.

My research focuses on the entire Italian territory, though some in-depth analyses were conducted, as already stated, in the Regions of Lombardy and the Veneto. The results that are shown and discussed in these pages are not meant to be statistical generalisations of the data collected in some municipalities. Nor they aim at proving that exclusion from registration is an actual and widespread phenomenon. This has already been shown by other studies (Cittalia 2009; Galantino and Giovannetti 2012; Gargiulo 2015, 2021; Guariso 2012; Lorenzetti 2009). Rather, this article intends to focus on how the denial of registration actually works, with emphasis on the meanings and the implications of a restrictive use of population registers, framing this use as a form of bordering which, albeit in a discontinuous way, affects the entire Italian territory.

**The persistence of urban borders**

During the Middle Ages, cities had acquired a growing centrality in political and economic life. Access to their territory was strictly regulated: often, actual walls were built to filter the entrance of incoming persons (Jütte, 2014). At the same time, local memberships were not rigid or binding. Formal statuses were not yet clearly defined and did not determine the permission or refusal to enter municipal space. Recognition did not hinge on legal memberships but was conditioned on a person's not belonging to groups considered "undesirable" or "dangerous", such as the bearers of infective or contagious diseases, vagabonds, beggars and religious minorities (Andreozzi, 2016; Storti, 2012). Documents like letters of authorisation and safe passage, aiming at identifying individuals and "certifying" their legal status, were widespread, anticipating the current passport. Freedom of movement, however, did not strictly depend on one's formal membership, but was rather tied to specific social memberships (Costa, 2017).

With the passage to the modern age and the slow construction of capitalism, things changed substantially. A system characterised by the simultaneous presence of different political actors, each sovereign over a well-defined territory, has gradually taken hold. The

states are the main actors of this new political and economic scenario. Consequently, cities have lost relevance and autonomy, while citizenship – meant as full membership of a state – has become the principal status and carrier of relevance so far as local memberships are concerned.

More specifically, modern states, and the international state system to which they belong, have expropriated from individuals, private entities and local governments the legitimate "means of movement" (Torpey 1998, 239). People therefore have lost the capacity to move freely from one state to another. Even though they have continued to move *de facto*, in the absence of an explicit authorisation they are no longer authorised to do this *de jure* (Torpey 1998).

This would imply a loss of relevancy in the local dimension in favour of the state: the controls exercised on individual movements shift from internal to external borders. Restrictions on access to cities and intra-state regions was supposedly maintained only by "non-democratic" states, like the Soviet Union, Nazi Germany, South-Africa during apartheid or communist China, at least up to 1980 (Torpey 1998, 243).

However, even in formally democratic contexts, control on internal mobility has remained in force and did not vanish with the advent of the states and the capitalist system. More generally, local levels of governments have maintained a role, albeit subordinate and not completely autonomous, in regulating the presence of individuals within the different parts of the national territory. This role concerns the satisfaction of the needs of the states, which, in order to effectively function, have developed over the time a growing desire to collect information on what happens within their territories and to identify the people who live within their borders. From the perspective of the state, societies have to be made legible and more easily governable (Scott, 1990). To this purpose, maps, censuses, fixed surnames, cadastral mapping, and registries are established with the aim of reducing the complexity of the social world by homogenising the diversities among people and standardising the administrative procedures that make the state machine work. Likewise, identification procedures make populations and territories visible to the eyes of power through forms of bureaucratic inscription (Horton and Heyman 2020).

Identificatory practices are intrusive activities through which states "*embrace* societies, 'surrounding' and 'taking hold' of their members – individually and collectively – as those

states grow larger and more administratively adept" (Torpey 2019, 12). In this way, they "bound – and in certain senses even 'nurture' – the societies they hold in their clutches" (Torpey 2019, 14). Identification is therefore an ambiguous and twofold process: it entails social control, but also implies care. As stated by Breckenridge and Szreter, registration, which coincides with the official recognition of existence and an identity, "is the grounding and basis for personhood and human rights" (Breckenridge and Szreter 2012, 22), and as such has to do more with autonomy and emancipation than with control, restriction and surveillance.

Consequently, new devices and techniques of identification and registration were developed or consolidated. Censuses and population registers, both already existing, became central within the science of police, especially after the Thirty Years War. Basically, policing meant gathering information on all the capacities and resources of population and territory, establishing a set of measures to augment the wealth of the population and the coffers of the state, and maintaining the public happiness (Pasquino 1991, 113). It also had to do with the form of the spaces in which people live. Specifically, urban spaces, considered to be the vessels of dangerous individuals and illness, and as such a threat to public health and hygiene, both in a medical and a moral sense, were a concern for the institutions, and hence were shaped on the model of military camp, lazarettes and quarantines (Foucault 1991).

With the growth of state functions between the eighteenth and the nineteenth centuries, demographic instruments took on a more stable structure and a better-defined role. These devices were structured in a system internally divided and functionally articulated, and a national network of population registries was built up. The French Revolution is representative of these developments. In order to identify the members of the nation and attribute to them full civil and political autonomy, state authorities decided to centralise registration, withdrawing from the Church the task of keeping track of the population and its movements (Torpey 1998, 254). The *Law on the Municipal Police*, issued in 1791, required local authorities to make a census of the inhabitants and establish a civil registry (Torpey 2019, 42-43).

Municipalities thus played a major role in identifying and registering the individuals who lived in, and move to, the different parts of the state. Local authorities, more

specifically, were appointed to the strategic task of managing registries. This task has become even more important over the twentieth century, due to the increasing complexity of the state apparatuses. However, the diffusion of civil registers did not follow a linear course: at the beginning of the century, only three countries – Belgium, Italy and the Netherlands – had instituted an obligatory central civil registry of the population, while in seven other states this instrument remained voluntary (Poulain and Herm 2013).

Monitoring the population and its movements through municipal registers was also strategic toward controlling mobility. In fact, despite the increasing role of states and the decline of cities, limitations on movements between different areas of the national territory have long remained in force, above all with respect to certain categories of the population considered marginal or dangerous (Feldman 2013). The task of controlling internal mobility was delegated by the states to municipal actors, who consequently could not exercise, at least formally, any autonomous sovereignty in selecting the persons to receive the status of local citizens.

Historically, this kind of control became important at the beginning of the modern age, as a result of the phenomenon of the enclosures of the common lands. At the centre of the process of early capitalist accumulation, it caused a flight from rural to urban areas and made people who were formerly able to gain autonomously their subsistence dependant on the conditions of the rising labour market. Hence, the privatisation of spaces, which consequently were no longer available for communal use, pushed political authorities to manage the effects of a new form of poverty (Polanyi 1944).

States reacted to the emergency of the new poor by introducing a specific form of policing, explicitly dedicated to them. The reform of beneficence carried out at the time was characterised by strict control of mobility, and this control was entrusted to local authorities (Neocleous 2000). The prohibition on begging, the subordination of subsidies to conditional criteria – so as to distinguish between "true" and "false" poor – and forced labour as a strategy for correcting deviant behaviour were all activities carried out at the municipal level (Coccoli 2014).

Since then, municipalities have also played the role in many states of direct providers of social benefits and services. With the slow construction of actual welfare systems, this role has become even more important. In this regard, Italy is a classic case. In 1890, the

issuing of the *Rules on Public Institutions of Assistance and Charity* introduced the welfare domicile (*domicilio di soccorso*), namely, a criterion for determining the distribution of the costs of hospitalisation of those indigent persons not belonging to the local administration in which they were cured (Gallo 2008). Basically, this has meant that these costs were transferred to the municipality in which the patient had most recently dwelt uninterruptedly for five years, or else to that municipality in which she/he was born.

In countries in which such a process of "municipalisation" of assistance took place, the key issue became to establish who belongs to a local community and, hence, who is able to exercise her/his rights there. The introduction of the population registers – or their consolidation where they already existed – played a major role in this process (Gargiulo 2021). Contrariwise, in the countries in which this did not happen, locality however counted as a basis for access to social benefits and services, or for political action: in the UK, registration provisions introduced in 1832 "remained and remain central to the operation of the British electoral system, and they, in effect, give priority to residence in a particular place as the building block of national citizenship" (Fahrmeir and Jones 2008, 246).

More generally, local memberships have continued to play an important role for the actual exercise of rights. With the passage from the medieval to the modern age and following the consolidation of the states, city walls lost their function, but other devices arose, which were able to regulate how long people would stay within urban space. In many countries, "local rights to reject newcomers were indeed all but abolished. The test of local membership in the *ancien régime*, formal admission, was first replaced by a lengthy period of residence, then by registration" (Fahrmeir and Jones 2008, 248). Population registers, therefore, have become a sort of filter able to select the "legitimate" local members of the different municipalities.

In summary, with the consolidation of the states, registration devices have been assigned two fundamental roles: monitoring the movements of people, and regulating both their access to a wider set of social services and benefits, and their exercise of political rights. Hence, these devices work as borders: when cities register people who enter their territory, they establish administrative distinctions that produce effects both in a symbolic and a material sense. First, people who are registered are identified and tracked. Second, they are

recognised in their status as members of the local community and allowed to exercise their rights therein.

Registration is a border that can be more or less selective and difficult to pass. Historically, it was quite rigid in some states. In Italy under the fascist regime, laws against urbanisation were issued in 1939 with the aim of preventing unemployed people from moving towards the cities and obtaining registration there (Gallo, 2012). Similarly, in the China of the post-World War II era, a system of requirements for, and limits to, registration – called *hukou* – was established in 1958 with the purpose of regulating the access to urban centres from countryside (Wang 2005), and it is still in force.

Currently, however, in many of the states in which population registers exist, they form quite soft and inclusive borders. In Spain, for instance, even undocumented immigrants hold the right to be registered in the *padrón municipal* (Gebhardt 2016). Nonetheless, even in these cases registration is not only the exercise of rights and emancipation, but also of control. In 2003, the Spanish Alien Law n. 14 reduced the legal protection for undocumented people, allowing police forces to have access to registers (De Cortázar and Nebreda 2000). In other words, a form of bureaucratic inscription that *prima facie* appears as a way for emancipation showed, at least potentially, its exclusionary side.

Moreover, the exclusionary side of registration emerges for another reason. Even in those countries in which local membership is formally easy to obtain, it can however become a difficult obstacle to overcome. This happens when municipalities decide to violate national regulations by applying legal requirements for enrolment in a restrictive way or when state laws lower those requirements (Gargiulo 2015, 2021; Könönen 2018). In these cases, the monitoring function of registers fails and registration turns into a device of selection of those who deserve to be registered as residents.


**Registration in Italy: between uses and misuses**


Since the Italian unification in 1861, devices aiming at gathering knowledge about the population were introduced in order to allow state to see as well as possible all the different categories of people living or having interests within the diverse parts of the national

territory. Population registers, which guarantee a dynamic and accurate representation of the population, were established already in 1862, on the basis of the first census made in the previous year.

Their concrete functioning, however, has historically been quite critical. The purpose of making the *de facto* population completely overlap the *de jure* population through them has basically remained unfinished. Many municipalities, mainly in order to set limits on social expenditure, have avoided registering several categories of people, especially those belonging to the lower classes, those who live on the margins of society, those who have recently immigrated, or those who are more likely to require assistance and protection. This tendency, in recent decades, has resulted in the rise of administrative borders which hinge on the selective attribution of the legal status that formally recognizes the presence of an individual at the local level. This status, called residency (*residenza* in Italian), is defined by Article 43 of the Italian Civil Code and materialises in the enrolment of individuals and families in the population register of a municipality, namely, its civil registration (*iscrizione anagrafica*).

Currently, civil registration is regulated by law 1228/1954 and regulation 223/1989, which establish that all Italian citizens, EU citizens satisfying certain requirements[4] and non-EU citizens legally authorised to stay in Italy, if they habitually dwell (*dimorano abitualmente*) in a municipality or, should they be homeless or without fixed abode, have the centre of their affairs and interests in a municipality, must be enrolled. For all of these groups, enrolment is therefore a right. Moreover, it is also a duty, as registration is made compulsory by the same legal provisions: people are obliged to declare their habitual dwelling (*dimora abituale*), or, in the absence of this, their domicile (*domicilio*) in the municipal territory; likewise, local authorities are expected to verify the accuracy of these declarations and, if they are accurate, to register those who declare their position.

The declaration of residence or domicile is made mandatory by legal provisions because population registers are structured and realised as strategic devices of control. This is true to the extent that, for the sake of monitoring mobile people, the law and the regulation that

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[4] These requirements are provided for by Legislative Decree 30/2007, which implements EU Directive 38/2004.

discipline registration provide for a special registry of the temporary population (*registro della popolazione temporanea*). However, the enrolment in this register does not confer the formal status of being a local member, and hence does not give access to the benefits linked to full registration.

Residency is a legal status; indeed, it is a strategic means to enjoy many important rights. For instance, social assistance, health assistance, public housing, the right to vote in local elections – also for EU citizens – all depend on registration. Even the acquisition of citizenship by naturalization is tightly linked to it, given that the regular presence of foreigners in Italy is measured by the number of years they have been enrolled. Without residency, therefore, an individual cannot actually enjoy the better part of her/his rights, even though, according to national laws and regulations, she/he is entitled to them.

Given its strategic role, registration is a matter of national importance. From a legal point of view, the authority that confers residency is the state, though in fact – for exclusively practical reasons – it delegates its power to the local authorities, which are simply appointed to apply the national rules. In other words, in the matter of registration, mayors act as government officers (*ufficiali di governo*) and not as representative of the local community (*rappresentante della comunità locale*); even if they are elected by the municipal constituency, they are not autonomous decision-makers in this field.

For this reason, municipalities are simply required by Italian law to perform a few checks. When a person declares that she/he has settled within the municipal territory, the local authorities must verify whether she/he meets the requirement of "habitual dwelling" – that is, her/his effective presence in the place she/he claims to live in. Moreover, by virtue of decree 80/2014, the so-called "Housing Plan", which bans the registration of people living in an illegally occupied home or property, the local authorities have the power to ask for a person's entitlement to occupy the dwelling in question. When on the other hand a person declares her/himself homeless or without a fixed abode, registry officers, according to law n. 94/2009, the second part of the so-called "Security Package", which have changed national regulation, have to verify whether she/he meets the requirement of "effective domicile" – that is, whether she/he has the centre of her/his affairs and interests in the municipality in question. If the outcome of these verifications is positive, the local authorities have to register the individuals who present their declarations. Apart from this

task – and that of controlling the regularity of any non-citizens who apply for residency – local authorities do not have any other power; hence, they are not allowed to set additional requirements for enrolment.[5]

Yet, there are many municipalities which refuse registration and restrict the right to residency (Gargiulo 2012, 2021; Guariso 2012; Lorenzetti 2009). Toward this end, they issue ordinances and circulars which tighten the requirements provided for by law or add new ones: for instance, holding a job contract, having a decent dwelling place, being without any criminal record, etc. Alternatively, local authorities do the same without issuing any administrative provision, namely, by carrying out informal bureaucratic actions. This happens when a person who makes a declaration of residency is asked by the front registry officer to meet requirements not provided for by law.

Different social groups are denied registration (Gargiulo 2021). Third-countries citizens are often excluded, in some cases particularly if they hold long-term stay permits. Towards those non-citizens authorised to live permanently in Italy, the refusal of residency is a "last resort" strategy of exclusion from recognition and rights carried out at the local level. EU citizens, especially if they belong to Eastern countries, are also subjected to exclusion. It is not by accident that the issuing of mayors' ordinances and circulars to deny registration reached its peak in 2007, when Romania and Bulgaria joined the European Union. As Romanian and Bulgarian citizens, like other European citizens, no longer needed a stay permit to legally reside in Italy, they – according to the aforementioned Legislative Decree 30/2007 – began to be subjected to a special regime of municipal registration, which has basically become the main tool for "certifying" the "legality" of their stay. Since then, many local administrations have taken advantage of this special regime by tightening the requirements for enrolling EU citizens (even specifying, in some cases, that these were intended for Romanian and Bulgarian citizens only). Moreover, Italian citizens who show traits which are considered to be markers of "undeservingness", such as having a criminal record, being homeless or belonging to the *Roma* people, are also frequently victims of exclusion (Sigona 2005).

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[5] For instance, a municipality is not allowed to request an apartment in keeping with specific standards as a requirement for residency.

Recently, asylum-seekers have been a specific target of denial of registration. The Salvini Decree – issued on 5 October 2018 and converted into a law that same year – explicitly stated that they, in contrast to other third-country citizens who are authorised to stay in Italy, no longer have the right to be enrolled in the municipal registry office. However, Salvini's initiative immediately raised several critiques from political activists, mayors who refused to apply the decree, and lawyers, scholars, and legal experts (Gargiulo 2021). Specific arguments regarded the constitutionality of refusing registration of asylum seekers: in essence, excluding the right to civil registration for a particular category of persons would institute an unjustified difference of treatment, therefore violating Article 3 of the Constitution. Working from this argument, the Constitutional court declared the illegitimacy of the Salvini's decree in the summer of 2020, restoring the right to registration for asylum seekers.

The restrictions to registration and the denial of residency, whatever the categories subjected to exclusion are, work as mechanisms of migration control (Brochmann 1999), as by establishing internal bureaucratic borders they try to "filter" those individuals wishing to live in a municipality. More specifically, these mechanisms are explicit when they act through administrative provisions (especially mayors' ordinances and circulars) and implicit when they operate through the practices of the registrars, i.e. through various forms of street-level bureaucracy (Lipsky 1980). Moreover, such mechanisms are direct if they alter legal requirements concerning registration, and indirect if they prescribe controls or conditions not required by law and apparently concerning issues that should not affect enrolment (Gargiulo 2017).

The refusal of registration can be carried out through a written notice or verbally. This second case happens especially when the mechanisms of exclusion are implicit and informal: the local administration releases no written communication regarding the reasoning for its decision, and consequently the person who declares her/his residence or domicile leaves the municipal office without having effectively presented her/his declaration and obtained any receipt indicating what has transpired. In other words, what has happened has left no administrative traces.

The exclusionary action of municipalities prevents the *de jure* population from overlapping with the *de facto* population: not all those who live or have the centre of their

affairs and interests in a given municipality are formally registered as residents therein. In this case, the proper function of the population registers is overturned: monitoring gives way to selection.

Currently,[6] this does not automatically translate into spatial exclusion, as the denial of registration does not imply expulsion from the territory of a municipality. However, it can produce significant effects, acting as a deterrent to a person's staying within the municipal territory. In fact, given that registration, besides being a right in itself, is also a means toward the enjoyment of other rights, its rejection may discourage a person from living in a municipality in which she/he is not formally recognised and her/his rights are not protected, leading her/him to move away. People who, by law, have the right to registration, but feel likely to be denied it, may decide to avoid any contact with local authorities, foregoing residency by avoiding presenting themselves in the registry offices; thus, they would remain in the condition of administrative "ghosts", materially present yet not formally recognised.

From this perspective, the denial of residency is still a way of controlling people's movements, if only indirectly (Gargiulo 2015). However, with regard to third-country citizens, the refuse to register can have more direct effects on mobility: albeit in an entirely illegitimate manner, various police headquarters (*questure*) refuse to renew stay permits on the basis of a lack of residency. Not so differently, EU citizens who are refused registration for not meeting the requirements found themselves in an ambiguous condition of "undocumentedness": since the "legality" of their presence is not certified, they are theoretically at risk of being deported.

When it is illegitimately denied, registration thus works as a status border, which in some cases produces spatial effects but, above all, has material consequences. It is unlikely to filter those who "deserve" to physically live in a municipality, but it is certainly able to select those who "deserve" to be formally recognised, to receive social benefits, to engage in professional and commercial activities and to vote in the local elections.

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[6] This kind of expulsion was possible in the past, when the laws against urbanisation were in force (Gallo 2012).

**Registration as a border**

Residency is a status border because those who lack it lack also the formal role of being a member of the local community, and this implies the impossibility of exercising rights and obtaining an ID card – a document which is not mandatory, but is in practice required for many public and private transactions. In producing the status of resident, registration, especially when it works selectively, becomes a device for polity-building, namely, for population design.

Through the exclusion from enrolment of certain groups and individuals, a line is drawn between "legitimate" local citizens – people who are formally recognized as residents – and "illegitimate" local citizens – people who are denied the status of residents despite being allowed by the national laws to legally reside anywhere in Italy (Gargiulo 2012, 2015). This is a *symbolic* border between "good" and "bad" or "desirable" and "undesirable" local citizens, and it also traces *material* borders: a social border – separating those who have access to local welfare and those who do not; an economic border – between those who can work or engage in professional and commercial activities and those who cannot; a political border – distinguishing those who have the right to vote in the local elections from those who do not.

Thus, by denying registration, "deserving" local citizens are identified and separated – if not spatially, at least symbolically and materially – from "undeserving" local (non-)citizens, and *regulatory effects* on the local population and the local socio-economic systems (welfare, labour market, entrepreneurial activities) are obtained. For instance, an asymmetrical redistribution of social rights is achieved; this limits the cost of these rights and, at the same time, strengthens the relations of local government with the electoral constituency, which feels reassured about the fact that the local resources are exclusively available to the "true" local citizens. Moreover, the denial of registration produces vulnerable and docile individuals who are more easily exploitable in the local labour market. This also draws a line between past and present. In early modern Rome, for instance, people without local recognition and rights represented a workforce which was more desirable as more subjected to exploitation: "individuals who lacked roots in the city

represented a potentially useful workforce that was an integral part of most economic activities in the Ancien Régime", especially of mobile trades (Canepari and Rosa, 2017: 665).

The denial of registration therefore produces forms of differential inclusion. Within migration studies, this notion usually indicates the condition of those who live "illegally" or in a condition of "semi-legality" in a territory, and consequently find themselves in a state of overall marginalisation (De Genova 2010; Mezzadra and Neilson 2013). Analysing the Italian context, for instance, Calavita has argued that an insecure and temporary permit system for migrants ensues an "institutionalized irregularity" which is inseparable from migrants' labour function (Calavita 2005). In this article, on the other hand, the notion of differential inclusion is used in reference to people who are authorised to stay but cannot concretely exercise the rights they are entitled to, because they are not registered. People who are denied registration are not "illegal" from the perspective of the Italian state, but they are considered "illegitimate" by the local administrations, who decide not to enrol them. This produces effects on the exercise of their rights and affects their living conditions; they are physically and legally included, but differentially so, as they lack local formal recognition and are consequently deprived of rights. In certain cases they are even at risk of deportation.

The denial of registration engenders a rise in vertical inequality: the lack of residency status leads to an increase in civic stratification. This is a system of inequality based on the relationship between different categories of individuals and the state, and the rights thereby granted or denied (Morris 2002). Civic stratification is made increasingly complex by the misuse of population registers, as the rights enjoyed by individuals are negatively affected and thereby weakened by the lack of enrolment. This has particularly dramatic consequences for those who occupy the lower-medium positions of the social ladder. More generally, Italian citizens are distinguished into "first class" and "second class" citizens. Simultaneously, the gap between Italians and non-Italians becomes wider. Moreover, the range of statuses of non-citizens becomes broader: two non-citizens who possess the same stay permit theoretically occupy the same formal position in the hierarchy of civic stratification, but concretely stand on two different rungs of the same ladder if one of the two is registered and the other is not.

Differential inclusion and an increase in civic stratification are the effects of an actual politics of registration which precarise local membership status (Gargiulo 2021). This form of precarisation resembles other conditions of "precariousness of status" (Lafleur and Mescoli 2018) and "status mobility" concerning national membership statuses (Schuster 2005). At the same time, however, it differs from them not only in the levels of government involved, but also because it does not strictly have to do with a full loss of legality.

As has been shown by other research, illegalisation is not just a binary legal/illegal or documented/undocumented issue, but forms more of a gradient (De Genova 2010; Tuckett 2015), and "cannot always be determined as a strictly black-and-white matter" (Bernhard et al. 2007: 102). This assessment is even truer in the case of lack of registration, which does not constitute a condition of illegality but rather represents a lack of local legal status, leading to the impossibility of exercising rights.

Being not registered is a condition of *municipal undocumentedness*, which cannot lead directly to deportation, but can entail a risk of expulsion for some categories of people. Of course, national citizens are safe, as non-deportability is the main distinctive element of the status of full members of a state. Third-country citizens should be theoretically safe as well, as their legality has to do with holding a stay permit and not with having municipal registration, which, as already clarified, legally follows state authorisation to stay in the country and therefore is not the precondition for obtaining the same. Yet, those non-citizens who are denied registration sometimes find their stay permit illegitimately revoked, and consequently fall into a condition of deportability due to the illegitimate behaviours of some police offices. The case of EU citizens is different: when they are not registered in any Italian municipality – be it for lack of the necessary economic requisites or on account of their "social dangerousness" – they find themselves in a rather ambiguous position. In their case, registration somehow "certifies" the regularity of their presence. Hence, its lack approaches a condition of "irregularity", which, if reported to prefectures, can suffice to trigger an order for their expulsion from Italy. Whether this order becomes executive or not it often depends, *de facto*, on the country of origin and its political "weight". EU migrants are not a homogeneous and static category in terms of deportability (Lafleur and Mescoli 2018, 484). This is shown, among other things, by what happens in other European states. In Belgium, for instance, the deportation of EU citizens is not easy to fulfil

politically if they come from Italy, France and Spain: since such deportation raises the attention of home-country politicians and media, it becomes almost impossible in practice (Lafleur and Mescoli 2018, 488). Of course, when EU migrants come from Romania and Bulgaria the situation is quite different.

Registration as a status border, therefore, is part of a broader local border regime (Lebuhn 2013) involving not only municipal but also national legal statuses and working through bureaucratic mechanisms which affect individual condition of legality. Those who experience such a regime are forced to live in a juridical and political environment that, despite not being characterised by physical barriers, is however a sort of borderscape (Brambilla 2015), as it is strewn with legal and administrative obstacles and marked by a multiplication of borders (Mezzadra and Neilson 2013) which make legal and material existence even more precarious.

This form of precariousness, moreover, has to do with the composition of the population and contributes to population design not only in terms of deportation or forced mobility but also in another sense: the effects of registration occur not only when people are compelled to move away or are removed from a municipality, but also when authorities decide to categorise and settle "legitimate" modes of dwelling, so those who want to be registered but dwell "illegitimately" are forced to live differently from how they would choose to live. Registration, in other words, deeply affects individual and social behaviour. Instead of being a simple tool of monitoring and acquiring information, it is a *performative* device. It sets individuals before a stark alternative: either adapt and conform to an undesired mode of dwelling, or become invisible to the authorities.

This is not surprising if we consider the history of other demographic instruments such as censuses. These tools affect and shape social identities, as people who fill out census manuscript forms are asked to place themselves in different categories, even of an ethnic or racial kind (Curtis 2001). In this way, in contrast to the practice of census-making, which "constructs population, that is, it builds, assembles and represents population through various statistical techniques", that of "census taking required that the individual identify herself in relation to the state in a new way. It involved the inculcation of a particular way of thinking of the relationship between the individual and a larger social entity – the population – a way of thinking that is now relatively taken-for-granted" (Ruppert 2007, 3).

Population registers, at least in Italy, do not ask those who fill out the registration form to define themselves in terms of ethnicity or race, but simply collect biographical characteristics, such as age, gender, citizenship, occupation, address. However, registration forms also ask information concerning the characteristics of the place in which one lives or the absence of any accommodation. In this way, registration is not limited to collecting data, but rather affects the "styles of dwelling". Indeed, as has already been shown, some changes in the legislation over recent years have increasingly limited individual conduct by introducing obligations and constraints in registration. Many municipalities have taken advantage of these changes by tightening registration requirements even more, often in disregard of national laws and regulations and in a way that exacerbates or skews legal prescriptions. As an effect of these changes, it becomes increasingly difficult to be recognised as a resident in apartments which are in bad condition or are illegally occupied. The same goes for the recognition of those who do not have a fixed abode or are homeless. Hence, those who want to be registered have to meet the criteria set out by law and regulation and (illegitimately) modified by local authorities, and often must change their lifestyle in consequence. This could also mean moving away from a municipality, or continuing to live in it but without being registered, and thus disappearing from the radar of the authorities. In fact, those who are denied registration in some cases try to react or at least critically adapt to the requirements imposed by the authorities, but in many other cases they accept them peacefully or decide not to declare themselves to the authorities, becoming invisible to registers (Gargiulo 2021).

As a result of such dynamics, the institutional fact of registration does not perform its function of representing the empirical fact of how the local population is composed and how those who belong to it live within the territory; the same institutional fact instead acquires a different function, that of modifying the empirical fact by shaping and performing the population – namely, by forcing people to live and dwell differently from how they would if they were free to decide for themselves.

Such a distortion of the function of registration is also an inversion of the juridical logic underlying municipal registers and the right to residency. Just as refugee status,[7] residency

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[7] On the declarative condition of the refugee status see UNHCR 1979.

is a *declarative* and not a constitutive condition. This means that, according to the law, one does not become resident because she/he is registered, but one has to be registered as she/he find her/himself in the material condition of being resident. In other words, legal recognition should follow a concrete fact: it does not make an individual a resident but simply declares her/him to be one. In terms of social ontology, it is a certain material condition – having the habitual dwelling or the centre of own's affairs and interests in a municipality – that should "ontologically" come first.

Yet, the way that registers are concretely conceived and employed shows that things basically happen backwards: instead of certifying a material condition, the act of registration performs the *administrative existence* of a legal population which is shaped according to certain institutional rules and does not reflect how people actually live within the territory. In fact, registration ontologically comes first.

This performing activity is a form of borderwork (Rumford 2006), carried on by different actors who continuously fulfil bordering and re-bordering activities and define access to rights. In the case of registration in Italy, the main actors are mayors and local civil servants. A less important role is played by the local police, which is only appointed to check the requirement of habitual dwelling, which is to say, to verify that those who declare themselves to be settled within certain municipal boundaries truly reside where they claim to dwell. Theoretically, mayors are political actors, while civil servants and local police are technical officials. In the matter of registration, however, mayors, as has already been seen, act as government officers and not as representative of the local community; in other words, they, like civil servants and local police, should not play a political role.

Independently from their formal status, therefore, all these actors have to act in compliance with their substantial roles as street-level bureaucrats. As shown by Lipsky (1980), actors of this kind structurally exercise a certain degree of discretion in their everyday working. In this way, they tend – to paraphrase Max Weber – to turn their technical knowledge and their official knowledge into secret knowledge through the concept of the official secret (Weber 1968). So, the actors involved in registration, similarly to the border officials analysed in other research (Bigo, 2007; Infantino 2016; Salter, 2008), are "everyday border-makers", since, when performing bordering practices, they use their discretion in a way that is not understandable to lay people who declare their residence or

domicile. Those who are excluded from registration often are unaware of the injustice they are facing or, although being aware of it, prefer not to "fight" the local institutions (Gargiulo 2021).

**Conclusion**

The paper, by focusing on Italy, has tried to show that registration is an urban border, and has provided a critical analysis of its characteristics. As emerges from this analysis, population registers and the legal status of local resident are juridical devices that theoretically should aim to monitor the territory, but in fact are used to shape the local population. In this way, they act as administrative and status borders that increase civic stratification and foster differential inclusion. Their existence and historical function prove the persistence of urban borders and show that these borders mainly seek to obtain an asymmetrical redistribution of welfare resources, such as is able to keep migrants and "undesired" nationals symbolically and materially out of the local polity.

As this takes place through opaque paths, the denial of registration is an *invisible border*, not only for the trivial reason that it is not a showy fence or a physical barrier, but also because the procedures through which its denial works are barely evident to the eyes of those who undergo it, and since the lack of enrolment makes people who are not registered administratively invisible. This invisibility produces symbolic and material effects on the life of unregistered people. Their fear or distrust towards institutions causes several of them to renounce any attempt to obtain registration and, consequently, their rights. In spite of some evident differences, their condition resembles that of those who are denied the authorisation to stay in a country. In the US, for example, many undocumented migrants adapt to a life increasingly consisting of monitoring and the risk of deportation, and structured around a multitude of migrant management technologies, by remaining invisible to the state so as to maintain a certain degree of security from job loss, family separation, and the abuse of their basic human rights (Menjívar and Abrego 2012). In their case, "security is often achieved at a cost of personal safety and health" (Jusionyte and Goldstein 2016, 7). In contrast, the choice to expose themselves in order to apply for temporary work

permits or visas make them legible to the state and trackable (Goldstein 2014). In other words, "state policies can invert the optical strategies of those seeking to deploy invisibility to their own benefit, encouraging exposure that can produce new forms of vulnerability among the chronically insecure" (Jusionyte and Goldstein 2016, 9). In this regard, Spain is also quite representative: undocumented migrants who decide to register are exposed to the eyes of police forces (De Cortázar and Nebreda 2000).

Invisibility and security are therefore linked in an ambiguous way. Security arrangements "provide security to some while creating insecurity and vulnerability for others" (Jusionyte and Goldstein 2016, 9). In the case of lacking registration, restrictions on the requirements for enrolment are often justified as a way – echoing the words of Robert Castel (2003) – to protect the civil security of "true" local citizens by limiting the social security of the "undesirable" people who live within the municipal territory (Gargiulo 2015). Local status borders, therefore, produce paradoxical effects, increasing overall insecurity instead of reducing it. Similarly to other material or juridical devices employed in the name of security, despite their manifest and avowed purpose of protecting the population, they "can achieve quite the opposite effect – fearfulness, suspicion, paranoia, exclusion and ultimately insecurity" (Coaffee, O'Hare and Hawkesworth, 2009: 507). In German cities, "where residents are required by law to register their address with local authorities, the decision to avoid official registration can lead to complete exclusion from all public and even many private services (which can usually only be obtained with a valid registration of residency)" (Lebuhn 2013, 43).

The ambiguity of the link between in/visibility and in/security holds also from the perspective of the state apparatuses aimed at controlling the national territory. The Salvini decree is a crystal-clear example of this: it denies registration to asylum seekers, under the pretext of security, but as a result at least potentially creates insecurity. Indeed, as stated by the Constitutional Court in the text of the sentence which declared the illegitimacy of the decree,[8] by preventing certain migrants from being registered, this decree has impeded the authorities from monitoring the territory and knowing exactly what people live and

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[8]  https://www.cortecostituzionale.it/actionSchedaPronuncia.do?param_ecli=ECLI:IT:COST:2020:186.

circulate in it, thus putting public security at risk, as migrants cannot be tracked, and so remain administratively invisible.

In conclusion, when registration as an institutional fact changes its function, it causes paradoxical effects, shaping the local society in ambiguous ways. Visibility and invisibility, legal inclusion and control, intertwine with each other and produce a *de jure* population that, instead of administratively representing the *de facto* population, moulds to the selective and exclusionary views of those who control the registers and their working rules, but at the same time produces unintended consequences in terms of security.

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