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**Master's degree in
Human Rights and Multi-level Governance**



THE PROTECTION OF UNACCOMPANIED
MIGRANT MINORS IN THE BORDER
REGIONS OF RORAIMA (BRAZIL)
AND SICILY (ITALY):

TWO CASE STUDIES ON MIGRATION CRISES

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LIST OF ACRONYMS

AROPE	At Risk Of Poverty or social Exclusion
CAS	Centri di Accoglienza Straordinaria (Extraordinary Reception Centers)
CNIg	Conselho Nacional De Imigração (National Immigration Council)
CoE	Council of Europe
CONARE	Comitê Nacional para os Refugiados (National Committee for Refugees)
CRC	Convention on the Rights of the Child
DPU	Defensoria Pública da União (Federal Public Defender's Office)
EU	European Union
IMDH	Instituto Migrações e Direitos Humanos (Institute for Migrations and Human Rights)
IOM	International Organization for Migration
Istat	Istituto nazionale di statistica (Italian national institute of statistics)
NGO	Non Governmental Organization
OBMigra	Observatório das Migrações Internacionais (International Migration Observatory)
PSL	Partido Social Liberal (Social liberal party)
SAR	Search And Rescue

SIPROIMI	Sistema di Protezione per i titolari di Protezione Internazionale e per Minori stranieri non accompagnati (System for International Protection Holders and for Unaccompanied Foreign Minors)
SPRAR	Sistema di protezione per richiedenti asilo e rifugiati (Protection System for Asylum Seekers and Refugees)
UAMs	Unaccompanied Migrant Minors
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund

INTRODUCTION

At the time that this piece was written, 36 countries were characterized by a fragile and conflict-affected situation all over the world¹. In our highly interconnected and globalized world, a crisis occurring in one single country could potentially give rise to turmoil in several other states, generating potential issues and new responsibilities to be faced. It is precisely for this reason that, it is important to analyze the current situations of migration crises that are happening simultaneously in different parts of the world. Undoubtedly, these crises are characterized by different facts and figures and they are occurring in completely different contexts from a social, political, legal, and economic points of view. Nonetheless, despite these intrinsic diversities, it is useful to research on how each country has tried to cope with delicate issues such as the influx of a large number of immigrants. Such study is necessary in order to understand how to structure the future steps to promptly tackle the migration phenomena, balancing the imperative of full respect of human rights and dignity with the undeniable needs of national states. In particular, within this analysis, it is essential to consider the developments on the protection of the most vulnerable categories of migrants, which are the most exposed to the risks related to the migration process such as human trafficking, forced exploitation and sexual slavery. Migrant children are precisely one of this groups, as they are disproportionately affected by human rights violations and abuses throughout the entire migration path due to different factors, related not only to their age but also to the context where they belong (household, community, peer network), the reasons behind the choice of fleeing and the conditions faced during the journey and at the arrival. The vulnerability is amplified for unaccompanied or separated migrant children, which face even higher risks of being victims of abuses, ill treatments, exploitation, and violence².

In light of this, the present research will consider the protection of unaccompanied migrant minors in two of the countries that are facing the most challenging migration

¹ World Bank, (2020). Revised Classification of Fragility and Conflict Situations for World Bank Group Engagement. Available at: <http://pubdocs.worldbank.org/en/333071582771136385/Classification-of-Fragile-and-Conflict-Affected-Situations.pdf>

² IOM, Protection of Children in Migration, <https://eea.iom.int/protection-children-migration> , accessed on 27/09/2020

crises around the world: Brazil and Italy. A focus will be drawn on the most affected regions, respectively Roraima and Sicily: the main entry points for immigrants in the two countries, which in the last years have faced great (in some cases unprecedented) numbers of arrivals, respectively by land and by sea. Despite the structural differences, both case studies present relevant common points which will be addressed throughout the text. In fact, the contexts of Roraima and Sicily are both characterized by similar characteristics in terms of poverty, inequalities, social issues, and economic instability. Starting from these analogies and a common category of interest, i.e. unaccompanied migrant minors, an analysis will be carried out on the progresses and setbacks of both countries in the protection of unaccompanied migrant minors. The final aim of this work is to highlight best practices they can mutually borrow to better face migration management with a human-centered approach based on the respect and fulfilment of human rights.

In the first part of this work we present the case study of Brazil, and especially the state of Roraima. The chapter starts with a brief introduction of Brazil's migratory scenario and the most recent immigration trends, specifically those generating from the political and economic crisis in Venezuela and some of its impacts. Following this, the state of Roraima will be considered, starting from the description of the socio-economical context and its key role as a gateway for Venezuelans in Brazil. Moreover, few lines will be dedicated to a specific category of migrants, i.e. indigenous peoples from Venezuela, presenting shortly the main difficulties they encounter as a vulnerable group and the gaps in the protection system. Roraima's government will then be illustrated, in the effort of understanding its political position towards the migration crisis and the main steps undertaken to deal with it. The same effort will be carried out about the federal government of Brazil, so to broaden the perspective. Other than the political position, this part will recall the legislation and policies adopted by the central government towards immigration, including the successful program *Operação Acolhida* (Operation Welcome). This Operation will be thoroughly described in both its successful and controversial aspects. Finally, the focus will be specifically shifted towards the protection of unaccompanied migrant minors in Brazil. First of all, the international, regional and national legal framework of protection will be presented, as to put the basis for the analysis. Then, a description of the panorama of unaccompanied Venezuelan minors in Brazil is proposed, tackling the context and size of the phenomenon. Lastly, the work

offers an analysis of the main challenges in the protection of unaccompanied minors in Brazil, both from a general point of view and considering specific gaps in the fulfilment of given rights, namely accommodation, health, education, and work.

The second part of the research addresses the Italian case study, with a structure that precisely reflects the one of the first chapter. Accordingly, it starts with a brief introduction on the Mediterranean migratory crisis and Italy's important part in it, being a strategic point of arrival for migrants coming from different journeys and countries of origin. Following, the region of Sicily will be taken into account, presenting its socio-economical background and its historic role as gateway for migrants to Europe. Then, a general overview of the diversified profiles of migrants arriving in Sicily will be presented, together with a short description of the situation in the most common countries of origin, as to partly understand the main push factors. Sicily's regional government will then be illustrated, as to explain its political position towards the migration crisis and the main measures adopted to deal with it. The same analysis will be carried out regarding Italy's central government, so to broaden the perspective. This part will include not only the political position, but also the recent legislation and policies adopted in the area of immigration, including the SAR activity, the reception system and the measures to guarantee specific rights such as health, education and work. Finally, the study will focus on the protection of unaccompanied minors in Italy. Also in this case, the international, regional and national legal framework of protection will be explained as to formulate a parameter for the analysis. Then, the recent trends of unaccompanied minors in the Italian territory will be addressed, providing statistics and data. The work will then present the main obstacles to their protection, starting from the issue of invisibility and following with the fulfilment of specific rights, namely accommodation, health, education, and work.

The third and final section, which fulfils the final aim of this research, is devoted to an analysis of the best practices and policies of protection of unaccompanied minors that the two case studies can borrow from each other. Indeed, despite the underlying dissimilarities between the two countries, both Roraima and Sicily share some commonalities that explain the difficulty in coping with migration crises and ensuring the fulfilment of migrants' rights. The focus will be drawn on how specific practices, that tackle common problems relevant to both case studies, managed to successfully guarantee

unaccompanied minors' rights and protection. In particular, the best practices presented are four, two for each case study. First of all, the adoption of Italian law 47/2017, specifically dedicated to the protection of unaccompanied migrant minors, is presented as a successful example for incorporating in the national system the international standards of protection. In Brazil, the adoption of a legislation on the protection of unaccompanied migrant minors, currently lacking in the national system, would be relevant as to free Venezuelan minors from invisibility and guaranteeing them the respect of the rights they are entitled to. The second best policy is the Brazilian *Operação Alcolhida*: an effective multi-stakeholder and interdisciplinary strategy which thanks to the coordinated work of the government, military, UN agencies and civil society organizations has managed to cope with the difficult situation in Roraima and guarantee a better protection of migrants, including those of minor age. Italy can find inspiration in this program mostly in the cooperation and coordination among different actors at all levels, crucial to allow a true burden sharing, lightening the efforts for Sicily and ensuring an effective protection of rights. In particular, the very successful relocation strategy of the *Operação Alcolhida* is considered as a best practice of redistribution of migrants, currently unsuccessful both within the Italian and European territories. Following, Italy's commitment to data collection is analyzed as a best policy to inspire Brazil's further engagement in this action. Indeed, while the Italian executive branch is active in structured efforts for tracking and providing statistics on unaccompanied migrant minors, as a strategy to guarantee their visibility and a follow-up on their path, in the Brazilian system there is a true gap in data collection when it comes to unaccompanied migrant minors. The fourth and final best policy that will be presented is the positive cooperation between the Brazilian institutional structure and the third sector, which has created a favorable environment for the work of non-profit organizations in the protection of migrants and refugees' rights, including underage ones, which is currently lacking in the Italian scenario. The Brazilian case is indeed a great example of trust and upholding of the work of non-governmental bodies: this faithful approach of the government towards their work and the cooperation with them allowed fruitful results in terms of general protection of (unaccompanied) migrants. The Italian government, which in recent years carried out a strategy of criminalization and obstruction of the humanitarian SAR work

of NGOs, can find a lesson learned in the Brazilian approach, as a more successful practice for the protection of migrants.

1 THE VENEZUELAN MIGRATION CRISIS IN BRAZIL

1.1 The Context: a Brief Introduction

Historically, Brazil has always been a welcoming country for a large number of migrants. Contemporary Brazil has a migratory scenario characterized by three aspects: the reception of international migrants, asylum seekers and returned Brazilians; the departure of Brazilian migratory movements towards other states and, on a smaller scale, the transit of migrants who wish to reach a third destination state. The image that Brazil was being “invaded by foreigners” - with the term foreigners representing, earlier on time especially Haitians and now, particularly, Venezuelans - has been daily reiterated as propaganda through the media. However, when evaluating the numbers, it is possible to observe that by June 2019, more than four million Venezuelan nationals sought protection outside their country and among them, only a small portion is found in the Brazilian territory: by the end of 2018, 85,438 Venezuelans have requested asylum in Brazil. Nothing that resembles the announced massive invasion, especially in the face of a population of approximately 207.7 million people. The overall number of international migrants registered in Brazil, which is far beyond the count of migrants of Venezuelan origin, does not reach 1% of the population. These figures make the proportion of the migrant population in Brazil clearer, but they do not diminish the need to reflect on the issue of the arrival of international migrants in the country and the way the country welcomes them and respects their rights³.

Anyhow, it should also be noted that the volume of people entering the country has intensified since 2010, due to a number of factors, such as: the favorable economic Brazilian scenario at that time, while a significant economic crisis was hitting other countries; the entry into force of the MERCOSUR Residence Agreement (2009) which established free intra-continent mobility in Latin America; the granting, in the same year, of migratory amnesty for undocumented migrants residing in the country; the granting of

³ Peres Gediél, J.A. et al. (2016). Refúgio e hospitalidade. Available at: https://www.acnur.org/portugues/wp-content/uploads/2018/02/Livro_Ref%C3%BAgio_e_Hospitalidade_2016.pdf

visas for humanitarian reasons to Haitian nationals. However, in 2015, due to the beginning of an economic and political crisis in Brazil, a downward trend in the number of people entering the country began. In recent years, instead, inward migratory fluxes have increased consistently in the country.

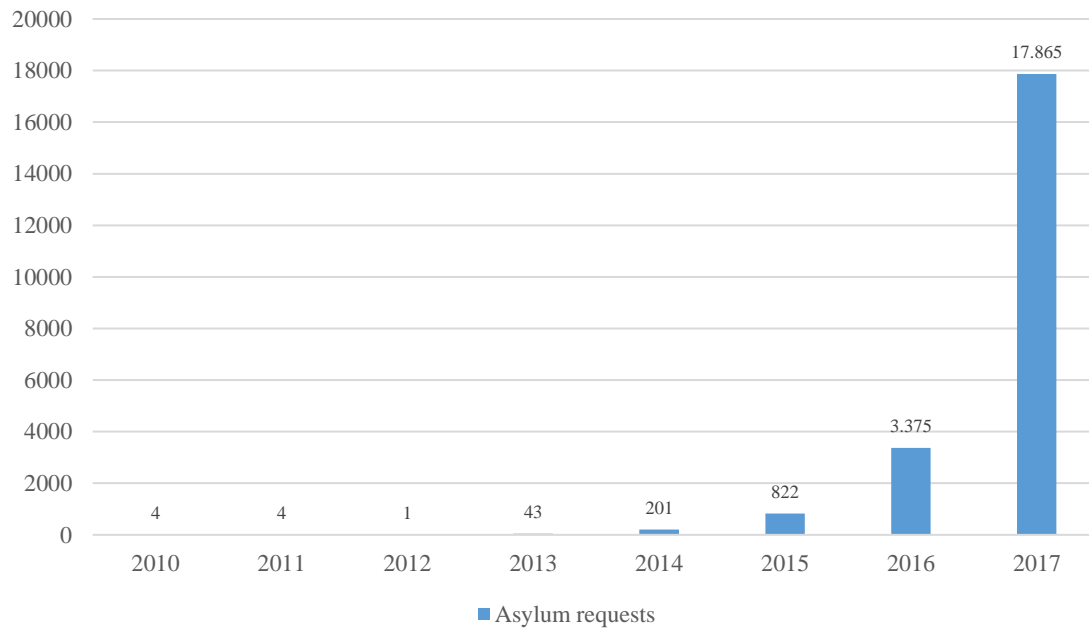


Table 1. Asylum requests of Venezuelans in Brazil between 2010 and 2017

Indeed, the year 2018 has seen 11,327.00 requests of asylum being accepted⁴ – this number of course does not include the asylum seekers present in the country at the time. That year was crucial for the deterioration of the republic of Venezuela and resulted therefore in an increase of the incoming flux. Every day, about 800 Venezuelans arrived in the Brazilian state of Roraima, insofar as the federal Government had to declare a state of emergency. In the following year, the situation and the numbers did not change, as the humanitarian crisis kept going. The Federal Government implemented an open border policy and an emergency response for refugees, including through an innovative internal relocation process to other states of the country, with the support of the United Nations

⁴ Macro Trends, Brazil Refugee Statistics 1990-2020, <https://www.macrotrends.net/countries/BRA/brazil/refugee-statistics>, accessed on 12/03/2020

High Commissioner for Refugees (UNHCR) and several humanitarian actors⁵. In sum, in recent years the migratory scenario has changed, and Brazil came to be seen as a possible destination country, therefore receiving an increasing number of asylum applications. Moreover, when considering the data, it is important to highlight that even if the number of people recognized as refugees in Brazil is relatively low there is, however, an expressive number of asylum seekers awaiting a decision by the Brazilian State: there are currently 161,057 asylum applications pending at the National Committee for Refugees (*Comitê Nacional para os Refugiados* - CONARE). According to the CONARE General Coordinator, applicants have waited, on average, two years to have their request reviewed⁶.

The most significant migration crisis currently affecting Latin America, including Brazil, is that of Venezuelans. Since 2015, after President Nicolás Maduro lost Venezuela's parliamentary elections, part of the Venezuelan population began to emigrate in greater numbers towards other Latin American countries. Various international pressures added to the internal crisis of the political model that prevailed in this country since the end of the 1990s culminated in economic, social and food supply crises. The history of the migratory flow of Venezuelans towards Brazil can be approximately sensitized in three phases. Initially, Venezuelans were involved in a pendular migration, i.e. a momentary detachment usually motivated by the search for a job or basic supplies lacking in their home country, with the final goal of returning back to Venezuela. At the time, some immigrants even carried out small jobs in the Brazilian territory, but the majority still had some purchasing power with resources from Venezuela. Following, the Venezuelan economic crisis directly impacted this type of mobility, due to the decline in the purchasing power of these migrants caused by the strong devaluation of the Venezuelan Bolívar. In a second phase, an increasing number of migrants decided to settle in Brazil but remaining near the border, so to stay close to their country of origin. Finally, over time, Venezuelan immigrants started to settle in the state of Roraima and moved even further to other Brazilian states in search for job offers. Since 2016, the number of arrivals

⁵ UNHCR Global focus, <http://reporting.unhcr.org/node/10329?y=2019#year>, accessed on 12/03/2020

⁶ G1, Franco M., (2018), Brasil tem 86 mil estrangeiros aguardando resposta sobre refúgio e 14 funcionários para avaliar pedidos, <https://g1.globo.com/mundo/noticia/brasil-tem-86-mil-estrangeiros-aguardando-resposta-sobre-refugio-e-14-funcionarios-para-avaliar-pedidos.ghtml>, accessed on 6/04/2020

has been increasing, as well as the balance of people staying in or leaving Brazil for locations other than the border between Brazil and Venezuela.

1.2 The State of Roraima

1.2.1 Roraima: The Fragile Background of Venezuelans' Gateway to Brazil

According to the International Organization for Migration (IOM), Brazil is the Southern American country with the highest number of asylum applications, most of which are submitted in the state of Roraima⁷. Specifically, according to the UNHCR, Brazil is the country with the largest number of recognized Venezuelan refugees in Latin America⁸. From 1970 until few years ago, the largest part of the migratory flow in the area consisted of Brazilians leaving for Venezuela. Now the scenario has been reversed, and an unprecedented number of Venezuelans are moving towards Brazil, creating a migratory challenge that already matches that of the Mediterranean, according to the IOM⁹.

In particular, the state of Roraima, that borders with southern Venezuela, has been the main entry point to Brazil for thousands of Venezuelans fleeing the economic, political, and social crisis of their country. Roraima is the smallest state in terms of population and demographic density in the Brazilian nation. This state has the least developed economy in the whole country and a quite fragile health system. Indeed, a general condition of deficiency can be highlighted, if we consider that as of 2019, 32.6% of the population

⁷ International Organization for Migration, (2018). National Migration Trends in South America – Bolivarian Republic of Venezuela. Available at: https://robuenosaires.iom.int/sites/default/files/Informes/National_Migration_Trends_in_South_America_Venezuela.pdf

⁸ Notimérica, (2020), Venezuela.- Brasil es ya el país con el mayor número de refugiados venezolanos reconocidos en América Latina, <https://www.notimerica.com/politica/noticia-venezuela-brasil-ya-pais-mayor-numero-refugiados-venezolanos-reconocidos-america-latina-20200201113515.html>, accessed on 22/05/2020

⁹ Al Jazeera, (2018), Venezuela migration nears 'Mediterranean crisis point': UN <https://www.aljazeera.com/news/2018/08/likens-venezuelan-refugee-crisis-situation-mediterranean-180825064123119.html>, accessed on 8/05/2020

was below the poverty line¹⁰. Unemployment rates are high, as well as the level of indebtedness of families, and due to the low wages, many people have difficulty in honoring basic commitments, such as the payment of essential services of public utility. The presence of a considerable rate of extreme poverty makes the access to basic public services reduced, the growth of epidemics easier and encourages the dislocation of vulnerable population to distant places with precarious infrastructures, due to their impossibility of bearing the housing costs. Let us consider an index, as an example to understand more in detail the poverty situation. The Federal Government's Unique Registry for Social Programs (*Cadastro Único*) identifies and characterizes low-income families and is the main tool of the federal government for the selection and inclusion of low-income families in programs of social assistance. In Roraima, the total number of families enrolled in the *Cadastro Único* until June 2019 was 98,726 people, among which 47,026 with per capita family income of up to 89 Brazilian Reals per month (about 15.87 Euros). Among the programs of social assistance, there is the *Programa Bolsa Família*, which consists in a direct income transfer program that benefits families in poverty and extreme poverty throughout the country. In the same year, the average amount distributed by *Bolsa Família* in Roraima exceeded 10 million Brazilian Reals, which results, on average, in 209 Reals per family¹¹ (about 37.26 Euros). Undoubtedly, Venezuelan refugees and immigrants enter the Brazilian territory in a location with very low economic insertion capacity, exacerbated by the recessive context that the whole country has been experiencing since 2015, in which even the important public investments, which have always been driving the economy in Roraima, are scarce. As regards the health system, it is important to mention that the State of Roraima has a deficit of highly complex health units, with the Hospital Materno Infantil Nossa Senhora de Nazareth and the Hospital Geral de Roraima the only hospitals in the State in their level of complexity. This sums to the general context of Brazil, in which public health is in a process of decay,

¹⁰ G1, (2019), Mais de 30% da população de Roraima está abaixo da linha da pobreza, aponta IBGE , <https://g1.globo.com/rr/roraima/noticia/2019/11/06/mais-de-30percent-da-populacao-de-roraima-esta-abaixo-da-linha-da-pobreza-aponta-ibge.ghtml>, accessed on 22/05/2020

¹¹ Roraimaemtempo, (2019), Pobreza extrema cresce em Roraima e atinge mais de 47 mil pessoas, aponta levantamento , <https://roraimaemtempo.com/ultimas-noticias/pobreza-extrema-cresce-em-roraima-e-atinge-mais-de-47-mil-pessoas-aponta-levantamento,317099.jhtml>, accessed on 22/05/2020

considering the deficiency in the physical structure, the lack of availability of medical equipment and the lack of human resources¹².

This contextualization is important to understand the background in which the Venezuelan migration crisis takes place. The fragile conditions of the state clarify the reasons why it is such a complex struggle for the local infrastructure of Roraima to cope with the great influx of Venezuelan immigrants¹³.



Figure 1. The passage from Brazil to Venezuela: border between Santa Elena de Uairén and Pacaraima¹⁴

However, due to geographical reasons, Roraima remains the gateway for Venezuelans that flee their home country in order to reach Brazil. The main entrance is the municipality of Pacaraima, which has a little more than 10,000 inhabitants and is located about 200 kilometers away from the capital of the state, which is Boa Vista. It is noted that a large

¹² De Almeida Costa Barreto, T. M. & Dos Santos Rodrigues, F. & Barreto, F. (2018). Os Impactos nos Serviços de Saúde Decorrentes da Migração Venezuelana em Roraima: ensaio reflexivo. In *Humanidades & Tecnologia Em Revista (FINOM)* - ISSN: 1809-1628. Ano XII, vol. 14- Jan – Dec 2018. Available at: [file:///C:/Users/helec/Downloads/816-2736-1-PB%20\(1\).pdf](file:///C:/Users/helec/Downloads/816-2736-1-PB%20(1).pdf)

¹³Fundação Getulio Vargas, Department of Public Policy Analysis, (2018). *Desafio Migratório em Roraima - Repensando a política e gestão da migração no Brasil*. Available at: <https://bibliotecadigital.fgv.br/dspace/bitstream/handle/10438/24197/Desafio-migrato%cc%81rio-Roraima-policy-paper.pdf?sequence=1&isAllowed=y>

¹⁴ Source: Geonauta. Available at: <http://geonauta.com.br/aconteceu-virou-aula/imigracao-venezuelana-para-o-brasil/265> accessed on 8/05/2020

number of Venezuelan asylum seekers migrate by land, through the border between Santa Elena de Uairén and Pacaraima. In search of better living conditions, many Venezuelans, with no financial resources to cover their transportation tickets to Brazil, travel on foot for about 9 days on the 218 kilometers of the federal highway BR-174 which separates the cities of Pacaraima and Boa Vista. Pacaraima is the main arrival point for migrants because it presents a "dry border", that is, without natural obstacles. From there, many Venezuelans head towards Boa Vista, the city that receives most Venezuelans in Brazil. From 2015 to 2018, 10% of the population of Roraima was composed by Venezuelans, because there had been a flow of 60 thousand migrants who came to reside in the state. Of that total, 55,000 were in Boa vista¹⁵. Such increased number of arrivals was also reflected in the great quantity of residence and asylum applications requested in the state of Roraima, causing an uneven burden for this region.

1.2.2 Indigenous Migrants from Venezuela

It is important to highlight that among the Venezuelan immigrants reaching Roraima, there are specific categories of particularly vulnerable people, such as unaccompanied migrants minors (which will be discussed more in detail further in the text) and indigenous people. In particular, the main indigenous group identified is the Warao ethnic group, together with the E'ñepá one. The Waraos, the second largest indigenous group in Venezuela, travel for more than 800 kilometers from the north of Venezuela until the border with Brazil. Venezuelan indigenous people flee towards Roraima in search of food and health treatment; they have the right to be cared for as immigrants, but above all, for their indigenous dignity. Traditionally vulnerable in their own country, in the Brazilian territory they face other challenges, such as the one of language, as they usually do not speak Portuguese¹⁶. Moreover, malnutrition and a high rate of contamination of the AIDS virus complicate their situation. Nonetheless, despite being absent from their cultural

¹⁵ El Observador, (2019), El gran flujo de venezolanos a Brasil que llevó a Roraima a un estado en emergencia, <https://www.elobservador.com.uy/nota/el-gran-flujo-de-venezolanos-a-brasil-que-llevo-a-roraima-a-un-estado-en-emergencia-2019828112353>, accessed on 3/05/2020

¹⁶Estado de Minas, (2019), Situação de indígenas venezolanos no Brasil é trágica', diz ACNUR, https://www.em.com.br/app/noticia/internacional/2019/09/04/interna_internacional,1082396/situacao-de-indigenas-venezuelanos-no-brasil-e-tragica-diz-acnur.shtml, accessed on 20/05/2020

practices and physically far from the lands where they traditionally belong and with which they have an intimate link, this does not overcome the difficulties faced in their homeland. Above all, it appears that even after the migration process these peoples do not fail to maintain and exercise their indigenous identities. Many maintain at least some link with their original territories and communities and mobility, or they engage in a non-fixed type of migration. By expressing themselves in their languages and/or maintaining indigenous beliefs, uses, customs and traditions in the context of migration, they demand respect and space to exercise their identities wherever they are. Outside Venezuela, or even in cross-border territories as in this case, migrant indigenous peoples are among the most vulnerable groups and often demand humanitarian reception, having different resilience capacities, precisely because they are related to the collective indigenous identity. In this sense, the protection of their rights must also consider their condition as an ethnic and linguistic minority, without losing or diminishing their indigenous identity, as a way of guaranteeing the protection of their fundamental rights, including the right to exist as indigenous peoples¹⁷. Surely, their effective protection represents a legal, sociological, and political challenge. This because they transcend the basic immigrant status and demand specific (legal but not only) protection as indigenous people. Although the Venezuelans indigenous people do not have traditionally occupied land in Brazil, this does not prevent the exercise of other rights, as these are not conditioned to the physical locus. Specifically, it must be borne in mind that the shelters in which they have been located can only be a transitory solution. If there are no expectations of changes in the Venezuelan scenario in the short and medium term, and they migrated with a definite spirit, it is necessary to think about an accommodation that facilitates their physical and cultural emancipation, based on a right to a land. In sum, they need a specific and higher protection, which has not always been granted, as they initially were not even granted access to the shelters, favoring a situation of vulnerability that increased the risks of exploitation, drug use, hunger and disease in a population that is already threatened by risk factors linked to their identity as indigenous and migrants.

Furthermore, another difficulty that affects these indigenous groups crossing the border of Brazil is the exploitation of slave labor, as there have already been many complaints

¹⁷ Organização Internacional para as Migrações, (2018). Aspectos jurídicos da atenção aos indígenas migrantes da Venezuela para o Brasil, <https://www.refworld.org/es/pdfid/5b2044684.pdf>

on the fact that Brazilians are taking advantage of them financially. Their status is indeed particularly precarious as they may have no documentation and they are on the poverty line. As a result, the practice of begging by indigenous groups seeking forms of subsistence is very common. Moreover, the integration within the social framework is extremely complicated and several episodes of humiliation and discrimination by the local or immigrant population were registered. For instance, in Roraima conflicts happen even between migrants themselves, namely between the indigenous and non-indigenous ones, due to the overcrowding of the Immigrant Reference Center (CRI)¹⁸. Brazilian authorities also took very controversial positions towards indigenous persons on some occasions. An exemplar case was in December 2016, when due to the number of indigenous groups as beggars on the streets, Brazilian authorities detained about 450 Venezuelans for deportation. The majority of them were Warao, camped in Pacaraima and Boa Vista. The action was specifically aimed at undermining them, and it was justified only by the fact that their permanence was irregular due to the lack of documentation. The Brazilian authorities' action was criticized by the Inter-American Commission on Human Rights (IACHR), which demanded protection for immigrants. As a result of the violation of international norms, the Public Defender's Office (Defensoria Pública da União -DPU, a juridical institution of the State) prevented the act from being committed. That same month, the state government decreed a public health emergency in Boa Vista and Pacaraima. The then state secretary of Health, César Penna, affirmed that the number of prenatal care provided to Venezuelans was greater than the visits to Brazilian women between January and August 2016. A year later, in December 2017, a state of social emergency was decreed in Roraima¹⁹. In order to understand the situation more in depth, let us briefly consider the positions of both the state of Roraima and the federal government of Brazil.

¹⁸ Pauli, E. & Pinho de Almeida, L. (2019). Atendimento à população venezuelana no Brasil: uma análise da “reserva do possível” e do mínimo existencial. In TraHs Números especiais N°4 | 2019 : Políticas públicas: desafios nos contextos atuais. Available at: <https://www.unilim.fr/trahs/1606&file=1>

¹⁹ BBC, (2018), A cronologia da crise migratória em Pacaraima, na fronteira entre Brasil e Venezuela, <https://www.bbc.com/portuguese/brasil-45242682>, accessed on 20/05/2020

1.2.3 Position and Key Facts of Roraima's Government

The governor of the state is Antonio Oliverio García de Almeida, better known as Antonio Denarium, member of the Social Liberal Party (Partido Social Liberal - PSL), the same to which the president Jair Bolsonaro was part until 2019. The PSL is a conservative party that, since Bolsonaro's entry in 2018, shifted from a social-liberal ideology towards more conservative positions such as the legalization of the possession of firearms and the refusal of abortion, same-sex marriage and teaching gender identity in schools. During the election campaign, Denarium affirmed that closing the border was one of the options considered to deal with the large influx of Venezuelans, and he defended the creation of a program to return Venezuelans to their home country or to other neighboring countries. At the same time, once elected, he showed support towards the *Operação Acolhida* (Operation Welcome - a program for welcoming Venezuelans discussed more in detail further in the text), and favored its renewal, as he considered necessary to increase the number of immigrants relocated from Roraima to other Brazilian federal states. Yet, already in 2018, the governor gave Venezuelans responsibility for cases of violence in which immigrants themselves were attacked, accusing them to be criminals instead of victims. As he stated, the people of Roraima are welcoming but "there comes a point in which the population is revolted. Several Venezuelans committed crimes there. The population ends up revolting"²⁰. This affirmation was quite controversial, as it was interpreted as an attempt to justify cases of xenophobia. An important event occurred in March 2019, when senator Telmário Mota filed a request for impeachment in the Legislative Assembly against Governor Denarium. The allegation was the crime of liability after meeting with the Venezuelan group Tupamaro, supporter of Nicolás Maduro. According to Telmário Mota, Denarium was acting outside the line of President Jair Bolsonaro, showing support to "an arm of the Bolivarian government, of the extreme left and very violent, who commit murders and apprehensions in the name of their communist cause [...], a militia group that has already attacked the departure of several people, compatriots, who, because they are opponents of the government regime, were

²⁰ UOL, (2018), Aliado de Bolsonaro, governador eleito de Roraima quer programa para "devolver" venezuelanos, <https://noticias.uol.com.br/internacional/ultimas-noticias/2018/11/23/antonio-denarium-roraima-venezuelanos-jair-bolsonaro.htm>, accessed on 20/05/2020

persecuted, kidnapped and even murdered". In response, Denarium reaffirmed his position, which was in line with the one of president Bolsonaro: the opening of the border with Venezuela would have increased the (negative) impacts for Roraima in the areas of health, education and security, causing a damage to both people and traders²¹. In February 2019, Venezuelan president Nicolás Maduro decided to shut the border with Brazil in order to block the humanitarian aid and relief supplies offered by his opponents. The decision was based on the idea that "Venezuela is not a country of beggars" and did not need any aid. Only in May 2019, Venezuela's Economy Vice President Tareck El Aissami declared the re-opening of the frontier. After this period of closure, the influx of Venezuelan immigrants restarted and increased in numbers and, according to Denarium, worsened the already overcrowded population situation in cities and local public services. He stated that the measures taken through the *Operação Acolhida* were benefiting only Venezuelans, with no positive outcomes for Brazilians. As he affirmed, "what comes is only for the Venezuelan. It does not provide basic food for the Brazilian who is starving. But, for the Venezuelan, it gives everything: lunch, dinner, rent. It gives everything that the Brazilian does not have." According to him, half of hospital vacancies were occupied by Venezuelans, more than 5,000 Venezuelan students were in state schools and 10% of the prison population was also Venezuelan. The unemployment rate doubled from 8% to 16% and the population of the state increased by 20%. "We don't have jobs or infrastructure for that", as he said²². These few facts show how, generally, the flag of the governor Denarium is characterized by the restriction towards immigrants, in a line very similar of that of president Bolsonaro.

1.2.4 Legislation, Policies and Position of the Federal Government

It is important to specify that the very first initiatives to welcome and support immigrants in Roraima were taken by the civil society, mainly in the field of religious organizations,

²¹ Correio do Lavrado, (2019), Telmário pede impeachment de Denarium por encontro com grupo revolucionário venezuelano, <https://correiodolavrado.com.br/2019/03/08/telmario-pede-impeachment-de-denarium-por-encontro-com-grupo-revolucionario-venezuelano/>, accessed on 7/05/2020

²² Folha Vitória, (2019), Roraima recebe nova leva de imigrantes após crise na Venezuela, <https://www.folhavitoria.com.br/politica/noticia/05/2019/roraima-recebe-nova-leva-de-imigrantes-apos-crise-na-venezuela>, accessed on 20/05/2020

in the years 2015 and 2016. Such actions included campaigns to collect food in Catholic and Evangelical churches; distribution of basic food baskets and legal advice by the Center for Migration and Human Rights (CMDH); and donations of food and clothing to homeless people camped in public spaces by informal and spontaneous groups of volunteers. Although spontaneous and informal actions are still being carried out, for the purpose of this study we will now focus on how Brazilian authorities managed the Venezuelan migration crisis through politics, legislation, and policies. Migration management is in fact a federal competence in Brazil.

With regard to the federal government, in September 2016, during the VII Ordinary Meeting of the National Immigration Council (Conselho Nacional De Imigração - CNIg), the theme of Venezuelans crossing the border to the municipalities of Pacaraima and Boa Vista for the supply of fundamental goods first appeared on the Council's agenda. Since then, the issue has been followed more closely with the creation of a Working Group named Analysis of New Migration Flows in Brazil. Such group was responsible for the discussion and preparation of the Normative Resolution No. 126 (explained below), which deals precisely with Venezuelans. On the occasion, the need for a technical visit by the CNIg on the field was also agreed; and it was carried out throughout 2017, resulting in the publication of the “Executive Summary of the Sociodemographic and Labor Profile of Venezuelan Immigrants”. The worsening of the situation in Boa Vista, due to the large number of Venezuelans in the municipality, was discussed in the CNIg Working Group throughout 2017. In the same year, the Bolivarian Republic of Venezuela was suspended from all the rights and obligations inherent in its status as a State Party to MERCOSUR, following the breakdown of the democratic order, in accordance with the provisions of the second paragraph of Article 5 of the Ushuaia Protocol. Hence, with Normative Resolution No. 126, Brazilian CNIg decided to grant a 2-years temporary residence to foreigners who entered the Brazilian territory by land and were nationals of a bordering country, for which the Residency Agreement for Nationals of MERCOSUR and Associated States Parties was not yet in force (or not effective). This allowed Venezuelans to apply to such permit: thanks to this Resolution, only between March and December 2017, 8,470 residence permits were issued. Although it was a positive action, such migratory regularization was still facing an obstacle: the payment of fees. In July 2017,

these rates added up to just over 300 Brazilian Reals. The difficulty of bearing such cost made Normative Resolution No. 126 practically unfeasible²³.

In the meantime, in 2017, the *Estatuto do Estrangeiro* defining Brazil migration law (dating back to the military dictatorship) was repealed by Law No. 13,445, of 2017, the so-called *Nova Lei de Migração* (New Migration Law). The perspective of the old Statute was exclusive: it was a legislation for “non-national” people, marked by restrictions on rights and the imposition of many duties, under the justification of protection to the national interest and security²⁴. The *Nova Lei de Migração* changed completely the perspective and adopted a much more human rights-based approach²⁵. Migration and human development in the place of origin are declared as inalienable rights of all people and leading principles of the Brazilian migration policy (Article 3, XX), together with those of the universality, indivisibility and interdependence of human rights (Article 3, I) and international cooperation with States of origin, transit and destination of migratory movements, with the objective of guaranteeing effective protection of the human rights of and of the migrant (Article 3, XV). Themes that were not previously included in specific legislation and were sometimes contemplated only in international treaties and normative resolutions, such as political asylum and the issue of humanitarian reception, were finally introduced by new Migration Law. Specifically, the main reformulation was the granting of a “humanitarian visa” to citizens who are migrating from countries “of serious or imminent institutional instability, of armed conflict, of a large proportion of calamities, of serious violations of human rights, of international humanitarian law, or in other hypotheses”²⁶. Despite this huge steps towards a much more inclusive approach, it is crucial to underline that current president Bolsonaro represents a risk for the progressive immigration policy formulated in recent decades because, in addition to being

²³ Editoria, (2017), Venezuelanos em Roraima: migração no extremo norte do país, por Gustavo Simões, in Revista Mundorama, <https://mundorama.net/?p=23834>, accessed on 11/05/2020

²⁴ Gallotti Kenicke, P. (2016). O Estatuto do Estrangeiro e a Lei das Migrações: da Doutrina da Segurança Nacional ao Desenvolvimento Humano Available at: https://www.academia.edu/27637134/O_Estatuto_do_Estrangeiro_e_a_Lei_das_Migra%C3%A7%C3%B5es_da_Doutrina_da_Seguran%C3%A7a_Nacional_ao_Developolvimento_Humano

²⁵ Varella, M.D. et al. (2017). O caráter humanista da Lei de Migrações: avanços da Lei N. 13.445/2017 e os desafios da regulamentação. In Revista De Direito Internacional, Brasília, V. 14, N. 2, 2017, pp. 253-266. Available at: <https://www.publicacoes.uniceub.br/rdi/article/view/4682/pdf>

²⁶ Pauli, E. & Pinho de Almeida, L. (2019). Atendimento à população venezuelana no Brasil: uma análise da “reserva do possível” e do mínimo existencial. In TraHs Números especiais N°4 | 2019 : Políticas públicas: desafios nos contextos atuais. Available at: <https://www.unilim.fr/trahs/1606&file=1>

an ex-military man who longs for the dictatorship, he could implement some of the proposals that led him to win the election in October 2018, including the creation of concentration camps for Venezuelans and the closure of the country's borders to immigrants²⁷.

In February 2018, the federal government also issued the Provisional Measure No. 820 of 2018, establishing the Federal Emergency Assistance Committee for the Reception of People in Vulnerability due to the migratory flow caused by a humanitarian crisis. In March 2018, the Normative Resolution No. 126 expired and was replaced with the Inter-Ministerial Ordinance No. 9, of March 14, 2018 which allowed the request for a permanent residence. This ordinance eliminated some of the requirements that prevented many Venezuelans, especially indigenous people, from accessing the previous CNIg Resolution. In particular, it eased the requirement for documents (especially the one stating the person's affiliation - an information lacking in the Venezuelan ID and difficult to obtain in a situation of hurry such as that of forced migration), especially for indigenous people who, due to the situation of vulnerability, may present the identity document of the country of origin, accompanied by a self-declaration of affiliation²⁸. As not every Venezuelan seeks refugee status, this temporary residence was presented as a viable alternative for regularization of people who arrived in Brazil in vulnerable conditions and who did not fit into the other hypotheses provided for in the Migration Law. Following, with Inter-Ministerial Ordinance No. 15, of August 27, 2018 the regularization was simplified even more, allowing even those who did not have all the personal documents to apply for temporary residence. These instruments were intended to correct the legal status of Venezuelan nationals, making the granting of authorization to reside in Brazil possible for those who did not wish to be recognized as refugees, such as the economic immigrants who constantly returned to their country of origin to support family members who stayed there.

²⁷ Muñoz Bravo, T. M. (2020). El camino hacia la formulación de una nueva política migratoria en Brasil. De la visión militar restrictiva a la apertura. *Desafíos*, 32(1), 1-37. Available at: <http://dx.doi.org/10.12804/revistas.urosario.edu.co/desafios/a.5963>

²⁸ Conectas, (2018), Portaria Interministerial Possibilita Residência Permanente a Venezuelanos, <https://www.conectas.org/noticias/portaria-interministerial-possibilita-residencia-permanente-venezuelanos>, accessed on 11/05/2020

Together with these legal measures, the Federal government also adopted several provisional measures (MP), during both presidencies of Michel Temer and Jair Bolsonaro. They were aimed at providing emergency assistance actions to welcome Venezuelans who were migrating *en masse* to Roraima, establishing emergency actions in the areas of social protection, health, education, human rights, food, and public security. In particular, to guarantee humanitarian assistance to Venezuelan immigrants in the state of Roraima, in 2018 the federal government of Michel Temer created the *Operação Acolhida*²⁹ (Operation Welcome). This program is based on a major humanitarian task force executed and coordinated by the Federal Government and the Brazilian army, with the support of United Nations (UN) agencies and more than 100 civil society entities. The Operation offers emergency assistance to Venezuelan immigrants entering Brazil through the border state of Roraima, in three main fields: border planning - documentation, vaccination and control operations by the Brazilian Army; reception - offering shelter, food and health care; and the *estratégia de interiorização* (interiorization strategy) - voluntary relocation of Venezuelans from Roraima to other federal states, with the goal of socioeconomic inclusion³⁰. This project sought to ensure the dignity of the affected vulnerable Venezuelan population, guaranteeing special attention to the indigenous peoples of the Warao and Eñepá ethnic groups. The performance is guided by actions in the areas of social policies, provision of basic services, public security measures, in addition to ordering and border control. This project continued in 2019, organizing the arrival, ensuring health care, and strengthening the interiorization of thousands of immigrants arriving across the border. Throughout 2019, this Operation expanded the interiorization strategy with the signing of agreements with international agencies such as the UNHCR, the IOM and the United Nations Population Fund (UNFPA), in order to encourage Brazilian municipalities to welcome Venezuelan immigrants and refugees. More than 4,000 military personnel have participated in the mission since its inception. Upon entering the country, the Venezuelans can go to the Reception and Identification Post (PRI), where they can receive basic services and medical assistance before being directed to one of the 13 shelters and being

²⁹ Gov.br, A Operação Acolhida, <https://www.gov.br/acolhida/historico/>, accessed on 12/05/2020

³⁰ Rodrigues Moleiro, G.H. (2019). Ações de ajuda humanitária e controle de fronteiras: o desafio de minorar os impactos do fluxo migratório no estado de Roraima. Available at: <https://bdex.eb.mil.br/jspui/bitstream/123456789/4701/1/Artigo%20-%20Cap%20Moleiro.pdf>

inserted in the interiorization process. At the border, an Advanced Service Post (reduced Campaign Hospital) was also established for emergency medical care, in addition to providing vaccines for immunopreventable diseases.

Before analyzing the main steps of the *Operação Acolhida*, it is important to mention the fact that the latter has been severely criticized for being coordinated by the Brazilian army. In fact, according to a study conducted by the Federal University of Roraima, the military took control of the state policy with respect to the migration flow, reducing the state government and city halls to secondary actors with no strategic role. The army was given power of controlling the shelters and also a major role in the selection and transfer of migrants seeking asylum to other regions of the country with support from the UN agencies. This has been denounced as a (camouflaged) “military intervention”, also considering the context of advancing reactionary and authoritarian forces in Brazilian politics. The fact that the Operation, concretely, gave the armed forces social assistance tasks was seen as a strategic *manoeuvre* of the reactionary sectors of the government to increase the military presence in the daily life of the population and to make the public opinion favorable to the military presence in domestic politics³¹. Notwithstanding, the Operation did include some efforts to benefit -at least partly- Venezuelans immigrants and to guarantee their rights. A qualitative evaluation will emerge through the presentation of the concrete initiatives taken in the context of the Operation. In order to welcome immigrants, 13 shelters were set up, 11 in Boa Vista and 2 in Pacaraima. In these structures managed by the United Nations, sheltered people receive meals, hygiene kits, attend Portuguese language classes, among other activities. Two of these shelters are specifically intended for Venezuelan indigenous people: Janokoida and Pintolândia³².

Nevertheless, the shelters are not offering enough spaces to host all the immigrants. As of October 2019, 5,488 Venezuelans - including 1,900 children – were living in the 11 emergency shelters installed in Boa Vista³³. The other two shelters with capacity for 1,488

³¹ UFRR, (2019), Migrantes em Roraima (Brasil): a massificação dos termos acolher/acolhimento, http://ufr.br/antropologia/index.php?option=com_content&view=article&id=115:migrantes-em-roraima-brasil-a-massificacao-dos-termos-acolher-acolhimento&catid=2&Itemid=102, accessed on 23/05/2020

³² Roraimaemtempo, (2019), Mais de seis mil venezuelanos vivem em abrigos em Roraima; 240 serão interiorizados, <https://roraimaemtempo.com/noticias-locais/mais-de-seis-mil-venezuelanos-vivem-em-abrigos-em-roraima-240-serao-interiorizados-,293003.jhtml>, accessed on 12/05/2020

³³ The Intercept Brasil, (2019), Virou rotina agredir e assassinar venezuelanos em Roraima, <https://theintercept.com/2019/11/28/violencia-xenofobia-venezuelanos-roraima/>, accessed on 17/06/2020

people in Pacaraima were also full. Despite almost six thousand people are currently hosted in the shelters, due to the lack of vacancies there is still a part of the Venezuelan population that had no other choice than to occupy buildings in poor conditions or, even worse, live in the streets. Since there is no room for everyone, men often leave the camps as to cede their place to women and children. The possibility of guaranteeing an accommodation for everyone and, accordingly, guaranteeing the right to housing, is therefore still a challenge in Roraima. Yet, according to the new coordinator of the *Operação Acolhida*, General Antonio Manoel de Barros, the future steps of this program do not foresee the construction of new shelters in Roraima, except in the case of a maximum crisis. As he stressed, shelters are not a sustainable solution because they encourage the immigrants to settle in Roraima, causing difficulties of management at the local level. The alternative foreseen is to resettle Venezuelans throughout the country, thanks to the partnerships among the Federal Government, State Governments, Municipal Governments, and civil society organizations, he declared³⁴. In other words, the Operation has already gone through the “shelter phase” and is now focusing on the interiorization strategy.

With reference to that, the main initiative of the Brazilian government aimed at promoting the socioeconomic inclusion of Venezuelan immigrants is the *estratégia de interiorização*, which allows the internal relocation of Venezuelan immigrants from Roraima to other federal Brazilian states with support from the Federal Government and partners such as the UNHCR and the IOM. There are different modalities, which include: leaving shelters in Roraima to move in other shelters in one of the destination cities; family reunification; social gathering; and with a job vacancy indicated. In fact, the beneficiaries may be transferred from temporary shelters to other shelters in their new host cities, having more stability to look for work and also better housing conditions; some others immigrants are relocated to join family members who already live in other parts of Brazil; while others are recruited by companies that need labor before they even

³⁴ Folha BV, (2020), Novo coordenador descarta a criação de novos abrigos em Roraima, <https://folhabv.com.br/noticia/POLITICA/Roraima/Novo-coordenador-descarta-a-criacao-de-novos-abrigos-em-Roraima-/62027>, accessed on 22/05/2020

leave Roraima³⁵. Shelters can be state, municipal, civil society or mixed federal, with housing provided by a civil society entity or religious organization. According to the Government, from April 2018 until January 2020, more than 27.2 thousand people have been interiorized to more than 376 Brazilian cities in 24 Federation Units. This initiative provides immigrants with new opportunities to restart their lives while contributing to the growth of Brazil's economy.



Figure 2. 233 Venezuelans living in Boa Vista boarding on a flight to São Paulo and Manaus³⁶

Venezuelan non-indigenous population that crosses the border has, for the most part, a good level of education (78% have completed high school and 32% have completed higher education or postgraduate studies³⁷). Nonetheless, for them it is generally quite hard to find a stable job in Roraima. Moreover, immigrants are often unable to leave the state, because the connection with other large Brazilian cities by air is expensive and they

³⁵ UNHCR, (2020), Interiorização traz novas perspectivas aos venezuelanos no Brasil, <https://www.acnur.org/portugues/2020/01/07/interiorizacao-traz-novas-perspectivas-aos-venezuelanos-no-brasil/>, accessed on 22/05/2020

³⁶ Source: UN Brazil. Available at: <https://nacoesunidas.org/programa-de-interiorizacao-beneficia-mais-de-5-mil-venezuelanos-no-brasil/>

³⁷ FGV DAPP,(2018), Entenda qual o perfil dos imigrantes venezuelanos que chegam ao Brasil, <http://dapp.fgv.br/entenda-qual-o-perfil-dos-imigrantes-venezuelanos-que-chegam-ao-brasil/>, accessed on 23/05/2020

do not have the financial means to bear such expenses. This program allows them to board on flights, which in some cases are operated by the Brazilian Air Force, that they would not be able to access otherwise. When they arrive in other Brazilian cities, immigrants receive shelter for three to six months, food and support for social reintegration thanks to a joint work between the federal government, states, and municipalities. The *interiorização* is considered a success from several points of view: not only for the socio-economic integration of immigrants and a better fulfillment of their rights, but also for Brazilian employers. Benefits for Brazilian economy are quite direct, as almost 40% of the relocated immigrants had access to the job market; and considering also that the expenses made by Venezuelans move the local businesses, in addition to contributing to tax collection. The UNHCR's livelihood officer, Paulo Sergio de Almeida, highlighted that this effort has contributed to improving the quality of life of Brazilians living in Roraima and Venezuelans who arrive in the country experiencing difficulties. “On the one hand, it alleviates the overload of demand for public services in the state (Roraima) and, on the other, it generates more possibilities for access to income and integration”, he said³⁸. Therefore, according to the UNHCR, this program has improved the rates of quality of life and local integration. In fact, migrants’ access levels to education also increased after their internal relocation: according to a survey conducted by the UNHCR, 65% of the families in Boa Vista enrolled their children in the educational system, while after the relocation 100% of the families did³⁹. Benefits in terms of migrants’ rights are quite clear, as they have a facilitated access to several services that allow them to fulfill their rights to work, education, housing and adequate standards of living. After the relocation, the number of beneficiaries living below the poverty line dramatically decreased.

However, two years after being established, the program is still proceeding at a rate below the desired level, especially from the point of view of the low capacity of Roraima and its respective municipalities to provide adequate reception to the growing flows, which

³⁸ Ministério da Cidadania, (2019), Interiorização de venezuelanos promovida pelo Ministério da Cidadania completa um ano, <http://mds.gov.br/area-de-imprensa/noticias/2019/abril/interiorizacao-de-venezuelanos-promovida-pelo-ministerio-da-cidadania-completa-um-ano>, accessed on 22/05/2020

³⁹ Anadolu Agency, (2020), Acnur afirma que la reubicación interna de migrantes en Brasil aumentó sus ingresos, <https://www.aa.com.tr/es/mundo/acnur-afirma-que-la-reubicacion-interna-de-migrantes-en-brasil-aument-sus-ingresos/1740005>, accessed on 22/05/2020

represent a high percentage of its population⁴⁰. The fact that the main place of entry for these refugees and immigrants is a state with a small population and little services and industry, significantly affects the possibilities of job insertion and entrepreneurship, limiting the growth potentials that this flow offers. In the case of Venezuelans, there is some complexity, because with no sign of longevity, it is difficult to establish residences and jobs and to guide them towards professionalization. Occupying foreign labor, qualified or not, but with an uncertain and fleeting presence, makes the picture more complex⁴¹.

Generally, in the context of the Venezuelan migration crisis, it was not possible to come up with a strategy for inserting this population into the local or national labor market, as it had been done with the Haitian collective in 2012, which, upon receiving the humanitarian visa, was immediately enrolled in the National Employment System (SINE), causing a better distribution of this population in the country's labor market. In the absence of a migration and refuge management policy in Brazil, the solution was that of carrying out specific missions and initiatives to support the local municipality thanks to the joint work of a variety of actors, such as the CNIg, together with other government institutions and non-governmental organizations. The complex articulation between the federal, state, and municipal governments needed to create a harmonized immigration assistance and management policy has been criticized for the implications of these flows concentrated in Roraima. With the new migration law, even though more space is being opened for humanitarian reception, the institutional response capacity of the authorities has not changed radically. The legal provision that would deal with cases like this (which could find basis in Decree 9.199/2017, Articles 36 and 48 on the granting of temporary visa for humanitarian reception) has not yet been regulated through normative resolution, leaving the responsibility to the National Immigration Council⁴². The Venezuelan migratory flow is currently the largest in Brazil, and clearly the country, especially the

⁴⁰ Arguilar Camargo, D. & Hermany R., (2018). Migração venezuelana e poder local em Roraima. In *Revista de Estudos Jurídicos UNESP*, Franca, Ano 22, n. 35, p. 229. Available at: <https://ojs.franca.unesp.br/index.php/estudosjuridicosunesp/article/view/2608>

⁴¹ JUS.COM.BR, (2018), A Venezuela e a imigração para o Brasil, <https://jus.com.br/artigos/68583/a-venezuela-e-a-imigracao-para-o-brasil>, accessed on 20/05/2020

⁴² Fundação Getulio Vargas, Department of Public Policy Analysis, (2018), *Desafio Migratório em Roraima - Repensando a política e gestão da migração no Brasil*. Available at: <https://bibliotecadigital.fgv.br/dspace/bitstream/handle/10438/24197/Desafio-migrato%cc%81rio-Roraima-policy-paper.pdf?sequence=1&isAllowed=y>

state of Roraima, is meeting some difficulties in receiving large numbers of immigrants. However, it is the very lack of public policies capable of inserting these immigrants in the system of education, public health and in the labor market and that generates the basis of a crisis in Brazil. Although Roraima is unable to shelter all the immigrants, the number of Venezuelans does not exceed Brazil's capacity to absorb them, since in relation to other countries, such as the United States and Canada, the Brazilian territory has a number of immigrants below the ability. Only 1% of the Brazilian population is made up of immigrants, while in the rest of the world, the average amount is 3%. The main issue is the current concentration of Venezuelans in only one state. Hence, it is necessary to promote even further the process of internalization as to guarantee immigrants greater opportunity for insertion while taking them away from a reality of poverty, hunger, and worsening diseases. In fact, the marginalization that often characterizes Roraima causes an increase in conflict situations, as there are episodes of violence which end up distancing Brazilians and Venezuelans.

In fact, the cohabitation of Brazilians and Venezuelans presents some challenges and episodes of aggression and violence, situations of xenophobia and even murder are relatively common. The number of murders in the state grew along with the increase in the migratory flow, as shown by data from the Brazilian Public Security Forum: in 2015 there was a rate of 20.2 violent deaths per group of 100 thousand inhabitants and the following year the rate doubled to 41.2. The lack of transparency in crime statistics does not allow us to assess which side of this equation Venezuelans are on. Surely, wrongdoings are committed by both sides, but it is possible to state that there is a xenophobic basis, exasperated by the difficulty to live together – in such conditions –, behind this increase of criminality. This climate of violence has often been encouraged by politicians, both at the state and at the federal level, who often carry out a propaganda against immigrants so to create an “institutional xenophobia”. The governor Denarium, for instance, attempted to close the border with Venezuela at the Supreme Court; charged the Federal Government with the transfer of 288 million Brazilian Reals, which he claims to have spent to guarantee services to Venezuelans in the state's education and health

networks; and blamed migrants for the increase unemployment in the state⁴³. More generally, xenophobia actions are incited through the media such as television, radio, and social networks. According to the Federal University of Roraima, police television programs incite violence against Venezuelans who are said to be the main causes of the increase in crime. Some reports blame Venezuelans for the public chain crisis, as well as health systems and municipal and state education⁴⁴. Undoubtedly, the level of vulnerability to which Venezuelans are subject creates an environment favorable to violence and exploitation, especially for those who are unable to stay in the shelters.

In conclusion, the situation in the state of Roraima is extremely complex as, besides being a border State which is intrinsically destined to welcome migrants and refugees, it is characterized by structural issues of poverty, unemployment and social inequality regardless of (but exacerbated by) the migration crisis. Undoubtedly, an influx of immigrants such as the one of Venezuelans is difficult to deal with, especially considering the context of the region, and the task of the federal government is extremely complicated. Certainly, the latter did engage in several measures and policies, together with non-institutional actors, to face this issue. Even though some of them have been considered a success, the concrete situation shows how they were far from sufficient and a stronger effort is needed to cope with such a crisis while guaranteeing the full respect of human dignity and rights of all categories of migrants, especially the most vulnerable ones. Venezuelans will keep on migrating as long as the situation in their home country will be unstable and will not allow them to live their lives in dignity. The Brazilian government should engage in a unified stronger effort in order to overcome the difficulties of welcoming immigrants and promote integration so to alleviate their vulnerability while favoring a pacific and fruitful cohabitation with locals.

⁴³ The Intercept, (2019), Virou rotina agredir e assassinar venezuelanos em Roraima, <https://theintercept.com/2019/11/28/violencia-xenofobia-venezuelanos-roraima/?comments=1>, accessed on 19/05/2020

⁴⁴ UFRR, (2019), Migrantes em Roraima (Brasil): a massificação dos termos acolher/acolhimento, http://ufr.br/antropologia/index.php?option=com_content&view=article&id=115:migrantes-em-roraima-brasil-a-massificacao-dos-termos-acolher-acolhimento&catid=2&Itemid=102, accessed on 23/05/2020

1.3 Protection of Unaccompanied Migrant Minors

In situations of crisis, there are some categories of people that are disproportionately affected by the negative impacts of the emergency. Considering the context of migration crisis currently affecting the Brazilian region of Roraima, it is essential to identify such vulnerable groups among the Venezuelan immigrants, as to understand the main human rights violations that are being committed together with the gaps in the legal and policies' system, with the aim of advocating for stronger guarantees and protection of the targeted individuals.

As already mentioned, in the case of Venezuela, indigenous peoples are one of the most vulnerable groups suffering from the negative consequences of the migration process. Another category, which can be applied to both cases of migration crisis of South America and Europe, is the one of minors. Children that face migration are particularly vulnerable and may be more easily exposed to violations. For example, children on the move are often subject to exploitation and human trafficking, amongst other abuses. Most of the time they do not choose to voluntarily migrate (especially when fleeing war or persecutions), and they are negatively affected not only by the situation in the home country but also by the difficulties of the whole migration process, including the reception in the host country. Precisely for these reasons, they should be granted an appropriate specific protection and a humanitarian assistance. Among the categories of children on the move, there is a specific group which is even more vulnerable, i.e. the unaccompanied migrant minors (UAMs).

The definition of unaccompanied minor was clarified by the UN Committee on the Rights of the Child, the monitoring body of the Convention on the Rights of the Child. Specifically, it is enshrined in the General Comment No. 6 (2005) "Treatment Of Unaccompanied And Separated Children Outside Their Country Of Origin", which states:

7. "Unaccompanied children" (also called unaccompanied minors) are children, as defined in article 1 of the Convention, who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so. 8. "Separated children" are children, as defined in article 1 of the Convention, who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members. 9. A

“child as defined in article 1 of the Convention”, means “every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier”. This means that any instruments governing children in the territory of the State cannot define a child in any way that deviates from the norms determining the age of majority in that State.

Entering more in detail, the category of interest for the purpose of this work is that of unaccompanied children who migrate outside the borders of their country of origin. According to the UNHCR, an unaccompanied migrant minor is a person under 18 years of age, located outside her/his country of origin, who is separated from both parents and is not under the care of any adult who, by law or custom, had them under their care. If this minor is accompanied by relatives who are not assigned responsibility for her/his by law or custom, we refer to separated minors⁴⁵.

1.3.1 International, Regional and National Legal Framework

The aforementioned UN Convention on the Rights of the Child (CRC) is the main legal instrument within the framework of international law dedicated specifically to the holistic protection of children. It was adopted by the United Nations General Assembly on November 20, 1989 and it entered into force on September 2, 1990. Brazil ratified it on September 24, 1990. The CRC recognizes a set of civil, political, economic, cultural and social rights of children, including the so-called five principles: Non-discrimination (Article 2), Children’s best interest (Article 3), Right to life, survival and development (Article 6) and Right to be heard (article 12). Since all the provisions of the Convention apply without discrimination to all children under the jurisdiction of a State, they apply also to migrant, refugee, and asylum-seeker children. Within the international framework, apart from the UN CRC, unaccompanied migrant children are also entitled to protection under the standards of human rights law, migration law, refugee law and humanitarian law. The main parameters deriving from such background include: measures to prevent separation, *non-refoulement* obligation, identification of child as separated or unaccompanied/specific vulnerable groups, registration, family tracing, specific protection needs (temporary care arrangements, including appointment of a guardian,

⁴⁵ UNHCR, Menores no acompañados y la protección del asilo, <https://www.acnur.org/5cf926764.pdf>

child-appropriate accommodation, access to education, access to health care) and best interest determination (e.g. return to the country of origin, resettlement in a third country, adoption)⁴⁶.

At the regional level, in the context of Latin America, a light on the importance of the protection of UAMs has been shed by the follow-up to the Cartagena Declaration on Refugees, an agreement adopted by the Colloquium on the International Protection of Refugees in Latin America, Mexico and Panama in 1984. In particular, in occasion of the 30 years of the Declaration, there was a momentum and an opportunity to analyze the progress and challenges in terms of international protection and effective integration of the asylum-seeking, refugee, and stateless population in the region. As a consequence, in March 2014 the document *Iniciativa Cartagena +30* was adopted. In particular, this paper stresses how a special protection is needed for UAMs; not only because during migratory processes they are at risk due to their specific condition; but also because some of them may face even a greater risk of violations and discriminations based on given factors such as age, gender, ethnicity, nationality, language, and sexual orientation. Moreover, children traveling alone, due to irregular migration conditions, face a higher risk of being victims of physical, sexual and psychological violence and may be more vulnerable to trafficking in persons for the purpose of sexual and/or labor exploitation. Yet, the document also mentions the challenges of the absence, precariousness, or lack of coordination in differentiated care for unaccompanied minors. In fact, in most Latin American countries, including Brazil, protocols for differentiated attention to priority groups, particularly children and adolescents, have yet to be developed, implemented, and strengthened⁴⁷. Indeed, also according to the United Nations Children's Fund (UNICEF), many states of the region did not adopt immigration laws that explicitly address the issue of economic, social and cultural rights of migrant minors. This means that, in practice, public policies do not protect these rights and there are few programs for the protection and adequate treatment of the specific needs of children. This legal gap and the lack of

⁴⁶ International Organization for Migration, (2011). *Unaccompanied Children on the Move*. Available at: <http://www.corteidh.or.cr/sitios/Observaciones/11/Anexo3.pdf>

⁴⁷ *Iniciativa Cartagena +30*, (2014). *La protección internacional y la efectiva integración: recomendaciones de la sociedad civil frente a las dimensiones actuales del asilo y la apatridia en América Latina y el Caribe*. Available at: <https://www.acnur.org/fileadmin/Documentos/Publicaciones/2014/9793.pdf>

specialized services could lead to the denial of access to education, health, and other types of social support, and could also lead to situations of child labor or sexual exploitation⁴⁸.

As a matter of fact, Brazil belongs to this set of Latin American countries: despite having adopted a legislation on refugees and migrants, and the Statute of the Child and Adolescent (explained later in the text), the country has not foreseen specific provisions on the rights of refugee or migrant children. More specifically, there is no provision in Brazilian national law specifically dedicated to the protection of UAMs. Thus, in order to cover this legislative gap, it is necessary to rely on the provisions of general promotion and protection of rights provided for in the Federal Constitution and other infra-constitutional provisions, in addition to the international Conventions that the country ratified.

The Brazilian Federal Constitution of 1988 guarantees everyone the right to childhood and other social rights - such as education, health, food, housing, leisure, and security -, making no distinction between Brazilians and migrants. In terms of definition of the juridical subjectivity, the Brazilian Civil Code (Act 10406/2002) clarifies that the individual's civil personality starts from birth; but the law guarantees, from conception, the rights of the unborn child. Moreover, regarding the definition of minor, the same Code highlights how children under the age of sixteen are considered absolutely incapable of personally performing the acts of civil life and they will be qualified to do so only when minority ceases, that is at the age of eighteen. The concept of children is more specifically provided by the Statute of the Child and Adolescent (*Estatuto da Criança e do Adolescente*, Law n° 8,069, July 13, 1990), according to which “the child is considered as the person who has not yet completed twelve years of age and the adolescent as that between twelve and eighteen years of age”. The Statute declares the refusal of any form of negligence, discrimination, exploitation, violence, cruelty and oppression, and declares that any violation of children’s fundamental rights, either by act or omission, will be punished according to the terms of the Law. Furthermore, it lists the fundamental rights that children shall enjoy: right to life and health, right to freedom, respect and dignity, right to family and community life, right to education, culture, sports practice and leisure,

⁴⁸ UNICEF, (2010). Infancia y migración internacional en América Latina y el Caribe. Available at: <https://www.acnur.org/fileadmin/Documentos/Publicaciones/2011/7504.pdf?file=fileadmin/Documentos/Publicaciones/2011/7504>

right to vocational training and protection at work. Although the provisions of the Statute apply to all children, there is no specific mention of migrant minors in the text.

In the Brazilian Migration Law (*Nova Lei de Migração* of 2017), we can find more specific references to migrant children. First of all, being in line with the Constitution, the law places the comprehensive protection and attention to the best interests of migrant children and adolescents as one of the guiding principles of Brazilian migration policy. The law also emphasizes the equal and free access of migrants to services, programs, and social benefits. Focusing on UAMs, they are mentioned more than once in the text. In Section IV regarding the Authorization of Residence, Article 30 II (f) declares that residence may be authorized, upon registration, to the immigrant who is a minor national of another country or stateless, unaccompanied or abandoned, who is in the Brazilian borders or in the national territory. Following, in Section II regarding Repatriation, Article 49 § 4º states that no repatriation measure will be applied to a child under the age of eighteen unaccompanied or separated from her/his family, except in cases where she/he is favorable to guarantee her/his rights or for the reintegration to her/his family of origin. In sum, it is possible to affirm that this law includes the UAMs in the vulnerability criteria, granting them a specific protection in the cases listed above.

The specifics of care for migrant children and adolescents are provided for in a Resolution jointly issued by the Public Defender's Office (DPU), the National Council for the Rights of Children and Adolescents (CONANDA), the National Committee for Refugees (CONARE) and the National Immigration Council (CNIg). The *Resolução Conjunta* N° 1 (2017), establishes preliminary identification, care, and protection procedures for unaccompanied or separated children and adolescents, and provides other specific measures. It states that federal public defenders are responsible for conducting individual interviews and protection analysis, with possible support from the Ministry of Social Development team and the Guardianship Council, to provide the right referral according to the degree of vulnerability and complexity of the case. Thus, the Resolution establishes

the formal procedure which allows UAMs not to remain in an irregular situation, which would certainly make them even more vulnerable⁴⁹.

When analyzing the protection of UAMs in the Brazilian legal system, it is worth to consider one specific category of migrant minors, i.e. asylum seekers. The Brazilian Refuge law (Lei nº 9.474 of 22 July 1997) does not specifically mention the child, and as a reflection of the legal lack of protection, migratory authorities and governmental and non-governmental entities have some difficulty in dealing with such concrete cases in a proper way. The child is conditioned to the regularization procedures of the family and to the documents of the parents or guardians, in order to have the right to access to health services, protection policies and the benefits of social policies - such as the right to school. The circumstances of unaccompanied children reach a higher level of complexity, as not only the refugee request form does not foresee the situation of unaccompanied children, but also there is clear a lack of preparation in the work of the immigration authorities, which is based on the focus on the traditional family unit to follow up the requests⁵⁰. Nonetheless, the operative bodies are tasked to pay stronger attention to vulnerable cases, such as underage applicants. The CONARE, in all of its work, generally respects child protection mechanisms; while the CNIg, for instance, has granted permanent visas to unaccompanied migrant minors who were able to demonstrate they had no relatives⁵¹.

One last important instrument that should be mentioned is the partnership the Brazilian government established with the European Union (EU) within the program EUROsociAL+. The latter is a cooperation program between Latin America and the EU, which seeks to contribute to the creation and implementation of public policies aimed at improving social cohesion in Latin American countries. A dialogue started on the definition of strategies aimed at facing the difficulties that arose with the growing number of Venezuelan immigrants in Brazil, including the protection of migrant children who

⁴⁹ MigraMundo, (2019), Crianças migrantes: desafios para uma perspectiva humana no Brasil e no exterior, <https://www.migramundo.com/criancas-migrantes-desafios-para-uma-perspectiva-humana-no-brasil-e-no-exterior/>, accessed on 27/05/2020

⁵⁰ Cantinho, I. (2018). Crianças-Migrantes no Brasil: vozes silenciadas e sujeitos desprotegidos. In *O Social em Questão - Ano XXI - nº 41* – May August 2018. Available at: http://osocialemquestao.ser.puc-rio.br/media/OSQ_41_art_7_Cantinho.pdf

⁵¹ UNHC Regional Legal Unit of the Bureau for the Americas, Differentiated Protection for Unaccompanied Children, https://acnur.org/fileadmin/Documentos/Proteccion/Buenas_Practicas/11430.pdf

face greater risks of exploitation, violations, and abuses. In particular, in 2018 the then Human Rights Minister Gustavo Rocha signed a partnership with the EUROsociAL+ Program for the development of a comprehensive protection protocol for children and adolescents (unaccompanied or not) who are refugees, stateless or in other migratory conditions. The document was focused on helping Brazilian cities facing an intense migratory flow to cope with the arrival of children in vulnerable conditions. The goal was that of offering the territories (especially border municipalities) a reference for creating a flow of care, which guarantees migrant children and adolescents access to basic policies and services, such as health, education, housing, and the entire social protection network⁵². As of October 2020, the EUROsociAL+ Program is acting in Brazil in several areas of cooperation, including human rights and migration. Within the social policy area, there is a specific line of action devoted to policies for youth, adolescence, and childhood. Together with the National Secretariat for Rights of Children and Adolescents, support was given to the creation of the aforementioned protocol for the protection of migrant children⁵³. With the support of the EUROsociAL+ Program, on September 14, 2018 in Brasilia, the International Seminar on Migrant Children and Adolescents was held, organized by the Ministry of Human Rights (MDH), through the National Secretariat for the Rights of Children and Adolescents (SNDCA). The objective of this conference was to discuss the international situation of migration, with a particular focus on its impact on migrant children and adolescents, in addition to recognizing good practices for the protection of human rights of this specific group.

This brief analysis of the legal framework highlights the fact that in Brazil there is no comprehensive protection of UAMs granted by law. Surely, the aforementioned instruments are still some steps forward towards the implementation of their rights, but at the same time they are the basis of the difficulties in the concrete reception and guidance of unaccompanied Venezuelan children in Roraima. Consequently, this incomplete framework leaves great room for *manoeuvre* to non-governmental organizations, civil

⁵² Governo Federal, (2018), Brasil e agência da União Europeia fazem parceria para proteção a crianças e adolescentes migrantes, <https://www.gov.br/mdh/pt-br/assuntos/noticias/2018/junho/brasil-e-agencia-da-uniao-europeia-fazem-parceria-para-protecao-a-criancas-e-adolescentes-migrantes>, accessed on 30/05/2020

⁵³ EUROsociAL, (2020). Brazil - Atuação Do Programa Eurosocial+. Available at: <https://eurosociAL.eu/wp-content/uploads/2019/10/Brasil-ABRIL-2020-PORT.pdf>

society organizations and charities, who play an important role in the implementation of unaccompanied migrant minors' rights.

1.3.2 Venezuelan UAMs in the Brazilian Territory

The humanitarian emergency is driving children and adolescents to leave Venezuela, often alone. Many of them are fleeing hunger, seeking treatment for serious health problems, looking for jobs, and more generally escaping violence and misery in their country. According to the BBC, from August 2018 to June 2019, a total of 3,597 Venezuelan children and adolescents crossed the border into Brazil and were attended by the Public Defender's Office. In particular, 1,896 of them were alone or accompanied by people who were not their legal guardians. They represent 52.8% of the total number of Venezuelan minors who migrated to Brazil in the period. Of these, 11.8% were children and adolescents who arrived in Pacaraima completely alone. The remaining 41.7% came with adults who were not their legal guardians, such as uncles, siblings, grandparents, or people who simply presented themselves as acquaintances or friends of their parents⁵⁴. Certainly, the numbers are approximate, and the total is probably higher as some children may not cross the border at the same spot where the DPU conducts the interviews. The profile of unaccompanied children who cross the border from Venezuela into Brazil is that of very vulnerable individuals with a difficult story behind: sometimes their parents were killed, sometimes they have lost contact with family members during the migratory flow, other times they have never even had contact with the family in the home country. The federal public defender Thiago Parry explained that there are reports of children who walk for more than 6 or 7 days, alone or accompanied by people they meet along the way, because they hear that some people are doing this route and that the situation is better in Brazil, therefore they decide to make this crossing⁵⁵.

⁵⁴BBC News Brasil, (2019), O drama de Juan e das centenas de crianças venezuelanas que cruzam sozinhas a fronteira com o Brasil, <https://www.bbc.com/portuguese/brasil-49566807>, accessed on 31/07/2020

⁵⁵Agência Brasil, (2019), Ao menos 400 crianças venezuelanas chegaram ao Brasil sozinhas, <https://agenciabrasil.ebc.com.br/direitos-humanos/noticia/2019-10/ao-menos-400-criancas-venezuelanas-chegaram-ao-brasil-sozinhas>, accessed on 2/06/2020

As already mentioned in the previous subchapter, federal agents have encountered difficulties in screening and referring children, especially those in situations of risk. Although the *Operação Acolhida* pays special attention to dealing with cases of children with “migratory difficulties”, i.e. unaccompanied, separated from parents or undocumented, there are practical challenges on the ground. One of the main difficulties is the documentary difference between the two countries in the case of children: while in Venezuela the document with photo is issued from 9 years old, in Brazil it is issued earlier. Additionally, in Venezuela children have no taxpayer registry identification, while in Brazil it is issued at birth (*Cadastro de Pessoas Físicas – CPF*). Moreover, some children, mainly from Venezuelan indigenous communities, arrive in Brazil only with the document *Certificado de Nacido Vivo* (which does not substitute the Birth Certificate). In these cases, the agents’ task, with the help of social workers, is to investigate through an interview what the child's situation is and decide accordingly. In that right moment it is important (as well as complicated) to understand whether the child may be a victim of trafficking or is facing any other kind of abuse such as exploitation or violence.

Human Rights Watch denounced that there is no system to monitor and assist unaccompanied children and adolescents after the entry interview in Brazil⁵⁶. In fact, the public defenders of the Union interview each unaccompanied and separated child or adolescent who passes through the entry point and assess their personal and vulnerability situation; then they provide them with information about available services; and inform them that public defenders of the State (different from those of the Union) can request that childhood and youth courts grant provisional custody to an adult, or grant them emancipation if they are 16 or older. But after that, the public defenders of the Union let most unaccompanied children and adolescents enter Brazil on their own, because the defenders “don’t have the capacity to follow up”, as stated by Ligia Prado da Rocha, DPU Secretary of Strategic Affairs⁵⁷. The aforementioned *Resolução Conjunta* gives the public defenders of the Union the mission of accompanying migrant minors in subsequent procedures, namely application for temporary refuge or residence, but due to a lack of

⁵⁶ DW Brasil, (2019), Centenas de crianças venezuelanas estão sozinhas no Brasil, alerta ONG, <https://www.dw.com/pt-br/centenas-de-crian%C3%A7as-venezuelanas-est%C3%A3o-sozinhas-no-brasil-alerta-ong/a-51549064>, accessed on 2/06/2020

⁵⁷ Human Rights Watch, (2019), Brasil: Crianças e adolescentes venezuelanos fogem sozinhos para o Brasil, <https://www.hrw.org/pt/news/2019/12/05/336318>, accessed on 2/06/2020

capacity, the DPU does not monitor cases and does not accompany children once they enter the country. When cases of unaccompanied minors are detected at the border, the DPU makes their migratory regularization and notifies the Guardianship Councils (*Conselhos Tutelares*), bodies that ensure compliance with the rights of children and adolescents in Brazil. After this process, there is a difficulty in following their situation afterwards, precisely because there is no monitoring procedure. This has worrying consequences, because unaccompanied children become invisible in the middle of a flow of thousands of people. As a consequence of the fact that authorities are not providing the sufficient protection, many UAMs end up on the streets, where they are particularly vulnerable to abuse or recruitment by criminal factions. As an example, in October 2019, Jesús Alisandro Sarmerón Pérez, a 16-year-old Venezuelan was found dead, with strangulation and torture marks and a plastic bag over his head on a street near a UN shelter in Boa Vista. He arrived in Brazil in June 2019 unaccompanied, spent a short time in a state shelter, then lived on the streets of Boa Vista and afterwards was taken to a UN shelter. UN representatives believe he may have been executed by a Brazilian criminal group: Venezuelan teenagers are easy targets to be recruited by factions⁵⁸.

Among the greatest challenges when dealing with migrant children, besides the most basic ones such as the language barrier, there are those of avoiding separation from family and granting access to appropriate accommodation, health, and education services. Focusing first on accommodation, in the previous chapter it has already been highlighted the fact that shelters are overcrowded and consequently a part of the migrant population is cut out of the accommodation system. In Roraima, there are only two state shelters designed specifically for teenagers between 12 and 17 years old. Over time, the conditions there have worsened dramatically due to overcrowding. The girls' shelter was 50% more than its capacity and the boys' shelter was twice as large as its capacity. The State Council for the Rights of Children and Adolescents of Roraima, an organ made up of civil servants and representatives of non-governmental groups, criticized conditions at the boys' shelter in September 2019, stating that there was insufficient food and hygiene. Due to the lack of space and structure in shelters that welcome children in the border state, some of them are placed in reception centers for adults or, worse, are forced to sleep on the streets of

⁵⁸ Ibidem

Pacaraima and Boa Vista (where they are at a higher risk of all kinds of abuse). Besides being very problematic, it is illegal to host UAMs in a shelter together with adults, where it is hard to guarantee full protection, psychosocial and pedagogical care. When a Guardianship Council receives a case of an unaccompanied child, it asks the judge to authorize her/his hosting in a shelter of the *Operação Acolhida* for families and alone adults. As of October 2019, according to UNHCR, the latter were home to just eight UAMs; whilst most of the minors lived in shelters for refugees, along with hundreds of Venezuelans, without gender separation and with no adults specifically designated to care for them, even though Brazilian law requires institutions that house children and adolescents to provide “individualized services or to small groups”. In concrete this is beyond the bounds of possibility, if we consider that these shelters are equipped with only one social worker for every 300 people. As a matter of fact, the two existing state shelters in Roraima for teenagers aged from 12 to 17 reached such a level of overcrowding that, on September 2019, a state judge ordered them to stop receiving more minors that they were able to host. Within this decision, the judge found that these host institutions did not offer clean and safe facilities, or the educational assistance required by law. This left the Guardianship Councils of Roraima without a place to refer unaccompanied Venezuelan children and adolescents in need of shelter. The judge gave the state of Roraima ten days to present a reception plan for UAMs. In response, the government drew up a plan that included improvements of shelters and the opening of two temporary homes by UNICEF. Indeed, in December 2019, UNICEF in partnership with the Government of Roraima and the Ministry of Citizenship and in the context of *Operação Acolhida*, opened two reception houses: a *Casa Lar* in Boa Vista and a *Casa de Passagem* in Pacaraima as an immediate intervention for protection, care and reception of unaccompanied Venezuelan children and adolescents. This was the first alternative model of reception inaugurated in Roraima. The initiative was aimed at strengthening child protection and assisting young migrants, always respecting the best interest of the child, through the creation of an environment similar to that of a family dynamics and routine⁵⁹.

⁵⁹ UNICEF Brasil, (2019), Rede de proteção da criança e do adolescente inaugura Casa Lar em Roraima, <https://www.unicef.org/brazil/comunicados-de-imprensa/rede-de-protecao-da-crianca-e-do-adolescente-inaugura-casa-lar-em-roraima>, accessed on 02/06/2020

Focusing briefly on health and education, UNICEF highlighted that without a legal guardian, unaccompanied Venezuelans minors are not allowed to enroll in school or access public health services. These legal obstacles underline the lack of a system to properly support unaccompanied children and adolescents. The Guardianship Councils in Roraima used to refer some of the UAMs to state shelters. In this case, the shelter director becomes the legal guardian, which allows these unaccompanied young girls and boys to attend school and obtain identity documents in order to access the public health system. Since the aforementioned decision of September 2019 prohibiting existing state shelters to host more children than they were allowed to, the Guardianship Councils in Boa Vista and Pacaraima have requested judicial authorization to refer some Venezuelan UAMs to the UN shelters of the *Operação Acolhida*. However, UN representatives underlined that the shelters lack the necessary services and assistance for unaccompanied children and adolescents: for instance, they were not receiving education because there was no adult responsible for taking them to school and bringing them back to the shelter.

As far as the right to work is concerned, unaccompanied Venezuelan minors often seek for jobs to support themselves and send remittances to their families in Venezuela, but Brazilian labor law limits their possibilities for legal work. Adolescents aged 14 and over can work with an apprenticeship contract, earning at least one minimum wage. Teenagers aged 16 and over may engage in paid activity on a regular basis, but with some protections that make hiring less attractive to some companies, compared to hiring an adult. For instance, companies are asked to give them the time they need to attend school and cannot place them on the night shift or under conditions considered dangerous or unhealthy for them.

Overall, although some steps have been taken in terms of legislation, public policies are still scarce and the protection system for unaccompanied migrant minors is thus insufficient. In addition, many services are not coming from state action, but from the activities of non-governmental organizations and civil society. Consequently, the state power should take an increasingly active position at all levels, adopting and encouraging specific public policies aimed at meeting the basic needs of UAMs, as to cope with the

multiple vulnerability that characterizes them⁶⁰. A multilevel approach is needed to face a complex phenomenon like the migration of unaccompanied minors, while granting the whole respect of all their rights. Municipal, state, and federal authorities should engage in a joint effort together with the justice system and the non-governmental organizations in order to establish mechanisms and secure funding to identify, monitor and support unaccompanied Venezuelan children. The stakeholders involved should create a network of communication among them, useful to coordinate all the services and guarantee an effective protection. As recommended by Human Rights Watch, the protection procedures should include: thorough interviews at the border, as to catch key information on the reasons behind the migration and the possibility of family reunions; referring all cases to Guardianship Councils for assessment and follow-up; mechanisms to provide minors with food, shelter, health care and education in Brazil, and to assist them with requesting and renewing documentation, including requesting of refuge or residence; coordination with the International Red Cross to locate parents in Venezuela when it is in the child's best interest and coordination with state and federal agencies to locate relatives in Brazil (or in other countries of the region) and facilitate the reunion.

⁶⁰ De Oliveira, C. & Köhler, N.S. (2019). A (in) suficiência do sistema de proteção destinado às crianças migrantes e refugiadas diante da dupla vulnerabilidade que as acomete. Available at: <https://online.unisc.br/acadnet/anais/index.php/sidspp/article/view/19619>

2 THE MEDITERRANEAN MIGRATION CRISIS IN ITALY

2.1 The Context: a Brief Introduction

The history of the countries in the geographical area of the Mediterranean basin has always been marked by the presence of migratory flows, both centrifugal and centripetal. Migrants and refugees have been crossing the Mediterranean for decades but since 2015, the pike year⁶¹, there have been unprecedented immigration rates in Europe⁶² and we came to speak of a real migration crisis in the Mediterranean⁶³. In particular, the flows coming from sub-Saharan Africa and headed to the European coasts, mainly to countries such as Italy, Greece and Spain, have taken on an extraordinary significance in recent years: only in 2016, for instance, 362,376 people crossed the Mediterranean Sea⁶⁴, risking their lives to reach Europe. Italy has always been characterized by significant emigration fluxes, both internal and towards other countries; today it is an immigration country or a transit area for large migratory flows. The Italian national migration context is particularly complex, characterized by a variety of migration dynamics as well as political tensions. The country is one of the major destinations in Europe for migrants from third countries seeking employment, a better life or fleeing from serious discriminations, risks, and violations. According to the UNHCR, in Italy in 2016 there were 181,436 sea arrivals and a total of 4,578 dead and missing persons. From 2018 on, the numbers dramatically decreased: 2019 only counted 11,471 sea arrivals⁶⁵. Consequently, that year the European Commission declared that the crisis was over, although it did not deny that structural

⁶¹ European Council on Foreign Relations, Migration through the Mediterranean: mapping the EU response, https://www.ecfr.eu/specials/mapping_migration, accessed on 18/07/2020

⁶² Wittenberg, L. (2017). Managing Mixed Migration: The Central Mediterranean Route to Europe, International Peace Institute (IPI). Available at: https://reliefweb.int/sites/reliefweb.int/files/resources/1704_Managing-Mixed-Migration.pdf

⁶³ Cesareo, V. (2017). The challenges of Migration in 2016: a Broad Glance, Fondazione Iniziative e Studi sulla Multietnicità (ISMU), Mc Graw-Hill Education. Available at: http://old.ismu.org/wp-content/uploads/2016/07/XXI-Report_Ismu_III.pdf

⁶⁴ UNHCR, (2016). Refugees & Migrants Sea Arrivals In Europe. Available at: <file:///C:/Users/helec/Downloads/1486039616.pdf>

⁶⁵ UNHCR, Mediterranean Situation, <https://data2.unhcr.org/en/situations/mediterranean/location/5205>, accessed on 07/10/2020

problems remained in place⁶⁶. Nevertheless, 2020 has seen numbers sensibly increase, especially if compared to last year's arrivals. In fact, from January to the first days of October 2020's sea arrivals have been 24,400⁶⁷. Among them, according to the data of the Italian Government as to September 2020, a total of 2,978 migrants were unaccompanied minors. In the same months in 2019 the total of arrivals was only 2,678. Moreover, the main nationalities that immigrants declared once arrived on the Italian shores in 2020 were: Tunisia (the vast majority), Bangladesh, Ivory Coast, Algeria, Sudan, Morocco, Guinea, Somalia, Pakistan and Egypt⁶⁸.

⁶⁶ The Guardian, (2019), EU declares migration crisis over as it hits out at 'fake news', <https://www.theguardian.com/world/2019/mar/06/eu-declares-migration-crisis-over-hits-out-fake-news-european-commission>, accessed on 18/07/2020

⁶⁷ UNHCR, Mediterranean Situation, <https://data2.unhcr.org/en/situations/mediterranean/location/5205>, accessed on 07/10/2020

⁶⁸ Ministero dell'Interno, Cruscotto Statistico Giornaliero, (2020). Available at: http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/cruscotto_statistico_giornaliero_15-07-2020.pdf

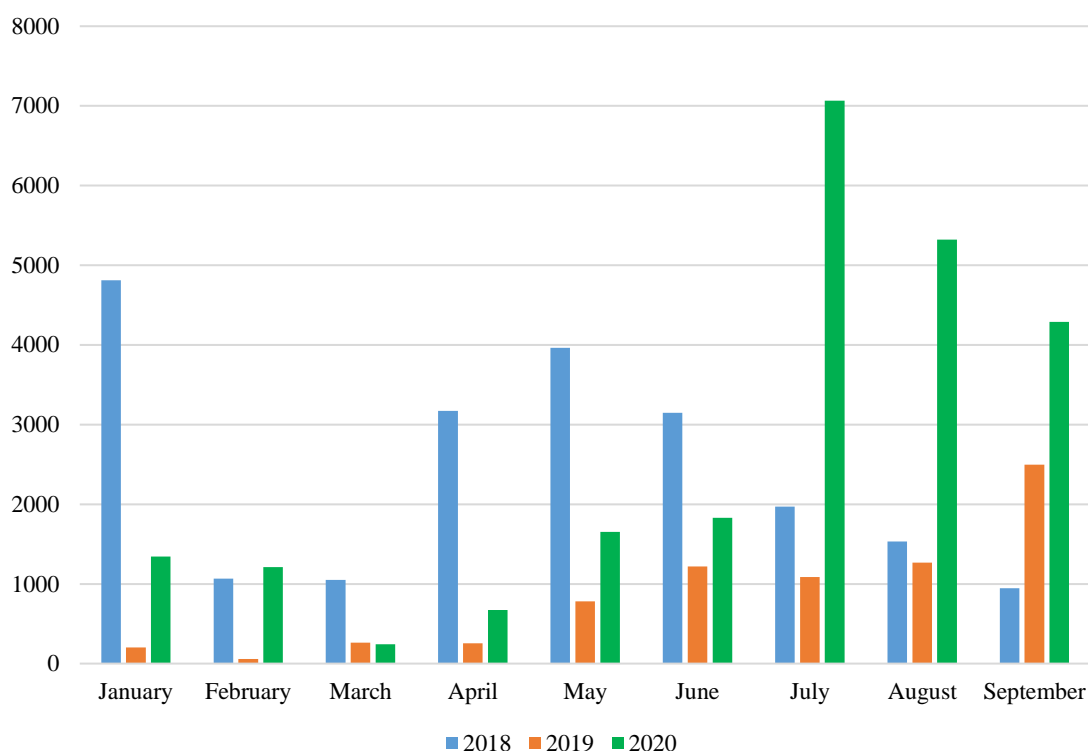


Table 2. Migrants arrivals in Italy (January - September 2018 / 2020)⁶⁹

These numbers are alarming and highlight the importance of the constant attention needed towards the migration movements in the Mediterranean, in order to build the instruments to properly respond to a hypothetical new pike and return of a crisis moment.

Within the migration flows characterizing the Mediterranean regions, there are different journeys that allow to reach Europe arriving in different states - mainly Spain, Malta, Italy, and Greece. For the purpose of this study, we will only consider the migratory flows that involve the maritime routes reaching the southern coasts of Italy. From the African continent, migrants and refugees travel towards Europe through three main routes: the West African route, the Western Mediterranean route and the Central Mediterranean route. The latter is the most relevant in terms of numbers as in the last years it has become

⁶⁹ Data source: Dipartimento per le libertà civili e l'immigrazione, Cruscotto statistico giornaliero <http://www.libertaciviliimmigrazione.dlci.interno.gov.it/it/documentazione/statistica/cruscotto-statistico-giornaliero>, accessed on 30/09/2020

the main access point to Europe for refugees and migrants from sub-Saharan Africa⁷⁰. Only in 2016, in fact, this route was undertaken for 181,126 illegal border crossings⁷¹. This itinerary leads migrant from sub-Saharan Africa to the northern coasts of the continent, in particular the Libyan and Egyptian ones, and brings them to the shores of Italy (notoriously on the island of Lampedusa but possibly also in other regions) and Malta. The countries of origin of the subjects who undertake this journey are mainly Nigeria, Eritrea, Guinea, Ivory Coast, Gambia, Senegal, Mali, Sudan, and Somalia⁷². They travel to the North African coasts passing through a dangerous journey of a thousand kilometers in the southern border of the Libyan desert. This part and the risky sea route leading to the European coasts are the most dangerous sections of the route, insofar as numerous humanitarian disasters have occurred through it.

Italy, due to its geographical position, is a strategic point of arrival which might be reached from other continents by sea. Currently, immigrants are undertaking the Mediterranean routes departing originally not only from sub-Saharan states (mainly Ivory Coast, Sudan, Somalia, Mali, Nigeria) but also from different regions as northern Africa (Algeria, Morocco, Tunisia, Egypt), South Asia (Bangladesh, Pakistan) and Middle East (Iraq, Syria). This heterogeneity in the countries of origin results in the presence of mixed migration flows, where different categories of migrants (asylum seekers, refugees, economic migrants and other) are undertaking the same journey. Hence, people who (manage to) disembark on the southern coasts of Italy have very different backgrounds: they may escape war, persecutions, poverty, lack of basic services or opportunities. There is no single or standardized profile of the migrant arriving in Italy. Accordingly, each category needs a different and specific protection – which makes the management of the migration flows even more complicated. Moreover, the migrants forced to flee their home countries with the hope of reaching Europe face a variety of risks, abuses and human

⁷⁰ United Nations High Commissioner for Refugees, Bureau for Europe, (2017). Desperate Journeys. Refugees and migrants entering and crossing Europe via the Mediterranean and Western Balkan routes. Available at: <https://www.unhcr.org/news/updates/2017/2/58b449f54/desperate-journeys-refugees-migrants-entering-crossing-europe-via-mediterranean.html>

⁷¹ Frontex European Border and Coast Guard Agency, Central Mediterranean Route, <https://frontex.europa.eu/along-eu-borders/migratory-routes/central-mediterranean-route/>, accessed on 15/06/2020

⁷² European Political Strategy Centre (EPSC), (2017). Irregular Migration via the Central Mediterranean. From Emergency Responses to Systemic Solutions. Available at: https://ec.europa.eu/commission/sites/beta-political/files/irregular-migration-mediterranean-strategic_note_issue_22_0_en.pdf

rights violations during the whole migration process and well before arriving (when possible) to the final destination. After managing to escape the dramatic situations in their homeland, migrants often have no other choice than relying on the help of traffickers to start (or continue) their journey. This places them in the considerable risk of being victims of trafficking of human beings, a phenomenon which most of the time foresees the trafficking in children especially for forced labor and trafficking in women for sexual exploitation. All these terrifying risks to which migrants are exposed occur even before embarking on the potential crossing of the Mediterranean, where the risk of dying at sea is very high. Thus, migrants arriving in Italy are often very traumatized and hence vulnerable, in need of a comprehensive type of protection.

2.2 The Region of Sicily

2.2.1 Sicily: The Fragile Background of the Mediterranean's Gateway to Italy

Sicily is an island placed in the middle of the Mediterranean Sea and it is the largest region in Italy. Specifically, together with the islands Aeolian, Egadi, Pelagie, Ustica and Pantelleria, is constituted in an autonomous region with special statute, endowed with legal personality, within the political unity of the Italian state, on the basis of the democratic principles that inspire the life of the nation. The city of Palermo is the capital of the region. According to Eurostat, in Sicily 51.6% of the population is at risk of poverty and social exclusion (AROPE index)⁷³. This means that the region has a disposable income (after social transfers) that is less than 60% of the national average. It is the highest level in the European Union, together with the other Italian region of Campania. The southern part of the country, indeed, has always been characterized by higher rates of poverty, lack of proper infrastructures, higher school drop-out rates, and, more generally, a slower development and modernization compared to the other regions. Moreover, Sicily has always been characterized by a fragile welfare state system which

⁷³ Eurostat, People at risk of poverty or social exclusion by NUTS 2 regions, <https://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tgs00107&plugin=1>, accessed on 15/06/2020

should (but often fails to) ensure the protection of the weakest; starting from healthcare, which has structural problems of shortages of personnel, means and structures. Although it might be considered too obvious, when analyzing Sicily's social fabric, it is necessary to mention that the region is also the place of birth of the mafia, which is still active nowadays (although spread all over the country and the world) and often has strict links with the management of migration. Specifically, as we will consider later in the text, organized crime has key roles in issues such as human trafficking, forced labor and exploitation.

Sicily is the first Italian and European frontier of migratory flows from Africa. The distance between Sicily and Africa is only of about 145 kilometers, those of the Strait of Sicily which divides the island from the shores of Tunisia. The region has assumed the role of gateway from Africa to Europe for about thirty years, acting as a bridge between cultures, ethnic groups, and religions. The island has always been the crossroads of migrants from Europe, Asia, and Africa for the most varied types of encounters and transits. Therefore, the migratory phenomenon, although particularly intense and complicated in recent years, was not new for the territory. Between the end of 1960s and the 1970s, Sicily became an immigration area for the neighboring countries of North Africa. In the 1980s, the island witnessed the intensification of migratory movements from different geographical proveniences: besides the immigrants from Maghreb, who continued to constitute the largest component of the foreign population present in the region, individuals from other countries of the African continent and also Asia started to arrive. Meanwhile, with the decisive expansion and stabilization of the foreign communities in Sicily, an internal migratory trajectory was consolidated. Significant shares of migrants started to move from the southern coasts towards the regions of the North of Italy in search for employment positions within small industries that are generally more guaranteed and better paid. From the 1990s on, we find an increase in the number of refugees and migrants trying to reach the shores of Sicily, forced by the political upheavals taking place in their own areas of origin or in those adjacent to them to flee to Europe and to make use of irregular channels of access to States⁷⁴.

⁷⁴Istituto Euroarabo di Mazara del Vallo, (2016), *Genesi e sviluppo dell'immigrazione in Sicilia: alcune chiavi di lettura*, <https://www.istitutoeuroarabo.it/DM/1a-genesi-e-lo-sviluppo-dellimmigrazione-in-sicilia-alcune-chiavi-di-lettura/>, accessed on 15/06/2020

Notoriously, the island of Lampedusa in the last years has become one of the main gates to Europe. The small island is placed in the heart of the central Mediterranean routes and is the largest in the narrow archipelago of Pelagie, considered geologically more African than European. It occupies the southernmost latitude of Italy, quite far and almost equidistant from many mainland territories: 113 kilometers from Tunisia, 150 from Malta, 205 from Sicily, little more from Libya. For twenty years Lampedusa has been the most frequented first arrival, reception, and obligatory stay filter for immigrants by sea⁷⁵. The inhabitants of the island are known to be very welcoming to those who, after a difficult migration path, are looking for a new life in Europe.

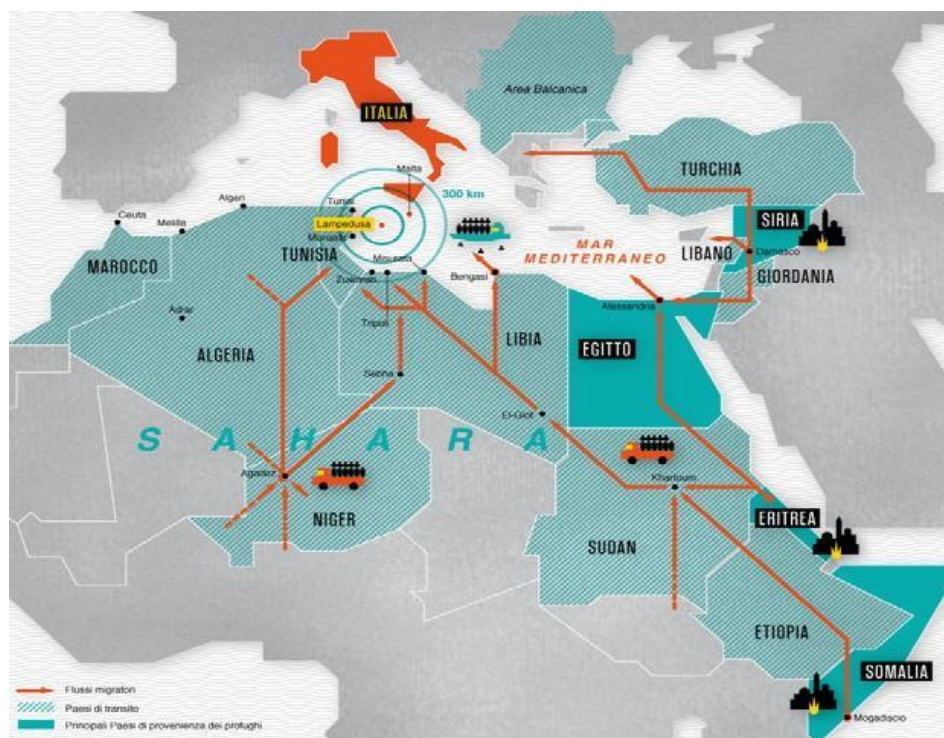


Figure 3. Migration routes towards Lampedusa island⁷⁶

⁷⁵ Il Bo Live, (2019), Intanto a Lampedusa..., <https://ilbolive.unipd.it/it/news/intanto-lampedusa>, accessed on 29/06/2020

⁷⁶ Source: Research Gate. Available at: https://www.researchgate.net/figure/Migration-Routes-and-Lampedusa-image-Matteo-Riva-Panorama_fig4_336150350

2.2.2 The Profile of Migrants Arriving in Sicily

The migration flows characterizing the Mediterranean routes are mixed ones, meaning that they are composed by different categories of migrants moving together along the journey. They include refugees, asylum seekers, victims of trafficking, economic migrants, migrants trying to reach their family in Europe, and more generally people seeking better lives and opportunities. Moreover, within the same migration flux, different nationalities are represented. This means peculiarities in terms of ethnicity, socio-cultural background, religion, and all the characterizing features deriving from one's origin. According to all the aforementioned features, different types of protection may be required for each migrant arriving to Italy. Let us briefly consider some of the most common countries of origin of immigrants arrived in Italy in recent months, in order to understand the reasons behind their movement. As already mentioned, in the first half of 2020 the main countries of origin of immigrants were: Tunisia, Bangladesh, Ivory Coast, Sudan, Algeria, Morocco, Guinea, Somalia, Mali and Nigeria. Let us now consider very briefly the situation in the first five of them, as have a general overview of the causes and characteristics of the migratory flows and of the profiles of migrants arriving in Sicily.

Tunisia is experiencing deep inequalities, especially in underprivileged regions⁷⁷. Migrants testify they have a general feeling of disillusionment and loss of hopes due to the lack of services and the unfavorable economic situation. In terms of human rights, Tunisian authorities are found guilty of imposing arbitrary restrictions on freedom of movement, practicing torture and other ill-treatment of detainees, carrying out arbitrary arrests and house raids without judicial warrants and prosecution of peaceful protesters. Additionally, discriminations and unlawful arrests were carried out towards lesbian, gay, bisexual, transgender and intersex people⁷⁸.

Bangladesh is characterized by a very high rate of poverty and is quite vulnerable to flooding, cyclones, and other natural disasters. Climate change has worsened the effects

⁷⁷ International Labour Organization, Breaking the cycle of poverty in Tunisia, <https://www.ilo.org/global/about-the-ilo/multimedia/features/tunisia/lang--en/index.htm>, accessed on 07/07/2020

⁷⁸ Amnesty International, Tunisia, <https://www.amnestyusa.org/countries/tunisia/>, accessed on 07/07/2020

of such forces and was undoubtedly one of the main causes of the displacement of Bangladeshis. Human rights records in Bangladesh are generally very worrying. The Government is responsible for unlawful killings and disappearances, arbitrary arrest and detention, torture, together with restrictions on freedom of speech, assembly, and expression. Violence against women is widespread through crimes like rape, dowry-related violence, acid attacks, and domestic violence, besides the incredibly high rate of child marriage⁷⁹.

Despite being a quite fast-growing economy, Ivory Coast is a politically unstable country, as it faced civil war twice in the last twenty years. Impunity, a politicized judiciary, and longstanding political and ethnic tensions have been the root causes of the past violence and have not yet been resolved. Major human rights violations in the country are identified in terms of judiciary and detention conditions, security forces abuses, limitation of freedom of expression and assembly and discrimination against LGBTQIA+ people⁸⁰.

Sudan has recently seen dictatorship of Omar al-Bashir collapse, but it is still facing a delicate political transition, slowed down by the ongoing economic crisis causing a lack of basic goods like fuel and food. Meanwhile, clashes between government and armed groups continue to threaten civilians' safety. Both forces carried out war crimes and other serious abuses including killings, sexual violence and forced displacement. Other types of human rights violations are also present: unlawful killings, arbitrary detention, torture by Sudanese security forces against peaceful protesters, and restrictions on freedom of expression and association⁸¹.

In Algeria the new president Abdelmadjid Tebboune, who won last December's elections, is disliked by a large part of the population, who is calling for a change in the power system and the start of a set of reforms to put an end to corruption and guarantee greater freedoms and better economic conditions. The government's response to mass protests was a disproportionate use of force, arbitrary arrests, and torture. Associations,

⁷⁹ Amnesty International, Bangladesh, [https://www.amnestyusa.org/countries/bangladesh/#:~:text=The%20Government%20of%20Bangladesh%20is,in%20the%20name%20of%20Islam.](https://www.amnestyusa.org/countries/bangladesh/#:~:text=The%20Government%20of%20Bangladesh%20is,in%20the%20name%20of%20Islam.,), accessed on 07/07/2020

⁸⁰ Human Rights Watch, Côte d'Ivoire Events of 2019, [https://www.hrw.org/world-report/2020/country-chapters/cote-divoire](https://www.hrw.org/world-report/2020/country-chapters/cote-divoire,), accessed on 07/07/2020

⁸¹ Amnesty International, Sudan 2019, [https://www.amnesty.org/en/countries/africa/sudan/report-sudan/](https://www.amnesty.org/en/countries/africa/sudan/report-sudan/,), accessed on 07/07/2020

journalists, politicians, and human rights activists were particularly targeted. Other human rights violations include discrimination against “non-Muslim cults”, detention and expulsion of sub-Saharan migrants, gender-based violence, criminalization of same-sexual relations and passing of death sentences (although no executions were carried out so far)⁸².

In sum, migrants arriving in the Sicilian shores are generally fleeing conflict, political instability, poverty, discrimination, and restriction of liberties. Although these five countries (and the other ones not analyzed hereby) are intrinsically different from each other, this very approximate analysis was aimed at presenting a general landscape of the reasons behind the migratory movement and the similarities and differences among the profiles of Mediterranean migrants.

Differences can also be found in the final goal of the migratory movement and consequently in the life conducted by each migrant in Italy. Generally, most of the migrants landing on the shores of Sicily do not have the intention to settle in the Italian territory. First and foremost, they are willing to reach a safe place, where there is peace and freedom. Yet, lots of migrants aim to reach other countries of northern Europe, often because they have relatives they mean to join. This trend is confirmed by the data on the total number of immigrants arriving in the European countries. According to Eurostat, in 2018 the country with the highest number of long-term immigrants was Germany (893,886), followed by Spain (643,684), United Kingdom (603,953), France (386,911) and finally Italy (332,324)⁸³. Nonetheless, due to long bureaucracy and problems with documentation, they often find themselves locked up in Italy and, as we will analyze further in the text, are forced to take illegal measures to cross borders to reach other states.

⁸² Amnesty International, Algeria 2019, <https://www.amnesty.org/en/countries/middle-east-and-north-africa/algeria/report-algeria/>, 07/07/2020

⁸³ Eurostat, (2018), Immigration persons, <https://ec.europa.eu/eurostat/tgm/graph.do?tab=graph&plugin=1&pcode=tps00176&language=en&toolbox=x-type>, accessed on 08/07/2020

2.2.3 Position and Key Facts of Sicily's Government

The President of the Sicilian Region is Sebastiano “Nello” Musumeci, member of the autonomist political movement #DiventeràBellissima, named after one of the famous sentences of Paolo Borsellino, the Sicilian magistrate killed by the mafia on July 19, 1992: “*un giorno questa terra sarà bellissima*”⁸⁴ (one day this land will be beautiful). The movement, which identifies itself as autonomist and southernist and which is active only in Sicily, is connected to the center-right parties and at the time of writing is even considering to federate⁸⁵ with the Lega party of Matteo Salvini, former Deputy Prime Minister of Italy and Minister of the Interior from June 1, 2018 to September 5, 2019. In 2017, at the time of the presidential regional elections, Musumeci was supported by center-right parties as Fratelli d'Italia-Noi con Salvini and especially Forza Italia, headed by Silvio Berlusconi, who strongly campaigned for him and supported his victory. The president proudly identifies himself as a right-wing politician, although he received consensus from left-wing voters too⁸⁶.

Let us briefly consider Musumeci's position towards the migration crisis. Generally, in public interviews and speeches, he takes very open positions underlying the necessities and difficulties of those fleeing their home country and trying to desperately reach the shores of Sicily. In this sense, he has a much more inclusive and sympathetic perspective compared to fellow politicians of the Italian center-right parties. Musumeci declared: “I am a Christian and I think that all people who are at sea and are in difficulty must be rescued. But Sicily and Italy cannot be left alone”⁸⁷. This sums up his point of view, which is that of a partially welcoming perspective towards migrants but a critical approach towards the European Union and its Member States who often do not engage sufficiently

⁸⁴ Manifesto #DiventeràBellissima. Available at:

https://www.diventerabellissima.it/public/componenti/953/files/manifesto_diventerabellissima.pdf

⁸⁵ La Sicilia, (2020), Musumeci: «Federazione con la Lega? Non abbiamo deciso con chi andare», <https://www.lasicilia.it/news/politica/350979/musumeci-federazione-con-la-lega-non-abbiamo-deciso-con-chi-andare.html>, accessed on 08/07/2020

⁸⁶ L'Espresso, (2018), «Sì, sono di destra. Ma i migranti li chiamo fratelli». Parla Nello Musumeci, <https://espresso.repubblica.it/palazzo/2018/08/24/news/si-sono-di-destra-ma-i-migranti-li-chiamo-fratelli-1.325912>, accessed on 08/07/2020

⁸⁷ Il Giornale.it, (2019), Nello Musumeci: "Che papocchio l'accordo Pd/Movimento 5 Stelle", <https://www.ilgiornale.it/video/palermo/migranti-rifiuti-lega-nello-musumeci-racconta-sua-sicilia-1783247.html>, accessed on 08/07/2020

in the burden sharing of responsibilities within the migration issue. Regarding the hypothesis of closing the ports, he stated that it was a symbol of the egoism of the European community. Being a strong supporter of the EU, the president strongly advocates for a better management of the migratory phenomenon in Sicily, which needs a multi-level approach involving joint efforts from the EU, the Member States, Italy and the regional government of Sicily. Several times he asked for a stronger support from the Italian central government and the EU, because according to him Sicily was being left alone to deal with the issue. Yet, Musumeci's position is quite controversial if we consider that he expressed consent towards Salvini's policy of closing the ports, causing a decrease in the arrivals to the Sicilian shores, which he considered to be the right path. As he affirmed, after that policy was over, Sicily came back to be a "refugee camp" while Europe was turning to the other side⁸⁸. The president also affirmed that the center-right must remain united and allied, as to avoid leaving Italy to the left parties. This would suggest that a stronger political power is needed, especially for his smaller movement, and the alliance also involves compromises in terms of different ideological views. This would also explain why a president like Musumeci, who has been publicly supporting welcoming immigration policies, is progressively getting closer to the party of Salvini, which is deliberately conducting a xenophobic propaganda and politics against the arrival of migrants, symbolized by his slogan "*Prima gli Italiani*" (Italian citizens first). This was particularly clear last 22nd of August, when Musumeci signed an ordinance imposing a "ban on entry, transit and parking" in the region for "every migrant who reaches the Sicilian coasts with large and small boats, including those of NGOs" – a measure taken for an alleged health risk linked to the Covid-19 emergency⁸⁹. Although the Regional Administrative Court suspended the measure, since it went beyond the scope of the powers attributed to the regions, this stance had a great impact in terms of support by the populist icons of the Italian government Salvini and Giorgia Meloni, the current president of Fratelli d'Italia party.

⁸⁸Il Giornale.it, (2019), Migranti, il presidente Musumeci: "La Sicilia è di nuovo campo profughi", <https://www.ilgiornale.it/news/palermo/migranti-presidente-musumeci-sicilia-nuovo-campo-profughi-1771862.html>, accessed on 10/07/2020

⁸⁹ La Repubblica, (2020), "Entro le 24 di domani i migranti fuori dalla Sicilia": Musumeci firma l'ordinanza, https://palermo.repubblica.it/politica/2020/08/23/news/entro_le_24_di_domani_i_migranti_fuori_dall_isola_musumeci_firma_l_ordinanza-265271652/, accessed on 29/08/2020

2.2.4 Legislation, Policies and Position of the Central Government

In the last decade, that of migration has been one of the most controversial and hot topics in Italian politics. With the advent of the Mediterranean crisis hitting the country transversally in a variety of sectors, the thematic of migration became inevitably part of the daily political discourse, bringing both negative and positive narratives. The tradition of Italy, due to the presence of strong democratic institutions, is that of a very intense proliferation of laws that generates a complex system of codification, jurisprudence, and bureaucracy. Hence, it is quite hard to mention all the legislative and political measures adopted in the sphere of migration: only few significant steps will be considered hereby. Clearly, within the broad migration framework, for the purpose of the study, we will consider more specifically the legislation and measures adopted by the government that are specifically directed to refugees, asylum seekers and applicants for subsidiary protection, excluding those categories of migrants that do not flee for humanitarian reasons.

The very basis of the immigration law in Italy is the *Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero* (Legislative Decree n. 286, 25 July 1998), which despite several changes (more than 30 after its approval), is still currently in force. This Decree is a complex set of rules which consists of 49 articles, divided into 6 titles. Each title regulates a specific part of the matter, respectively: I- General principles, II - Provisions on entry, residence and removal from the territory of the State, III- Work discipline, IV - Right to family unity and protection of minors, V - Healthcare provisions, as well as education, housing, participation in public life and social integration, VI - Final rules.

The law that specifically regulates immigration and asylum in Italy is Law n. 189 of 30 July 2002 and it was introduced by the center-right government led by Silvio Berlusconi. Known as *Legge Bossi-Fini*, it bears the name of the two main allies of the then Prime Minister: Umberto Bossi and Gianfranco Fini, respectively the then leaders of the Lega Nord and Alleanza Nazionale parties. Both parties brought the government far to the right on the issue of immigration and, not surprisingly, the law is one of the most stringent in

Europe. In fact, the law foresees, *inter alia*: the administrative expulsion of irregular immigrants (in the absence of a residence permit and without valid identity documents), the issuing of a residence permit only with a work certificate, the rejection to the country of origin in extraterritorial waters, the crime of aiding and abetting illegal immigration for those who help migrants enter the country, the immediate expulsion of the asylum seeker if the territorial commission denies the recognition of the status of refugee (no right of defense). Organizations like Amnesty International and Doctors Without Borders deeply criticized this law, stating it was violating human rights standards and European and international obligations⁹⁰. Although there have been cyclical calls to modify or even abolish the so-called *Bossi-Fini*, and even though the center-left has ruled the government for almost nine years, the law has remained in force⁹¹.

Since 2002, several laws and measures have been put in place by the government forces who followed. Focusing on the last two years, it is vital to mention the new immigration and public safety legislation: the Decree law on Security and Immigration, better known as *Decreto Sicurezza*, (Decree-Law n. 113, October 4, 2018) and the Urgent provisions to enhance the effectiveness of administrative action in support of security police, better known as *Decreto Sicurezza Bis* (Decree-Law n. 53, June 14, 2019). They were approved under the executive of the coalition between Lega and Five Star Movement (M5S), with Giuseppe Conte as Prime Minister and Matteo Salvini and Luigi Di Maio as Vice-Presidents of the Council of Ministers. They reflect the populist and extremist visions of the political background, which was promoting a propaganda against the so-called “invasion” (arrival) of immigrants, the search and rescue work of the NGOs at sea and the productive cooperation among European Member States.

The first *Decreto Sicurezza* abolished the humanitarian protection status, which in Italy was very often granted to third-country citizens. Indeed, among the three types of protection that could be granted before the reform (refugee status, subsidiary protection, and humanitarian protection), the latter was the most statistically frequent. For instance, in 2018, protection was distributed as such: 6,467 refugee status, 3,888 subsidiary

⁹⁰ Medici Senza Frontiere, (2002), E legge la Bossi-Fini. Ancora una volta l’ Italia ignora i propri obblighi internazionali, <https://www.medicisenzafrentiere.it/news-e-storie/news/e-legge-la-bossi-fini-ancora-una-volta-litalia-ignora-i-propri-obblighi-internazionali/>, accessed on 10/07/2020

⁹¹ Il Post, (2020), Il vero motivo per cui l’immigrazione in Italia non funziona, <https://www.ilpost.it/2020/01/22/bossi-fini-immigrazione/>, accessed on 10/07/2020

protection and 19,841 humanitarian protection⁹². It is clear why this was a very strategic move of the government: as expressly stated in the report accompanying the decree-law, humanitarian protection, despite having been introduced into internal law as a form of complementary residual protection, to be used in cases of exceptional and temporary seriousness, represented *de facto* the most recognized “benefit” in the national system. On July 9, 2020, the Italian Constitutional Court declared the decree’s provision that precludes the birth registration of foreigners applying for asylum unconstitutional, for violation of Article 3 of the Constitution, from a twofold profile: due to intrinsic irrationality, since the contested rule does not facilitate the pursuit of the territorial control purposes declared by the security decree; and for unreasonable difference in treatment, because it makes it unjustifiably more difficult for asylum seekers to access services that are also guaranteed to them⁹³.

The *Decreto Sicurezza Bis* intervenes in the fight against illegal immigration and in strengthening the effectiveness of administrative action in support of security policies. For instance, it attributes to the Ministry of the Interior (Salvini at the time of approval of the decree) the power to limit or prohibit the entry, transit or stay of ships in the territorial sea, with the exception of the military vessel and ships in non-commercial government service, for reasons of order and public safety, i.e. when it is assumed that the immigration law (*Testo Unico*) has been violated and in particular the crime of aiding illegal immigration has been committed. Moreover, it foresees administrative sanctions for the captain of the ship in case of aiding illegal immigration (in the event of non-compliance with the prohibitions and limitations imposed), between 10,000 and a maximum of 50,000 euros. It also establishes the funds (3 million euros from 2019 to 2021) for the fight against the facilitation of illegal immigration and for undercover police operations and the funds for the repatriation of irregular migrants (2 million euros for 2019 which may increase to a maximum of 50). In the area of public security, the text also introduces measures aimed at developing international police cooperation in the field of undercover

⁹² UNHCR, (2018), Cambiamenti del “Decreto sicurezza e immigrazione”, <https://www.unhcr.it/risorse/carta-di-roma/fact-checking/2019-gennaio-cambiamenti-del-decreto-sicurezza-immigrazione>, accessed on 18/07/2020

⁹³ Ufficio stampa della Corte Costituzionale, (2020). Decreto Sicurezza: Irragionevole La Norma Che Preclude L'iscrizione Anagrafica Ai Richiedenti Asilo, https://www.cortecostituzionale.it/documenti/comunicatistampa/CC_CS_20200709165957.pdf

operations⁹⁴. Several civil society organizations and agencies, such as Amnesty International, the UNHCR, Save the Children, Doctors without Borders, Mediterranea Saving Humans, Emergency and many others, have shown concern towards the *Decreto Sicurezza Bis*, especially regarding the criminalization of the humanitarian rescue activities at sea. In the last two years, many exponents, especially some cities' mayors, have mobilized to challenge or even disregard the two laws. Although the president of the republic Sergio Mattarella had also submitted several remarks to the Parliament, the Decrees have not yet been changed or abolished. At the time of writing, the government is working to modify the text of both Decrees. The draft, which has to be agreed by the coalition of the Movimento Cinque Stelle and the Partito Democratico, foresees the restoration of a sort of humanitarian protection, the residence permit for humanitarian reasons (which will change its name and become a permit for special protection), and the recovery of the reception system *Sistema di Protezione per Richiedenti Asilo e Rifugiati* (SPRAR) as the main reception system for all asylum seekers (explained further in the text). If an agreement is found, especially on the *Decreto Sicurezza Bis* concerning the rescue at sea on which there are more strong divisions, the modification Decree should be adopted in the next months⁹⁵.

Regarding the most recent legislative measures adopted by the government, it is also important to mention a decree adopted during the Covid-19 emergency. The Decree-law n. 34, May 19, 2020, better known as *Decreto Rilancio*, subsequently approved as law, foresees a specific provision for the irregular migrants as a measure of contrast to undeclared work and the phenomenon of *caporalato*. Foreign citizens (but also Italian ones) who are in a condition of labor exploitation and illegal labor, can ask their employer to enter into a real employment contract with no penalties or administrative sanctions prosecuted against them (except for those employers who are guilty of *caporalato* or exploitation of illegal immigration)⁹⁶. In the phenomenon of undeclared work, the

⁹⁴ Altalex, (2019), Decreto Sicurezza bis: in vigore le nuove norme, <https://www.altalex.com/documents/leggi/2019/06/12/decreto-sicurezza-bis>, accessed on 14/07/2020

⁹⁵ Internazionale, (2020), La consulta bocchia i decreti sicurezza e il governo ne rimanda le modifiche, <https://www.internazionale.it/notizie/annalisa-camilli/2020/07/10/corte-constituzionale-decreti-sicurezza-modifiche>, accessed on 31/07/2020

⁹⁶ Altalex, (2020), Coronavirus: sanatoria per colf e stranieri irregolari <https://www.altalex.com/documents/news/2020/06/08/coronavirus-sanatoria-colf-e-stranieri-irregolari>, accessed on 18/07/2020

majority of employed staff are migrant workers who often lack a residence permit or have an expired one. Even if they wanted to, they could never get out of work because the lack of a regular permit makes it impossible to enter an employment contract. Whilst this provision seemed to be a step forward in the regularization of “invisible” immigrants, it should be noted that it only applies for specific sectors of activity: agriculture, breeding and zootechnics, fishing and aquaculture and related activities; assistance to the persons suffering from pathologies or handicaps; and housework. In other words, this measure has become urgent for the government especially following the lack of manpower in the fields due to the pandemic and the consequent surge in the prices of fruit and vegetables – but in practice it will exclude many workers in other fields such as construction, supermarkets, crafts, catering, logistics⁹⁷.

Let us now consider how the Italian system works for immigrants in terms of assistance, accommodation, relocation, health and education and labor market. First of all, while analyzing the measures of migration management adopted by the Italian government, it is important to mention the activity of search and rescue (SAR) carried out by the Italian Coast Guard. This duty derives from the obligations in accordance with both the international law of the sea, in particular with the International Convention on Maritime Search and Rescue (1979) and the UN Convention on the Law of the Sea (1982), and the national legislation, specifically the Navigation Code, the Inter-ministerial decree 14/07/2003 (*Disposizioni in materia di contrasto all'immigrazione clandestina*) and the *Accordo tecnico-operativo sulle modalità e le procedure di coordinamento per il contrasto dell'immigrazione clandestine via mare*, September 14, 2005⁹⁸. In 2019, the Italian Coast Guard alone rescued at sea more than 600 people in the central Mediterranean route, a number that does not include the results reached in the joint work with Frontex, the European Border and Coast Guard Agency⁹⁹. Data were even more striking in previous years, if we consider that in 2017 the Coast Guard rescued 28,814

⁹⁷ Fanpage, (2020), Braccianti in sciopero, Soumahoro a Fanpage.it: “Governo preoccupato della frutta non delle persone”, <https://www.fanpage.it/politica/braccianti-in-sciopero-soumahoro-a-fanpage-it-governo-preoccupato-della-frutta-non-delle-persone/>, accessed on 18/07/2020

⁹⁸ Comando Generale del Corpo delle Capitanerie di Porto, (2016). Flussi migratori e gestione delle operazioni di sbarco. Available at: http://www.salute.gov.it/portale/temi/documenti/usmaf/formazione2016/08_LIARDO.pdf

⁹⁹ Guardia Costiera, Andamento mensile dell'attività SAR Immigrazione nel Mediterraneo Centrale, <https://www.guardiacostiera.gov.it/attivita/ricerca>, accessed on 20/07/2020

persons¹⁰⁰. Nevertheless, the Coast Guard was often accused of committing human rights violations and several cases were brought in front of the European Court of Human Rights. Cases are mostly related with interception of migrants at sea and forced pushback operations (indiscriminate collective expulsions), through which migrants were sent back to Libya where they faced torture, ill-treatment and even death, in full breach of the *non-refoulement* obligation¹⁰¹. The very basis of recent human rights violations committed at the border is the “Memorandum of Understanding on cooperation in the field of development, fight against illegal immigration, trafficking in human beings, smuggling and on strengthening the security of the borders between the State of Libya and the Italian Republic”, adopted in 2017. According to this agreement, Italy has collaborated with Libya's military and border control authorities to “stop the departures of irregular migrants”, which concretely meant that it provided the Libyan Coast Guard with boats, training and further assistance to patrol the sea and bring back refugees and migrants, which were transferred to Libya’s detention centers, well known for the inhumane living conditions and for episodes of torture, arbitrary arrests, violence, rape and extortion¹⁰². It has been shown that Italian funding has also been spent to support criminals, such as the human trafficker Abd al-Rahman Milad, better known as Bija, subjected to sanctions by the UN Security Council for crimes against humanity on which the International Criminal Court is investigating¹⁰³. The United Nations, the Council of Europe, the European Commission and the Italian judiciary itself declared that Libya can in no way be considered a safe country and therefore people who try to escape cannot be sent back there. The Memorandum has been publicly condemned for causing systematic human rights violations, not only by civil society organization like Amnesty International, Human Rights Watch and Doctors Without Borders but also by public institutions such

¹⁰⁰ Guardia Costiera, (2017). Attività SAR nel Mediterraneo Centrale. Available at: https://www.guardiacostiera.gov.it/attivita/Documents/attivita-sar-immigrazione-2017/Rapporto_annuale_2017_ITA.pdf

¹⁰¹ See for instance: *Hirsi Jamaa and Others v. Italy* (no. 27765/09); *S.S. and Others v. Italy* (no 21660/18),

¹⁰² Amnesty International, (2018), Italia-Libia, un anno fa l'accordo sull'immigrazione, <https://www.amnesty.it/italia-libia-un-anno-laccordo-sullimmigrazione/>, accessed on 22/07/2020

¹⁰³ INTERSOS, (2019), INTERSOS: NO al rinnovo del Memorandum Italia – Libia, <https://www.intersos.org/intersos-no-al-rinnovo-del-memorandum-italia-libia/>, accessed on 22/07/2020

as the Council of Europe Commissioner for Human Rights¹⁰⁴. Nonetheless, the Memorandum was automatically renewed on November 2, 2019 for three more years, despite the complaints and evidence of the daily abuses that migrants in Libya are victims of. On July 2, 2020, the Italian-Libyan Joint Committee met at the Ministry of the Interior, which formally launched the negotiation for the modification of the Memorandum. During the meeting, the Italian delegation confirmed the objectives of giving a substantial turning point to cooperation with Libya in the management of irregular migration flows, through the compliance with human rights, recognizing a central role to the competent UN agencies and with the progressive overcoming of the system of centers that host migrants, those described by the Memorandum as “reception camps” - but which are actually “detention centers”, according to Libyan law¹⁰⁵.

Focusing now on the reception system, the right to reception for those who apply for international protection is provided by Legislative Decree no. 142 of 2015, known as *Decreto Accoglienza*, which implemented the European Directive 2013/33 on the standards of reception of international protection applicants. The reception measures for asylum seekers are divided into several phases: the very first one, prior to the actual reception, consists of first aid and assistance, as well as activities aimed at identifying migrants, carried out in the hotspots set up in the landing sites (Lampedusa, Pozzallo, Messina, and Taranto). Subsequently, applicants for international protection can access the first reception government centers, which have the function of allowing the identification of the third country citizen (where it has not been possible to complete the operations in the hotspots), the recording and the start of the examination procedure of the application for asylum, the assessment of health conditions and the existence of any vulnerable situations involving special assistance measures. These functions are ensured by the government centers and from the existing reception centers, such as the Reception Centers for asylum seekers (*Centri di Accoglienza per i Richiedenti Asilo - CARA*) and

¹⁰⁴ Council of Europe, (2020), Commissioner urges Italy to suspend co-operation activities with Libyan Coast Guard and introduce human rights safeguards in future migration co-operation, <https://www.coe.int/en/web/commissioner/-/commissioner-urges-italy-to-suspend-co-operation-activities-with-libyan-coast-guard-and-introduce-human-rights-safeguards-in-future-migration-co-opera>, accessed on 22/07/2020

¹⁰⁵ L'Espresso, (2020), Memorandum Italia-Libia: l'accordo della vergogna che continua a condannare a morte, <https://espresso.repubblica.it/attualita/2020/07/06/news/memorandum-italia-libia-l'accordo-della-vergogna-che-continua-a-condannare-a-morte-1.350743>, accessed on 22/07/2020

the Reception Centers (*Centri Di Accoglienza - CDA*). In case of lack of places inside the first reception structures, the applicants are accommodated in temporary emergency structures called Extraordinary Reception Centers (*Centri di Accoglienza Straordinaria - CAS*)¹⁰⁶. In the original system, the *Decreto Accoglienza* provided the asylum seekers without livelihoods, once the first reception phase has been completed, with the possibility of accessing the integrated reception services within the Protection system for asylum seekers and refugees (SPRAR). The *Decreto Sicurezza* established that only holders of international protection (refugee status or subsidiary protection) and unaccompanied minors can access the SPRAR, which has been renamed System For International Protection Holders and for Unaccompanied Foreign Minors (SIPROIMI). Hence, asylum seekers can no longer access the SIPROIMI services, such as specific active measures aimed at the integration and social inclusion of the foreigner on the Italian territory, but can only be accepted in the CAS or in the first reception government centers¹⁰⁷.

Let us now briefly consider how the right to health is guaranteed for migrants. Italy has chosen inclusive health policies for foreigners, promoting health protection without exclusions. Access for health care is guaranteed for asylum applicants and foreigners regularly residing in Italy, recalling the provisions of article 34 of the *Testo Unico*, which provides for the obligation to register with the national health and equal treatment and full equality of rights and duties with respect to Italian citizens as regards the assistance provided in Italy by the national health service and its temporal validity. While the registration in the national health service is pending, urgent or essential outpatient and hospital treatment for illnesses and injuries are ensured in public and accredited facilities; and preventive medicine programs to safeguard individual and collective health are granted. It is ensured, in particular: the social protection of pregnancy and motherhood, with equal treatment with Italian citizens; the protection of the health of the minor; vaccinations according to the regulations and in the context of interventions of collective

¹⁰⁶ Camera dei deputati, (2020). Il decreto legislativo n. 142 del 2015 (cd. decreto accoglienza), https://temi.camera.it/leg18/post/il_decreto_legislativo_n__142_del_2015__cd__decreto_accoglienza_.html, accessed on 18/07/2020

¹⁰⁷ Integrazione Migranti, Il diritto all'accoglienza, <http://www.integrazionemigranti.gov.it/Areetematiche/ProtezioneInternazionale/Pagine/Il-diritto-all-accoglienza.aspx#:~:text=Il%20sistema%20di%20accoglienza%2C%20in,seconda%20accoglienza%2C%20che%20comprende%20il>, accessed on 18/07/2020

prevention campaigns authorized by the regions; interventions of international prophylaxis; prophylaxis, diagnosis and treatment of infectious diseases and possible remediation of the relevant outbreaks¹⁰⁸. Foreign nationals who are in an irregular condition on the national territory, i.e. with an expired residence permit or who have entered the national territory without following the legal procedures and are therefore not entitled to stay in Italy, are still allowed to receive any urgent or essential treatment, albeit on an ongoing basis, for diseases and accidents in public and accredited facilities and also have the right to extend preventive medicine programs in order to protect individual and collective health. Even when dealing with foreigners who are not legally resident, if the applicants do not have sufficient economic resources, the services are provided free of charge, upon presentation of a declaration of indigence. As a matter of fact, the protection of the health of foreigners who are not legally resident is considered a priority with respect to their interest in regularizing their stay in Italy. In fact, Article 35 of the *Testo Unico* establishes that access to health facilities by the foreigner not in compliance with the rules on residence must not entail any type of reporting to the public security authorities, except in cases where the report is mandatory on equal terms with the Italian citizen, so that effective protection of the person and his integrity is guaranteed¹⁰⁹. Nonetheless, it should be considered that while the policies concerning immigration and asylum are the exclusive competence of the State, the ones concerning healthcare are "contended" between State and Regions. Consequently, competences, paths and rules are *de facto* built differently between the various territorial realities. The interpretative discretion of the legislation and, therefore, the lack of homogeneity in the application of the rule at a territorial level is characterizing the healthcare of migrants in Italy, and with the increase in numbers, this discrepancy has become increasingly markedly evident¹¹⁰.

¹⁰⁸ Camera dei deputati, (2020), Il decreto legislativo n. 142 del 2015 (cd. decreto accoglienza), https://temi.camera.it/leg18/post/il_decreto_legislativo_n__142_del_2015__cd__decreto_accoglienza_.html, accessed on 18/07/2020

¹⁰⁹ Integrazione Migranti, Salute, <http://www.integrazionemigranti.gov.it/normativa/procedureitalia/Pagine/Saluteold.aspx#:~:text=La%20salute%20C3%A8%20un%20diritto,articolo%2032%20della%20Costituzione%20italiana.&text=I%20cittadini%20stranieri%20che%20risiedono,indipendentemente%20dalla%20cittadinanza.>, accessed on 31/07/2020

¹¹⁰ SPRAR, (2018). Tutela della salute dei migranti – Dossier SPRAR 2018, <https://www.siproimi.it/wp-content/uploads/2018/03/Dossier-TUTELA-DELLA-SALUTE-2018.pdf>

As for the right to education, Article 34 of the Italian Constitution establishes that the school is open to everyone: the right to study is guaranteed to both Italians and foreigners in Italy, without discrimination based on citizenship or on the regularity of the stay, even when in lack of necessary financial resources. Foreign minors are indeed subject to compulsory schooling free of charge, regardless of the regularity of the condition of their stay or of that of their parents. The general legislation on the right-duty to education provides for the obligation of education for 10 years and the compulsory education up to 18 years, with the achievement of a secondary school qualification or a professional qualification, lasting at least 3 years. Both minors and foreign adults can benefit of courses and initiatives aimed at learning the Italian language, activated by the State, Regions, and local authorities to guarantee the effectiveness of the right to education.

Shifting now on the right to work, it is important to specify that to be able to work in Italy, a non-EU citizen must be in possession of a residence permit that qualifies for work. According to the *Testo Unico*, the Legislative Decree n.286 of July 28, 1998, and the regulation adopted with the Presidential Decree n. 394 of August 31, 1999, such permit is released only for specific reasons such as: asylum application, refugee status, humanitarian reasons, subsidiary and temporary protection, but also seasonal work, await of employment, and others¹¹¹. In other words, employers can hire only those non-EU workers who are legally residing in Italy. Moreover, all foreign workers legally resident in Italy shall enjoy equal treatment and full equality of rights with respect to Italian workers. Both the *Testo Unico* and the Legislative Decree n. 109 of July 16, 2012, which introduced the EU directive 2009/52/EC aimed at strengthening cooperation between Member States in the fight against illegal immigration, criminalize the hiring of third-country nationals whose residence is irregular. However, as partly mentioned earlier in the text, the phenomenon of hiring and exploitation of irregular workers is widespread in the country. The main fields in which foreign workers, including sometimes underage ones, are exploited are agriculture (linked with *caporalato* and criminal organizations) and prostitution (in complex networks that are strictly linked to the phenomenon of human trafficking). Contrarily to what one could think, the richer and more developed northern

¹¹¹ Integrazione Migranti, Lavoro,
<http://www.integrazionemigranti.gov.it/normativa/procedureitalia/Pagine/Lavoro.aspx#titolo0>, accessed on 28/07/2020

regions are not free from this problem, although numbers are intensified in southern regions, namely Calabria, Puglia and Sicily, where exploitation of laborers in the fields and exploitation of prostitution (generally of Nigerian girls) is quite common.

2.3 Protection of Unaccompanied Migrant Minors

The migration flows directed to the southern shores of Italy are characterized by a strong diversification in nationality, ethnicity, and specific characteristics (religion, sexual orientation, political opinion etc.) that may be source of specific discrimination. Yet, there is a transversal characteristic that goes beyond such features, and which is undoubtedly a reason for a higher state of vulnerability: the minor age of the migrant. In fact, as already mentioned when analyzing the case of Brazil, children are disproportionately affected by crisis situations and may suffer a higher impact during emergencies. The awareness of this risk is crucial in order to properly assess the needs and necessities of young boys and girls, and to understand whether the legislation and its application are effectively guaranteeing the whole set of rights that all children, including migrants, are entitled to.

2.3.1 International, Regional and National Legal Framework

At the international level, the UN CRC is the main instrument that guarantees a comprehensive protection of minors, including migrant and unaccompanied ones. Italy ratified the convention on September 5, 1991. Certainly, the country is also responsible for the protection of unaccompanied migrant children under the standards set forth by human rights law, migration law, refugee law and humanitarian law, already mentioned in the case of Brazil. Focusing on the regional level, being a Member State of the European Union and of the Council of Europe, Italy stands under a complex and thorough regional framework for the protection of human rights.

The EU provides a general scheme for the protection of children, having incorporated the UN CRC and the UN Refugee Convention into its legislation and policies. The definition of unaccompanied minor is provided by the Directive 2011/95/EU of the European

Parliament and of The Council of December 13, 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, better known as Qualification directive:

(l) ‘unaccompanied minor’ means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such a person; it includes a minor who is left unaccompanied after he or she has entered the territory of the Member States.

The same text sets some specific duties and obligations for Member States in terms of protection of UAMs, such as the prompt appointment of a legal guardian, their placement in accommodations suitable for minors, the family reunification, the availability of appropriate care and custodial arrangements, and more generally the guarantee of the child’s best interest¹¹². All the Directives that are part of the Common European Asylum System (Reception Conditions Directive, Asylum Procedures Directive, Qualification Directive, Temporary Protection Directive, Dublin Regulation – except for the EURODAC Regulation) establish duties for the protection of unaccompanied asylum seeking minors, such as: ensure representation of the child, place her/him with adult relatives, with a foster family, in accommodation centres with special provisions for minors or in other suitable accommodation, try to trace her/his family members as quickly as possible, grant appropriate training for anybody working with unaccompanied minors, duly consider family unity, welfare and social development of the child together with her/his safety and opinion when assessing the best interests of the child¹¹³. Also the Regulation No 516/2014 establishing the Asylum, Migration and Integration Fund (AMIF Regulation) reiterates that special attention shall be taken when dealing with UAMs, of which it provides a definition almost equal to the one of the Qualification directive, and

¹¹² Official Journal of the European Union, (2011). Directive 2011/95/EU Of The European Parliament And Of The Council Of 13 December 2011. Available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:337:0009:0026:EN:PDF>

¹¹³ EU Agency for Fundamental Rights, (2010). Unaccompanied Minors in the EU. Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/asylum/uam/uam_infographic_a4_en.pdf

identifies them as a vulnerable group in need of a specific care¹¹⁴. Besides such structured instruments, several non-legislative measures also provide guidelines for the protection of migrant minors such as the EU Agenda on the Rights of the Child (2006), the Action Plan on Unaccompanied Minors (2010-2014), the Conclusions of the Council on the protection of children in migration (2017), the Communication from the Commission on the protection of children in migration (2017), the EU Action Plan on Integration of Third-Country Nationals, (2016) and the renewed EU Action Plan on Return (2017)¹¹⁵.

Within the Council of Europe (CoE) regime, the European Convention on Human Rights establishes a comprehensive set of obligations for Member States that generally refer to human rights guarantees but clearly apply also to specific categories such as migrants and children. Specifically, the CoE adopted several strategies to guide states towards an integrated protection of UAMs. The action in this context is guided by the CoE Strategy for the Rights of the Child (2016-2021), which sets the priorities, principles and working methods of the Council in the area of children's rights. Among the several instruments that have been adopted, there is the Action Plan on Protecting Refugee and Migrant Children in Europe (2017-2019) which focused on ensuring access to rights and child-friendly procedures, providing effective protection and enhancing the integration of children remaining in Europe. The CoE also adopted some recommendations that are crucial for the protection of UAMs, such as the Recommendation CM/Rec(2007)9 of the Committee of Ministers to Member States on life projects for unaccompanied migrant minors and the Recommendation CM/Rec(2019)11 of the Committee of Ministers to Member States on effective guardianship for unaccompanied and separated children in the context of migration. Several CoE bodies are involved in the monitoring of the situation and protection of migrant children, especially the Steering Committee for the

¹¹⁴Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0516&from=EN>

¹¹⁵ European Migration Network, Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway. Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_emn_inform_uam_update_final_en.pdf

Rights of the Child (CDENF), which monitors the implementation of important legislative instruments and can develop soft law standards¹¹⁶.

The national legal framework of Italy concerning the protection of children starts from the Constitution, which dedicates 5 different articles to this category: Article 30, 31, 33 and 34, related to the right to education and the protection of infancy, and Article 37 which declares that “the law sets the minimum age limit for paid work” - which according to Law 27.12.2006 n. 296 is 16 years old. The Italian Civil Code establishes that the minor is a person who has not yet reached the age of eighteen; she/he has legal capacity, but has no capacity to act, therefore is subject to parental authority or, failing that, of a guardian appointed by the judge, who takes care of the interests of the minor. The *Testo Unico* sets the basis for the protection of migrant minors, declaring the conformity with the UN CRC and recognizing the best interest of the child as the main principle for every kind of proceeding. Within the text, some guarantees are listed for migrant children, such as the prohibition of expulsion and *refoulement* (Art. 19.2.a), the right to family reunification (Art. 29) and the duty/right to education (Art. 38). The same document also established a Committee for Foreign Children, tasked to supervise the modalities of stay of foreign minors temporarily admitted in Italy and to coordinate the activities of the administrations concerned.

Focusing more specifically on unaccompanied migrant minors, the first definition in the Italian legal framework was provided by the Art. 1 of the decree of the President of the Council of Ministers n. 535 of 1999:

2. For "unaccompanied foreign minor present in the territory of the State " [...] we mean the minor without Italian citizenship or of other states of the European Union who, not having applied for asylum, is found for any cause in the territory of the State without assistance and representation on the part of his parents or other adults legally responsible for him in based on the laws in force in the Italian legal system.

It is important to specify that, in the Italian legal system, the term “foreigner” only refers to non-EU citizens. This is the result of the process of European integration which is

¹¹⁶ Council of Europe, Children and Migration, <https://www.coe.int/en/web/children/migration>, accessed on 8/08/2020

based, among other things, on the freedom of movement of persons within the member states of the Union; and which led to the construction of a unified European citizenship.

In Italy the protection system reserved for UAMs is made up of a multiplicity of rules, obtained from sources of different levels: the Constitution, juvenile law (in particular the laws 184 / 83 and 140/01 on custody and adoption), immigration law (*Testo Unico*), the regulation governing the functioning of the Committee for foreign minors (DPCM 539/99), whose functions were transferred, with the law of August 7, 2012, n. 135, to the Directorate General for Immigration and Integration Policies at the Ministry of Labor and Social Policies; and the many circulars and ministerial directives that leave room for divergent practices according to the territories in which they are applied¹¹⁷. The legislative decree n. 142 of 2015 (*Decreto Accoglienza*) dictated for the first time specific provisions on the reception of unaccompanied minors (until then the general rules referring to minors in a state of abandonment applied), with the aim of strengthening the protection instruments guaranteed by the law. The resulting system distinguishes between a first and a second reception and establishes the principle according to which the unaccompanied minor cannot in any case be detained or received in the centers of stay for repatriation and governmental reception centers. The reception of minors is based above all on the establishment of government structures of first reception for the emergency needs and immediate protection of unaccompanied minors; structures specifically intended for minors activated by the Ministry of the Interior, managed by the latter, also in agreement with local authorities, financed from the Asylum Migration and Integration Fund (FAMI). In the first reception facilities, minors are welcomed from the moment of taking charge, and for the time strictly necessary for the identification and possible age assessment, as well as to receive all information on the rights of the child, for a maximum of thirty days. Following, UAMs are welcomed under the SIPROIMI system. In the event that the structures of the SIPROIMI network are unavailable, the assistance and reception of the minor are temporarily ensured by the municipality where the minor is¹¹⁸. Where reception

¹¹⁷ Fondo Europeo per l'integrazione di cittadini di Paesi Terzi, Save the Children Italia Onlus ,Fondazione Lelio e Lisli Basso-Issoco, (2014). Viaggio nel mondo dei minori stranieri non accompagnati: un'analisi giuridico-fattuale. Available at: https://www.fondazionebasso.it/2015/wp-content/uploads/2015/10/tuttomondo_I.pdf

¹¹⁸ Camera dei Deputati, (2020). Minori stranieri non accompagnati. Available at: <https://www.camera.it/temiap/documentazione/temi/pdf/1104665.pdf>

cannot be ensured even by the Municipality, in the presence of consistent and close arrivals of UAMs, the Prefect can arrange for the activation of temporary accommodation facilities exclusively dedicated to those over 14 years old (commonly called *CAS minori*), for the time necessary to transfer to the aforementioned structures.

Until 2017, a unified and harmonized legal text for the protection of UAMs was lacking in the Italian system. On July 2013, Save the Children presented an organic Draft Law for the Protection and Protection of Unaccompanied Foreign Minors in Italy aimed at harmonizing immigration legislation with that on the protection of minors in an organic text, which also incorporates the fundamental principles of the CRC. After a long path of advocacy conducted by Save the Children together with other associations working for children's rights, the law finally passed in 2017 as Law 7 April 2017 n. 47, better known as *Legge Zampa*, named after Senator Sandra Zampa, first signatory of the provision. It represents the cornerstone in terms of protection of UAMs, and a very important step towards the establishment of an organic reception and protection system for unaccompanied foreign minors. The enactment of this law was very much needed for a variety of reasons. First of all, in terms of protection of migrant children, the Italian system was foreseeing two different areas of applicable legislation, i.e. children's law and migrants' law; there were no precise criteria to integrate the two and put them in action in a comprehensive legislation. Moreover, there were no specific laws on unaccompanied minors (unless regarding the prohibition of their deportation): there were sketchy policies and practices on identification and age assessment at the arrivals, inadequate reception systems (children accommodated together with adults rather than in dedicated places), unclear rules on permits of stay, insufficient access to the right to health, education and legal assistance, and insufficient procedural rules on the participation and information to children and their guardians during proceedings. Therefore, a better organization of the law, new rules and clear proceedings were necessary not only for children but also for a coordinated work of all the stakeholders involved, including police and institutions. Among the main achievements introduced by Law 47/2017 there are: an incorporated definition of unaccompanied migrant minors; the prohibition of rejection at the borders (*refoulement*); clear rules on identification and age assessment at the arrival, which is set to be interdisciplinary (including a joint work of police, social assistant, pediatrician, cultural mediator), must be authorized by the prosecutor, and must guarantee the right to

participate in the proceeding for both the minor and the legal representative; rules on reception; the possibility to request the permit of stay by the child immediately, even before the appointment of a guardian; the establishment of a roster of voluntary guardians; the reaffirmation of the right to health, education, participation and legal assistance. The *Legge Zampa* is a forefront legislation, that was hailed as an important innovation and considered a reference model at European level, also for the institution of the figure of the voluntary guardian. However, the law has yet to be fully implemented in all its aspects and there are still no fundamental steps, crucial for example for the start of the social path through the first interview in reception, for the issue of permits of residence and to ascertain the age¹¹⁹. Italy can boast of having adopted a comprehensive law that specifically sets the protection of UAMs, successfully including important provisions aimed at fulfilling children's rights. Nevertheless, the normative text has not yet found a complete implementation and the protection of UAMs has been hampered in recent years from newly adopted measures such as the *Decreto Sicurezza*, which does not contain restrictive rules explicitly targeting unaccompanied minors, but still has a negative impact on their integration path and on that of those who are turning 18¹²⁰; and which, as already mentioned, abolished the humanitarian protection, which was recognized for many minors in consideration of their vulnerability.

2.3.2 UAMs in the Italian Territory

Within the diversified fluxes of immigrants landing on the Italian and particularly Sicilian shores, there is a noteworthy percentage of unaccompanied migrant minors. Although proportionally they are a smaller number compared to the adults (as in most of the migration fluxes in general), their incidence is still significant and they must be considered in the analysis, by taking a closer look to the serious challenges they face in terms of protection. In Italy, the number of migrant minors has seen a considerable growth

¹¹⁹ Vita, (2019), Save the Children Minori stranieri non accompagnati: i 10 anni di accoglienza del CivicoZero, <http://www.vita.it/it/article/2019/12/19/minori-stranieri-non-accompagnati-i-10-anni-di-accoglienza-del-civicoz/153661/>, accessed on 17/08/2020

¹²⁰ Save the Children, (2018), Cosa cambia per i minori con il “decreto sicurezza”?, <https://www.savethechildren.it/blog-notizie/cosa-cambia-per-i-minori-con-decreto-sicurezza>, accessed on 17/08/2020

starting from the beginning of the new millennium, mainly as a result of the so-called Arab springs and the various conflicts still present in the Middle East and Africa¹²¹. Between 2014 and 2018, among the 625,009 refugees and migrants arrived in Italy by sea, over 70,000 were UAMs, 90% of whom aged between 15 and 17. In addition to the arrivals by sea, it is necessary to consider the data of the UAMs present and registered in the reception system by the Ministry of Labor and Social Policies, which for instance in 2017 and 2018 counted up to respectively 18,303 and 10,787 UAMs. Considering the nationalities, between 2013 and 2015, Egypt was the first country from which they arrived, while in the following years there was a consistent increase in UAMs coming from West African countries (especially Gambia, Ivory Coast and Guinea), which in 2018 corresponded to 41% of the total. The decrease in sea arrivals from the central Mediterranean of recent years and the consequent downsizing of African origins highlighted even more the consistent and substantially stable presence of Albanian UAMs, who are always among the first nationalities in percentage terms in recent years (22% in June 2019). Considering the gender, a constant in the statistics is the lower presence of female minors¹²².

As already mentioned, although numbers of arrivals by sea dramatically decreased in the last two years, 2020 is rapidly shifting the trend in the opposite direction.

¹²¹ Fondazione ISMU, *Minori stranieri non accompagnati*, <https://www.ismu.org/minori-stranieri-non-accompagnati/>, accessed on 19/08/2020

¹²² Fondazione ISMU, UNHCR, UNICEF, OIM, (2019). *A un bivio. La transizione all'età adulta dei minori stranieri non accompagnati in Italia*. Available at: https://www.unhcr.it/wp-content/uploads/2019/11/Report-UNHCR_UNICEF_OIM-A-un-bivio.pdf

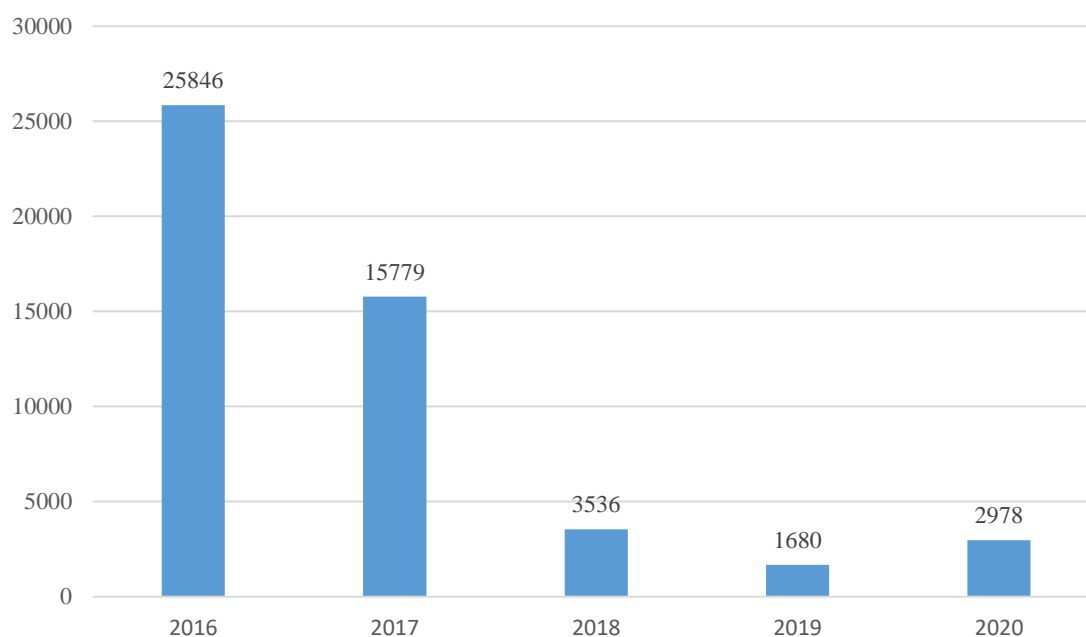


Table 3. Unaccompanied migrant minors disembarked on the Italian shores (2016-2020)¹²³

In fact, although numbers of UAMs arriving in the country severely collapsed especially in 2018 and 2019, we can observe a striking increase in the first semester of 2020. In line with the general trend, migration flows have intensified in recent months especially from May and with a striking pike in July. In 2019, considering the first semester of the year (up to June 31st), UAMs landed in Italy were only 329¹²⁴. This year, there was an increase of +675 minors, for a total of 1004 landed (up to June 31st) and the trend is expected to grow in the upcoming months. Focusing still on the first semester of 2020 and considering the data of the Ministry of Labor and Social Policies, the number of UAMs present and registered in the territory is 5.016, of which 95,3% boys and 4,7% girls, almost 90% belonging to the 16-17 age range. The countries of origin sensibly changed compared to previous years, with a much less significant presence of sub-Saharan African

¹²³ Data from 2016 to 2019 refer to the whole year, counting up to the 31st december of each year. Data of 2020 refer to the time frame January-September.

Data source: Dipartimento per le libertà civili e l'immigrazione, Cruscotto statistico giornaliero <http://www.libertaciviliimmigrazione.dlci.interno.gov.it/it/documentazione/statistica/cruscotto-statistico-giornaliero>, accessed on 28/07/2020

¹²⁴Dipartimento per le libertà civili e l'immigrazione, (2019). Cruscotto statistico giornaliero 30/06/2019. Available at: http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/cruscotto_statistico_giornaliero_30-06-2019.pdf

nationalities. The first four countries of origin are: Albania (27,8%), Bangladesh (12,4%), Egypt (11,9%), Pakistan (6,7%). Such nationalities' percentages completely change if we consider the female section of UAMs, since besides Albania which still remains at the top of the list (19,3%), the following countries of origin belong to the sub-Saharan region: Nigeria (16,8%), Ivory Coast (13%) and Somalia (6,3%)¹²⁵. This is often due to intrinsic reasons of the specific migration fluxes, such as the well-known one from Nigeria, which is based on networks of human trafficking and sexual exploitation of young girls.

Amongst the greatest difficulties when ensuring UAMs' protection in Italy, there is the obstacle of their invisibility and the difficulty to trace them. There is indeed a huge number of young girls and boys who move away from the reception facilities or the family housing in which they live, and it is not possible to know whether they are still present in Italy or not. They are considered untraceable until they are found in the territory or they reach the age of majority. As to December 2019, a total of 5,383 UAMs were untraceable in the national territory, coming mainly from Tunisia, Afghanistan, Eritrea, and Pakistan¹²⁶. In the first six months of 2020, instead, the departure of 706 UAMs from the protection system was reported by the competent authorities to the Directorate-General for Immigration and Integration Policies; almost 80% of them are aged between 16 and 17 and 95% of them are male¹²⁷.

¹²⁵ Ministero del Lavoro e delle Politiche Sociali, (2020). Report mensile MSNA in Italia. Available at: <https://www.lavoro.gov.it/temi-e-priorita/immigrazione/focus-on/minori-stranieri/Documents/Report-MSNA-mese-giugno-2020.pdf>

¹²⁶ Ministero del Lavoro e delle Politiche Sociali, (2019). Report mensile MSNA in Italia. Available at: <https://www.lavoro.gov.it/temi-e-priorita/immigrazione/focus-on/minori-stranieri/Documents/Report-MSNA-mese-dicembre-2019.pdf>

¹²⁷ Ministero del Lavoro e delle Politiche Sociali, (2020). Report di Monitoraggio – Dati al 30 Giugno 2020. Available at: <https://www.lavoro.gov.it/temi-e-priorita/immigrazione/focus-on/minori-stranieri/Documents/Report-di-monitoraggio-MSNA-30-giugno-2020.pdf>

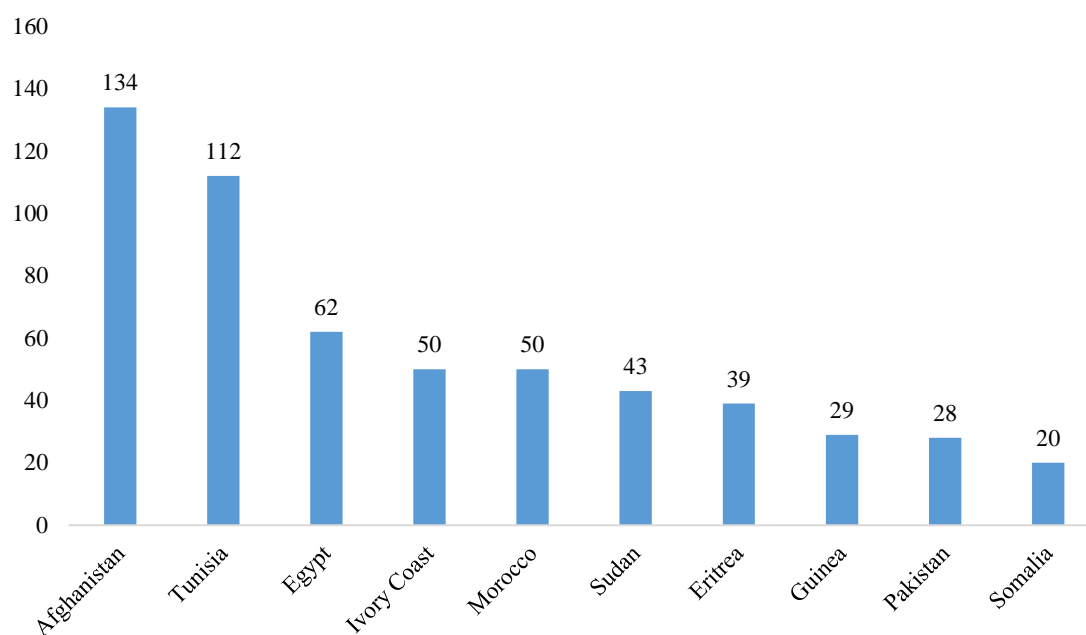


Table 4. UAMs who left the protection system in the first half of 2020 by main countries of origin¹²⁸

These minors decide to leave the protection system and often try to move abroad to reach their final destination, but not always manage to do so. The reasons behind such a hard choice are to be found in the reception conditions: the long waiting times to obtain the outcome of the asylum application often hinder the integration process of these young people¹²⁹. Moreover, there is also lack of homogeneity in reception conditions on the Italian territory and between different types of centers. Long waiting times appear to be important obstacles even in the cases of those applying for family reunification, which would guarantee safe travel to other countries. In both cases, the long wait can make the UAM desist and decide to leave for the desired destination anyway, exposing herself/himself to the risks of an irregular journey. In fact, illegal circuits for traveling to other countries appear to be a more attractive alternative for these young people, as they envisage the ability to travel immediately and quickly. Other minors, instead, may decide to exit the reception system due to a growing anxiety and the feeling of not having

¹²⁸ Source: Ministero del Lavoro e delle Politiche Sociali. Available at: <https://www.lavoro.gov.it/temi-e-priorita/immigrazione/focus-on/minori-stranieri/Documents/Report-di-monitoraggio-MSNA-30-giugno-2020.pdf>

¹²⁹ Fondazione ISMU, UNHCR, UNICEF, OIM, (2019). A un bivio. La transizione all'età adulta dei minori stranieri non accompagnati in Italia. Available at: https://www.unhcr.it/wp-content/uploads/2019/11/Report-UNHCR_UNICEF_OIM-A-un-bivio.pdf

opportunities, thus deciding to start a path of autonomy in Italy on their own. Once out of the protection system and “invisible” to the formal circuits, children risk to fall into crime networks and become victims of abuses and exploitations. UAMs have a difficult life path behind them, often consisting of violence, torture, slavery, deprivation and are marked by the experience of a journey lasting months (if not years), often made without a reference adult to reach a possible future in Europe. Hence, their vulnerability is so high that they are disproportionately affected by the high risk of becoming victims of trafficking in order to transit to other European destinations, exploited in construction sites or in the fields or, worse, in the prostitution market, deprived of the safeguards and protection offered by the national reception system¹³⁰. In particular, in this case, the UAMs most at risk are those who have applied for a residence permit issued for minor age because once they turn eighteen, unless they are still in school or have a job and can prove they have a residential address, it is very difficult for them to obtain a residency permit for adults. It is very frequent, especially in the biggest Italian cities, that they end up working in the informal sector, exploited for instance in car washes, in the fruit and vegetable stalls and in the larger markets where they work up to 12 hours a day for about 10 euros daily pay; or that they get involved in illegal activities or prostitution with a high risk of entering the juvenile criminal justice system, as in the case of many Egyptian boys in Rome¹³¹. Besides the difficulty of protecting the UAMs who decide (forcedly or not) to become invisible, just like in Brazil, there are the practical challenges of granting access to appropriate accommodation, health, and education services.

Focusing first on the accommodation of UAMs, as already mentioned in the text, international standards and regional law set the obligation to place them in a safe and adequate place specifically dedicated for children. Nonetheless, several episodes were registered of children left in dangerous structures together with adults, in total breach of the provisions which impose that children should be placed in safe and dedicated spaces.

¹³⁰ Save the Children, (2018), *Minori stranieri non accompagnati: 18.300 ospitati nel sistema di accoglienza in Italia nel 2017, la metà in Sicilia (43%) e solo il 3% in affido, oltre 1.200 hanno meno di 14 anni, 2.400 irreperibili nel corso del 2017*, <https://www.savethechildren.it/press/minori-stranieri-non-accompagnati-18300-ospitati-nel-sistema-di-accoglienza-italia-nel-2017-la>, accessed on 19/08/2020

¹³¹ UNICEF, UNHCR, IOM, (2018). *Ricerca su Minori Stranieri Non Accompagnati e la loro transizione verso l'età adulta*. Available at: https://www.miur.gov.it/documents/20182/2223566/Concept+Note+it_21+Oct.pdf/ae5b580f-583d-1c82-8ef4-34d37c04f6a9?t=1564667198494

Especially in times of intense migration influxes when first reception centers are overcrowded and full, UAMs have been withheld for weeks in conditions of insecurity, with no specific services for children and at extreme risk of violence and abuses¹³². Recent episodes also refer to minors illegally held in a detention facility together with adults. In these cases, the silence and immobility of the city authorities is quite common, showing the insensitivity and inability to guarantee protection and rights to protected categories such as that of unaccompanied minors¹³³. When analyzing the life in the accommodation facilities, a major factor that should be taken into account is that educational and organizational models vary greatly according to different structures, and the needs for educational support and autonomy are different from minor to minor. Many young girls and boys struggle to tolerate the rules that regulate life in reception facilities, especially if they have lived for a relatively long time without any adult reference and if the rules are applied very strictly. For instance, in some communities, minors are not allowed to leave the structure alone or to communicate with the outside during the initial period: some of them feel as if they are in prison and decide to leave, exposing themselves to all the aforementioned risks related to the condition of invisibility. Sometimes, the educational and relational models proposed in the communities result suffocating for those who, due to their migratory experience and family responsibilities they are invested with, already feel adult. On the other hand, some minors placed in reception structures managed by volunteers complain about the insufficient presence of educators, as they would need a major educational support or because the absence of adult figures can lead to conflict situations and prevarication within the structure. Other also mention the difficulties in communicating¹³⁴.

Focusing now on the right to health, the law provides that after presenting the request for permission, minors have the right, and following its release the duty, to register free of charge to the National Health System, through those responsible for their foster care, as they fall within the category of "humanitarian asylum" holders for the purposes of

¹³² Human Rights Watch, (2016), Italia, migrazione: bambini bloccati in hotspot insicuri, <https://www.hrw.org/it/news/2016/06/23/291210>, accessed on 24/08/2020

¹³³ MessinaToday, (2020), Scandalo migranti, minori detenuti illegalmente all'hotspot di Bisconte: chiesto l'intervento del prefetto, <https://www.messinatoday.it/cronaca/migranti-minori-chiusi-hotspot-bisconte-denunce-15-agosto-2020.html>, accessed on 25/08/2020

¹³⁴ Rozzi, E. (2013). Minori stranieri non accompagnati privi di protezione - Ricerca condotta a Torino nell'ambito del progetto PUCAFREU. Available at: <https://omm.hypotheses.org/files/2018/08/Rapporto-PUCAFREU-Italia-definitivo.pdf>

insurance coverage for health services provided for by the *Testo Unico*¹³⁵. A fundamental objective of the SIPROIMI system is to guarantee the possibility of access to the health facilities for the UAMs and therefore the effective exercise of the right to health. In order to do so, it is necessary the presence of a contact person responsible for the issue of health within the team of the Reception Centers. According to a research conducted by the pediatrician Vittoria Buccella and the university professor Emilia Comolli¹³⁶, the main health problems suffered by UAMs are psychiatric disorders and prevalence of the Post-Traumatic Stress Disorder (PTSD), exposure to Stressful and potentially Traumatic Experiences (SLE) and correlation between them and different mental pathologies. According to the two experts, there are no changes in the frequency of psychiatric pathologies in UAMs with the passage of time and there is even a chronicization of psychopathologies over time, because of failure or inadequate diagnosis and/or treatment. In fact, although minors can access the health system with no discrimination, they have limited possibilities of access to the mental health services due to a variety of factors: bureaucratic, linguistic and cultural barriers, difficulties in continuity of care due to the continuous transfers and difficulty of the guardians to perceive the first signs of a psychiatric disorder. Clearly, a close contact with local health authorities is necessary to allow a correct passage of information and continuity of care for children inserted in the protection system. Furthermore, in order to guarantee a valid and comprehensive health care, the constant presence of health workers within the same reception facilities is required. At the same time, healthcare personnel operating in hospitals or territorial structures needs specific knowledge and skills with respect to UAMs, their living conditions, their most frequent experiences, and pathologies but also with respect to European regulations and guidelines.

So far as the right to education is concerned, as already mentioned, UAMs present on the Italian territory are subject to compulsory education and they have the right to attend school even if they lack documents or the permit of stay. Yet, the *Decreto Sicurezza* had a very strong negative impact on the comprehensive educational process of UAMs and

¹³⁵ Giuffrè, A.G. (2017). Il regime di assistenza sanitaria dei minori stranieri non accompagnati alla luce della l. n. 47 del 2017. Available at: <http://www.integrazionemigranti.gov.it/Documenti-e-ricerche/msna.pdf>

¹³⁶ Buccella, V. & Comolli, E. Problemi di salute tra i minori stranieri non accompagnati ospitati nelle strutture di prima accoglienza: una revisione bibliografica. Available at: <http://www.glnbi.org/documenti/0d6d702ccbe40828dfcee3a585cd55ae.pdf>

especially young adults. The same also applies to training courses aimed at job placement. Indeed, for instance, the apprenticeship programs that are often activated for them must remain subject to the “limit of resources already available” and in any case must be “without new or greater financial public burdens”. The constraint of available economic resources, therefore, translated into the failure to provide additional resources and, hence, is also a limit to the fulfillment of the best interest of the minor¹³⁷. As far as the school system is concerned, the law establishes that, for an effective social inclusion, the distribution in the school classes takes place avoiding the predominant presence of foreign students, which can represent a maximum of 30% of the total students in the class. This limit, though, can be waived in several cases, including in the absence of alternatives¹³⁸. This has generated what Save the Children referred to as “school segregation”: high levels of ethnic polarization within schools. In fact, in neighborhoods characterized by strong presence of immigrants, 80% of Italian children move to the center or to private schools and abandon their catchment area. Because of these choices, educational poverty is concentrated in specific contexts, and schools do not always have the tools to overcome such difficulties. Hence, foreign children and adolescents often have little opportunity to learn, experiment, develop and make talent and aspirations flourish¹³⁹. Clearly, the inclusion and integration of immigrant students, especially if minors, still represents a major challenge for the Italian system.

Let us briefly consider the right to work. UAMs holders of residence permits for asylum, subsidiary protection, humanitarian reasons, special cases, family, or custody reasons can work on the same conditions of Italian minors. Quite often, to help the minors enter the labor market, extracurricular internships are activated. They consist in training and orientation or job placement, a measure aimed at facilitating the approach to the world of work, the enrichment of knowledge, the acquisition of professional skills, and therefore they are not configured as an employment relationship. The minimum age limit to carry

¹³⁷ Cukani, E. (2019). Soggetti vulnerabili e tutela dei diritti: il caso dei minori stranieri non accompagnati. Available at: <http://www.giurcost.org/studi/cukani3.pdf>

¹³⁸ Integrazione Migranti, Istruzione e formazione, http://www.integrazionemigranti.gov.it/normativa/procedureitalia/Pagine/Istruzione_istruzione_formazione.aspx, accessed on 26/07/2020

¹³⁹ Save the Children, (2020), Le disuguaglianze a scuola: 3 questioni urgenti su cui intervenire, <https://www.savethechildren.it/blog-notizie/le-disuguaglianze-scuola-3-questioni-urgenti-su-cui-intervenire>, accessed on 28/07/2020

out the internship is 16 years, and it is necessary to have completed the compulsory education in accordance with current legislation. In some cases, the activation of internships is also allowed for UAMs who cannot prove that they have fulfilled their compulsory education in the country of origin or in Italy, provided that they are attending a school course aimed at obtaining the middle school certificate and are registered with the Employment Center following a specific and justified request by a Municipality or another body managing the social assistance functions. The activation of the internship for the UAM must be carried out by the guardian or, if not yet appointed, by the holder of the protective powers on a provisional basis¹⁴⁰. Nonetheless, as already mentioned, episodes of exploitation of minors are not rare. This is confirmed by the official data of the Department for Equal Opportunities, which in 2019 identified 2,033 victims inserted in the national anti-trafficking system, out of which 161 were minors. The main region of emergence is Sicily (29.8%), followed from Liguria (14.3%), Piedmont (13.7%) and Campania (9.3%)¹⁴¹. As regards the profile of minors victims of labor exploitation, the children generally come from countries in sub-Saharan Africa, Tunisia, Morocco and Egypt. These young people have little education and have been involved in low-skilled activities since childhood, such as agriculture, pastoralism, and construction. In Italy they are exploited in commercial, manufacturing, catering, and service activities.

In conclusion, although the Italian system – especially after the adoption of Law 47/2017- has set a comprehensive framework for the protection of UAMs, the reality is far from its full implementation. The reasons of the complexity of concretely ensuring a structured protection of UAMs can be summarized in the words of Lisa Bjelogrljic, Senior Child Protection Officer of Save the Children and coordinator of the *CivicoZero Catania*¹⁴² project. As she stated, in Italy and more specifically in Sicily, the greatest challenge in the protection of UAMs is the difficulty of creating a systematized synergy between the different subjects that are involved and should relate to each other such as the guardian, the reception facilities, and the other stakeholders. Although there is an adequate system

¹⁴⁰ Servizio Centrale del SIPROIMI, (2019). La tutela dei minori stranieri non accompagnati. Manuale giuridico per l'operatore <https://www.siproimi.it/wp-content/uploads/2019/11/La-tutela-dei-minori-stranieroeri-non-accompagnati.pdf>

¹⁴¹ Save the Children, (2020). Piccoli Schiavi Invisibili 2020. Available at: https://s3.savethechildren.it/public/files/uploads/pubblicazioni/piccoli-schiavi-invisibili-2020_1.pdf

¹⁴²See: Save the Children, CivicoZero Catania, <https://www.savethechildren.it/cosa-facciamo/progetti/civicozero-catania>

of rules, there is also a pragmatic regulatory vacuum and a difficulty in setting up practices that are uniform and effective. The misleading, she says, depends on the fact that the practices are differentiated and there is not the right level of information and adjustment of all the operators working in the field. Moreover, it is very complex to create a protection path that is integrated and takes into account all elements of the individual's complexity, including all the fragments of one's identity, the cultural codes of the countries of origin and the educational work of the cultural codes of the country where the minor currently lives. There is a lack of a joint work and a tendency to still treat minors with an "assistentialism approach", i.e. a service-based approach rather than a child rights-based approach, which would instead recognize children as right holders with full freedom of thinking, participation and capacity to build their own future.¹⁴³.

¹⁴³ Lisa Bjelogrić, from an interview issued to the undersigned via Zoom on 06/08/2020

3. ANALYSIS ON BEST PRACTICES AND POLICIES ON THE PROTECTION OF UNACCOMPANIED MIGRANT MINORS

A purely comparative exercise of the Brazilian and Italian cases presented in the previous chapters would be quite complex, due to the intrinsic diversities of the two countries in a variety of factors. The dissimilarities extend not only to the geographical/territorial characteristics and the geopolitical position, but also to the specificities of the migration phenomena. The two cases present very peculiar scenarios: on the one hand, a huge state like Brazil welcoming migrants almost exclusively by land from the neighboring Venezuela with the distinctive characteristics of the flows (such as the presence of indigenous people); on the other hand a very small country like Italy having a central role in the Mediterranean area as a maritime gateway to Europe for deeply diversified fluxes of immigrants coming from Africa, Asia and the Middle East. At the same time, the cases do present some relevant similar characteristics. For instance, both Roraima and Sicily - the most affected regions by the migratory crises – are the poorest, least developed, and most affected by social discrepancies and inequalities areas of respectively Brazil and Italy. Moreover, the presence of UAMs within the migration flows is relevant in both cases, albeit the legal and practical protection systems are quite different. In order to develop a relevant analysis, this last chapter seeks to present a review of the best practices that the two case studies can borrow from each other. For the purpose of this research, the concept of best practice will be understood in its broader sense, as to include not only specific actions adopted in a given context but also policies, strategies and legislative plans. The aim is most certainly not to establish which of the two countries better guaranteed the protection of UAMs in the critical regions of Roraima and Sicily within the context of a migration crisis, but rather to highlight methods, approaches, techniques and actions that have been particularly successful in each of the two countries, as to inspire future steps for a human-rights based governance of the migration phenomenon in the other country considered. In particular, the focus will be drawn on how specific practices, that tackle problems relevant to both countries, managed to successfully guarantee unaccompanied minors' rights and protection. When a best practice is

considered, the main achievements and developments reached by the country who adopted it will be highlighted first. Subsequently, the shortfalls and weaknesses of the other country within the same common problem will be presented, as to suggest what it could borrow from the other.

3.1 A Comprehensive National Legislation as a Basis for the Protection of UAMs: Italian Law 47/2017

The international legal framework of human rights and in particular children's rights, which applies in both the Brazilian and Italian case, sets specific standards of protection creating duties and obligation for states that must ensure the full implementation of rights. The regional organizations as well, particularly in the European case, have progressively adopted legislative and political measures and even created specific bodies precisely aimed at the protection of children's rights. Since international law rarely requires the adoption of a given internal measure, and it generally only prescribes or forbids states a certain conduct, legislative, administrative, or regulatory measures are necessary to implement treaties and international customs at the national level. The Italian law 47/2017 presents an internationally and regionally recognized best normative policy in terms of the adoption of a forefront legislation complying with standards of protection of UAMs. The country managed to adopt this law, through a long path of advocacy from the third sector, after the numbers of migrant minors in the country became sensibly high - an exponential growth which has mostly reflected the increase in the overall migratory flow, but which in 2016 found a pike which proved the relevance of the phenomenon (25,846 unaccompanied minors: more than double compared to 2015 and almost 6 times more than in 2011¹⁴⁴). At that point, a law on the protection of UAMs became necessary to provide specific guarantees, clarify the procedures and ensure that such a large number of minors could find a safe space in Italy where their rights would be respected. Brazil, on the other hand, is placed in a less forward position in this sense, as it lacks a comprehensive legislation specifically dedicated to the safeguard of UAMs. However, the phenomenon of Venezuelan children undertaking migration paths alone to flee their

¹⁴⁴ Save the Children, (2017). Atlante Minori Stranieri Non Accompagnati in Italia, <https://www.savethechildren.it/sites/default/files/AtlanteMinoriMigranti2017.pdf>

home and reach neighboring countries as Brazil is currently increasing. This justifies the necessity for the South American country to adopt a specific legislation devoted to the protection of this vulnerable category of migrants. Let us analyze how Italy managed to adopt such a cutting-edge law and why it is considered a success, despite it has not yet found a complete implementation in practice. Following, we will address the lack of a specific legislation on UAMs in Brazil and the reasons behind the relevance of its future adoption. The Italian law 47/2017 will be presented as an example to inspire other countries, specifically Brazil, to crystallize specific principles and standards of protection of unaccompanied minors as to ensure the effective promotion of the rights and safeguard of this particularly vulnerable category of migrants.

3.1.1 The Path of Advocacy and the Main Achievements of Law 47/2017

Italian law 47/2017, also known as *Legge Zampa*, represents a major step in the national incorporation of international principles - mainly those included in the UN CRC – and standards of protection of unaccompanied migrant minors. Although it is true that it has not yet found a complete and unified implementation, the adoption of such a vanguard legislation should be considered a best policy. As Save the Children stated, Italy can be proud of being the first country in Europe to have adopted an organic system that considers migrant children first of all as children regardless of their status as migrants or refugees¹⁴⁵. By harmonizing the legislation on the protection of minors and that on immigration, Italy not only refined existing measures but also adopted new methods and procedures which were previously not included in the system.

In particular, law 47/2017 governs the fundamental aspects of the life of migrant minors who arrive in Italy without parents (or adults responsible for them): starting from the procedures for the identification and age assessment to the reception standards; from the promotion of family custody to the figure of the guardian, from health care to access to

¹⁴⁵ Save the Children, (2017), La legge per la protezione e accoglienza dei minori migranti è finalmente realtà, <https://www.savethechildren.it/blog-notizie/la-legge-la-protezione-e-accoglienza-dei-minori-migranti-%C3%A8-finalmente-realt%C3%A0>, accessed on 02/09/2020

education, all fundamental elements for promoting the social inclusion of minors. One of the most important steps was the introduction of the procedure for age assessment and identification, ensuring their uniformity at national level. In fact, before the approval of the bill, there was no provision for the attribution of age, which now instead is notified to both the minor and the temporary guardian, thus also ensuring the possibility of appeal. Greater assistance is also guaranteed, providing for the presence of cultural mediators throughout the procedure¹⁴⁶. The *Legge Zampa* is very recent, counting only three years since its adoption, and before its approval Italy had a very weak protection system of UAMs, which tended to restrict possibilities of integration and regularization. The most striking example, although it was quite rare in practice, is that unaccompanied migrant children could be denied access to the Italian territory upon arrival and be deported to their home country. In general, the protection granted to UAMs was the same that applied to vulnerable children in situations of risk or abandonment, regardless of their migration status. The lack of homogeneity between national laws and the UN CRC occurred through several factors, including the lack of specific regulations addressing the special needs of UAMs and gaps between stages of the procedure¹⁴⁷.

Due to its young life, it might be early to properly assess the effectiveness of law 47/2017. Yet, it has undoubtedly generated a positive impact in the consolidated protection of UAMs with the adoption of brand-new measures or the refinement of the existing ones. Not least, having defined an organic discipline that strengthens the tools of protection guaranteed by the law and greater homogeneity in the practices, the *Legge Zampa* was an important embankment for the maintenance of the UAMs' protection system over time¹⁴⁸. In fact, the presence of such a well-structured law also served as a basis for guaranteeing standards of protection even in the face of recent regulatory changes like the first and second *Decreto Sicurezza*, which deeply challenged the protection system. Moreover, the

¹⁴⁶ Save the Children, (2017), *Minori stranieri non accompagnati: giornata storica per i diritti*, approvato definitivamente il DDL che istituisce in Italia un sistema organico di protezione e accoglienza primo in Europa, <https://www.savethechildren.it/press/minori-stranieri-non-accompagnati-giornata-storica-i-diritti-approvato-definitivamente-il-ddl>, accessed on 02/09/2020

¹⁴⁷ PUCAFREU Project: promoting unprotected unaccompanied children's access to their fundamental rights in the European Union, (2011). The legal status of unaccompanied children within international, European and national frameworks. Available at: <https://calenda.org/217903?file=1>

¹⁴⁸ Gruppo di Lavoro per la Convenzione sui Diritti dell'Infanzia e dell'Adolescenza, (2019). *I diritti dell'infanzia e dell'adolescenza in Italia - 10° Rapporto di aggiornamento sul monitoraggio della Convenzione sui diritti dell'infanzia e dell'adolescenza in Italia*. Available at: https://www.unicef.it/Allegati/Rapporto_Gruppo_CRC_2019.pdf

adoption of law 47/2017 allowed to create a basis for a constant monitoring work, deriving both by governmental and external independent activities. The efforts of NGOs, especially those devoted specifically to children's rights, are crucial in this action, as they conduct independent research which is periodically published and accessible to the public.

Nonetheless, it should be reminded that the path for the adoption of this comprehensive law was not fast nor simple. First of all, it only started thanks to the initiative of Save the Children which proposed the draft law in 2013 and started to create a momentum for its consideration. Then, it required the joint effort of associations such as ActionAid, Ai.Bi., Amnesty International Italia, Asgi, Caritas Italiana, Centro Astalli, C.I.R., CNCA, Emergency, IOM, Terre des Hommes, UNHCR and UNICEF¹⁴⁹, which engaged in a tireless operation of advocacy for the adoption of the law. When the bill was considered, the initial proposal was re-drafted in many points and it faced some obstacles, since it was an innovative law imposing very high standards. It took more than three years for being finally approved, but in the end, it reached the consensus of a very large majority of the parliament. A strong strategy and a great dialogue with interlocutors, and more generally an efficient advocacy plan, carried out by Save the Children, was crucial for the achievement of such an idealistic goal. In particular, the NGO was aware that parties have very different approaches on migration policies but also that it was possible to raise some common understanding of the rights when it comes to children. They managed to convey, even to the parties more restrictive towards migration, the message that children are children first and foremost, before being migrant. The result was that no party was against the law and each one of the signatories was a legal ambassador of her/his party. This case is a great example of an effective advocacy strategy, that also shows the difficulty of adopting such a forefront legislation - especially in the case of an often "hostile" government with a restrictive political discourse towards migration. Law 47/2017 is the cornerstone of the protection of UAMs in Italy and represents a great example to aspire

¹⁴⁹ Save the Children, (2017), *Minori stranieri non accompagnati: a 6 mesi dall'approvazione della nuova legge per accoglienza e protezione, istituzioni e organizzazioni di tutela hanno discusso gli aspetti cruciali per la sua applicazione*, <https://www.savethechildren.it/press/minori-stranieri-non-accompagnati-6-mesi-dall%E2%80%99approvazione-della-nuova-legge-accoglienza-e>, accessed on 02/09/2020

to for several countries that are still behindhand in the incorporation of this international standards at the national level, such as Brazil.

3.1.2 The Lack of a Legislation on the Protection of UAMs in the Brazilian System

Brazil is currently lacking a national legislation specifically devoted to the protection of UAMs. The provisions that apply at the national level are those of general promotion and protection of rights provided for in the Federal Constitution and other infra-constitutional provisions. Whilst this did not stop the country to concretely adopt strategies and operations aimed at ensuring UAMs' protection, a comprehensive legislation is needed in order to establish both a legal basis and a guarantee of commitment by the government and all the stakeholders involved in migration management strategies. In this sense, the comprehensive Italian legislation could serve as a best normative policy and an example for further development in Brazil's protection of UAMs.

The legislative vacuum in the Brazilian system has a concrete impact on the life of unaccompanied Venezuelan minors arriving and present in Brazil, particularly in the Roraima state. In fact, there is no structured system to track and support them after their entry interview at the border. César Muñoz, senior Brazil researcher at Human Rights Watch, stated that “while Brazilian authorities are making a great effort to accommodate hundreds of Venezuelans crossing daily into Brazil, they are failing to give these (unaccompanied) children the protection they desperately need¹⁵⁰”. One of the greatest challenges, that Italy partially overcame with law 47/2017 and the establishment of the roster of voluntary guardians, is that in Brazil UAMs cannot enroll in school or access public health care without a legal guardian. When UAMs are placed in the state shelters, the shelter director can act as their guardian. Nonetheless, as already addressed in the first chapter, state shelters quickly became overcrowded and children were placed in the UN shelters of the *Operação Acolhida*, which often lack the essential services and support for UAMs, such as adults responsible for escorting them to school or other services. Therefore, their fundamental rights -especially health and education- are severely

¹⁵⁰ Human Rights Watch, (2019), Brazil: Venezuelan Children Fleeing Alone, <https://www.hrw.org/news/2019/12/05/brazil-venezuelan-children-fleeing-alone>, accessed on 02/09/2020

hampered. The federal government should establish a system to identify, track, and support UAMs in Brazil, which would be crucial to guarantee their access to health care, school, and basic services.

Despite the evidence of institutional advancements in the protection of migrant children in Brazil, it is worth mentioning that the support network does not guarantee that the process of welcoming and integration of UAMs serves their best interest. For instance, legal advice on asylum procedures does not guarantee the well-being of children in the shelters to which they are sent, nor even psychological counseling to deal with the traumas suffered during their journey and during the adaptation and await of the application's result. Even if partially supported by a legal advice, these children often remain alone - especially in the phases following the primary reception- having to face the adjustment to a new and precarious environment, all the risks related and the concerns regarding the final decision of their request in a lonely way¹⁵¹. In order to free Venezuelan UAMs from invisibility and providing them not only with a set of guarantees but also the consciousness of their rights, a legal framework must be established at the national level. Brazil should hence consider drawing a legislation on the protection of UAMs as to comply with its international, regional, and national obligations on migrants' and children's rights, which also apply to unaccompanied minors. The recognition of the vulnerability of this category at the legislative level can serve as a basis for the improvement of the present strategies and for the adoption of brand-new actions aimed at the effective protection of UAMs.

3.2 An Efficient Multi-Stakeholder Strategy: The Operação Alcolhida

Legislation is crucial to create a normative basis for the protection of migrants. Nonetheless, the adoption of concrete measures and policies should follow, in order to ensure the actual enactment of the provisions and the achievement of the rights set forth by the laws. In other words, even a comprehensive and forefront law could lose its value if it does not find a concrete full implementation. Both Brazil and Italy engaged in several

¹⁵¹ Cantinho, I. (2018). Crianças-Migrantes no Brasil: vozes silenciadas e sujeitos desprotegidos. In *O Social em Questão - Ano XXI - n° 41* – May August 2018. Available at: http://osocialemquestao.ser.puc-rio.br/media/OSQ_41_art_7_Cantinho.pdf

efforts for guaranteeing the safeguard of migrant children. In particular, the Brazilian *Operação Acolhida* has proven to be an effective program from several points of view. Indeed, it managed to include a multi-stakeholder approach, favored by a cooperative framework established among the actors involved, through a sharing of responsibilities based on the competences. In particular, the program successfully managed to relieve the fragile state of Roraima from the burden of the migration crisis, providing for emergency assistance within border planning, reception, and relocation of Venezuelans. Precisely this approach is lacking in Italy's operational strategies concerning the protection of UAMs. Indeed, a comprehensive well-coordinated multi-stakeholder policy on migration management has not yet been elaborated but could constitute an efficient measure to mitigate the load of the most concerned and at the same time socio-economically fragile region of Italy, i.e. Sicily. As a matter of fact, Roraima and Sicily have been facing similar difficulties linked to arrivals of immigrants, being both border regions and main entry points to respectively Brazil and Italy. What unites the two regions even more and makes the exchange of ideas about policies and strategies relevant, is the similar socio-economic context: the scarcity of economic resources and high rates of poverty, the inequalities in the social fabric and consequent difficulties in social integration and justice. In this sense, the Brazilian case can provide an example of an effective program from which Italy can borrow several points.

3.2.1 The Success of the Brazilian *Operação Acolhida*

The *Operação Acolhida* program was adopted in 2018 by the federal government of Brazil and based on a major humanitarian task force coordinated by the Federal Government and the Brazilian army, with the support of United Nations (UN) agencies and more than 100 civil society entities. In the first chapter we did mention several critical points that affected the program, but hereby we will mainly consider the positive aspects that could serve as a lead for future steps. Clearly, it is not a program specifically designed only for unaccompanied minors, but it surely had an impact also on the protection of this category of beneficiaries. Moreover, it is a program peculiarly outlined for the Roraima

state, although it followingly involved several other federal states in the context of the relocation strategy.

First of all, a very strong point of the *Operação Acolhida* is its interdisciplinary nature, as it was meant to establish a joint work between the Brazilian government, the military and international agencies, NGOs and the civil society. The Brazilian response to the Venezuelan humanitarian crisis was based on a great intensification of this synergy, and the acknowledgment that none of the actors, however capable, would have been able to give such an answer if working by itself. According to Carlos Frederico Cinelli, Colonel of the Brazilian Army and head of the Joint Staff of the Humanitarian Logistics Task Force in Boa Vista, today the Operation is considered a successful response, including internationally, precisely due to this synergy of efforts¹⁵². In fact, approximately 115 partners are involved in the operation, from religious, philanthropic, and essentially humanitarian organizations, to United Nations agencies. The effectiveness lays in the organization among the actors, which separated the mandates and divided the tasks according to their expertise. For instance, the UNHCR has taken special care of shelters, which are one of the three pillars of the Operation, it hires local implementing partners to be able to manage them and is also responsible for granting refugee status. The IOM instead works with the Task Force on the interiorization part, another pillar of the Operation, and also takes care of the status of temporary residence. The last pillar, i.e. border planning, basically permeates all partners. As a matter of fact, a multi-stakeholder approach and the cooperation among different actors based on their competences has proven to be quite efficient.

Moreover, the *Operação Acolhida* is comprehensive also in terms of coverage, in the sense that it is divided in three different steps, each one addressing a stage of the migration movement: first arrival, reception, and relocation. The first step deals precisely with offering services at the border and attending migrants at the arrival in Brazil. As part of the Operation, Venezuelans arriving in Brazil are registered, documented, and immunized. Those who intend to stay in Brazil are advised to apply for the refugee status or for a temporary residence visa, and the most vulnerable cases are referred to temporary

¹⁵²Diálogo Americas, (2020), Operação Acolhida completa dois anos como exemplo de excelência para outros países , <https://dialogo-americas.com/pt-br/articles/operacao-acolhida-completa-dois-anos-como-exemplo-de-excelencia-para-outros-paises/>, accessed on 03/09/2020

emergency shelters. Thanks to this strategy, from the beginning of the Operation until June 2020, a total of 264,865 Venezuelans have requested migratory regularization, 129,558 people applied for residence, 251,670 Individual Taxpayer Registries (CPFs) were issued, 388,010 doses of vaccine were administered, 216,738 social assistance activities performed¹⁵³. The second step includes the reception of Venezuelan immigrants: as soon as they arrive in Brazil, they can access one of the 13 shelters in Roraima. There are different types of shelters (for families, single individuals, or indigenous peoples) and their management is shared among the Ministry of Citizenship, the Armed Forces and the UNHCR. This division of roles is another clear example of an efficient multi-stakeholder approach where tasks are divided according to each actors' competences: the Ministry of Citizenship and UNHCR are responsible for coordinating reception and assistance, while the Armed Forces for logistics and health. The shelters offer services like meals, personal hygiene kits, Portuguese classes and activities for children, cultural, recreational activities, supply of raw material for Warao indigenous crafts, telephone for communicating with relatives in Venezuela; protection and defense of rights and security 24h. The last and particularly successful step of the Operation is its third pillar, i.e. the *Interiorização*, which allowed the voluntary transfer of Venezuelan refugees and migrants from Roraima to other states in the country, where they could find better opportunities for socioeconomic integration. Since the beginning of the interiorization strategy, from April 2018 until June 2020, more than 35 thousand people have been interiorized to more than 376 Brazilian cities in 24 Federation Units. In 2019 alone, more than 19 thousand people were beneficiaries of this project¹⁵⁴. This strategy is very efficient both from the refugees and the government's perspectives. In fact, on the one hand it helped Venezuelans' socio-economic integration and upgrading of the quality of life, since in Roraima they could only find access to basic services but had short opportunities for their future. On the other hand, the interiorization allowed the already weary state of Roraima to share the burden, better manage such a high pressure of migration and redistribute migrants throughout the country also considering each state's resources and possibilities.

¹⁵³ Gov.Br, Operação Acolhida, (2020), <https://www.gov.br/acolhida/historico/>, accessed on 04/09/2020

¹⁵⁴ Gov.Br, Operação Acolhida, (2020), <https://www.gov.br/acolhida/historico/>, accessed on 04/09/2020

Let us analyze how the *Operação Acolhida*, as a general migration management program, is relevant in terms of protection of unaccompanied migrant minors. According to the UNHCR, the protection of children and adolescents has been a primary consideration in the emergency response plan for Venezuelans refugees and Venezuelan migrants. Specifically, the child protection system in the border region has been strengthened, particularly through the presence of institutions such as the Federal Public Defender's Office, the Ministry of Citizenship, the Guardianship Council, civil society organizations and international agencies so that all relevant actors in the humanitarian response and the local child protection network could contribute and cooperate in strengthening the integral protection of Venezuelan minors¹⁵⁵. A result was, for instance, the opening of the shelters *Casa Lar* in Boa vista and *Casa de Passagem* in Pacaraima, in partnership with UNICEF, in order to allow the safe reception of UAMs. In short, the *Operação Acolhida* was successful in many terms especially for lightening the efforts of the fragile state of Roraima. Despite the difficulties and controversies, the program adopted an undeniably efficient approach of coordination among actors that allowed a better management of the migratory issue and the protection of UAMs.

3.2.2 The Difficult Coordination of Actors in the Migration Management Strategies within the Italian and European contexts

The *Operação Acolhida* can surely be considered as a best practice that could inspire Italy's upcoming policies on migration management and protection of UAMs in Sicily. The lack of coordination among the stakeholders and the difficulty to create a synergy among all the actors is indeed one of the main obstacles for the achievement of an effective protection strategy in the region, including and especially for UAMs. In particular, the interiorization strategy can serve as an example for an effective redistribution of immigrants and a burden-sharing based cooperation. The Brazilian relocation of migrants can inspire strategies not only at the national level, within the internal territory of Italy amongst its regions, but also at the regional level, among the

¹⁵⁵ UNHCR, (2019), Sobre a proteção de crianças e adolescentes refugiados e migrantes da Venezuela no Brasil, <https://www.acnur.org/portugues/2019/12/11/sobre-a-protecao-de-criancas-e-adolescentes-venezuelanos-no-brasil/>, accessed on 04/09/2020

European Member States. The reference to the EU becomes relevant if we bear in mind that Brazil is a Federal republic, composed by 27 different federal units (26 states and the Federal District), autonomous from each other, although not sovereign, with self-administration, self-government and self-organization. Moreover, when considering redistribution strategies, geography becomes an important factor to consider for burden-sharing. Italy (301,338 km²) is 0.04 times as big as Brazil (8,516 km²), while the European Union area (4,476 million km²) covers almost the half of the Brazilian territory.

Considering Italy first, as to August 2020, on the total of immigrants present in the reception system (84,557), the vast majority is distributed among the five regions of Lombardy (13%), Emilia-Romagna, (10%), Sicily (9%), Lazio (9%) and Piedmont (9%)¹⁵⁶. The Department for Civil Liberties and Immigration of the Ministry of the Interior carries out an ordinary administrative activity to unburden those reception centers where there is an excessive number of presences. Transfer operations were carried out, for instance, on June 21, 2018, from Syracuse (67 migrants), on August 6, 2018 from Agrigento (50 migrants), on August 27, 2018 from Crotone (58 migrants), on July 25, 2019 (70 migrants) and on August 6, 2019 (50 migrants) from Agrigento. Redistribution interventions also involved Friuli Venezia Giulia, from where, on July 5, 2019, 2,000 migrants were transferred to other regions¹⁵⁷. Nonetheless, the populist propaganda is strongly hindering and militating against these efforts. For instance, in October 2019 when the Minister of the Interior Luciana Lamorgese encouraged the redistribution of 90 migrants in three different Italian reception centers in the regions of Umbria, Marche and Campania, she was accused by the right-wing parties of “selling off” Italy and encouraging the “invasion” of immigrants¹⁵⁸. At the time of writing, the situation in Sicily has went back to being very critique especially in the reception centers. Indeed, the last few months have seen a considerable increase in the arrivals -difficult to manage also

¹⁵⁶Dipartimento per le libertà civili e l’immigrazione, (2020). Cruscotto statistico giornaliero 31/08/2020. Available at: http://www.libertacivilimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/cruscotto_statistico_giornaliero_31-08-2020.pdf

¹⁵⁷ Ministero dell’Interno, (2019). Operazioni di routine per alleggerire i centri di accoglienza, <https://www.interno.gov.it/it/stampa-e-comunicazione/comunicati-stampa/comunicati-stampa-raccolta-anni-precedenti/operazioni-routine-alleggerire-i-centri-accoglienza>, accessed on 05/09/2020

¹⁵⁸FanPage.it, (2019), Salvini attacca Lamorgese sulla redistribuzione dei migranti: ma una nota del Viminale lo smentisce, <https://www.fanpage.it/politica/salvini-attacca-lamorgese-sulla-redistribuzione-dei-migranti-ma-una-nota-del-viminale-lo-smentisce/>, accessed on 05/09/2020

because of the Covid-19 pandemic- in the region of Sicily and especially in the Lampedusa island. As a response to this new trend and the difficulty to cope with high numbers of immigrants in the island, the Minister Lamorgese expressed the need of a cooperation among regions for an effective and safe redistribution of migrants¹⁵⁹. When analyzing the efforts of relieving pressure from Sicily, it should be born in mind that the percentage of immigrants present in most of the Italian regions is very low (compared to the aforementioned five most welcoming) and that newly arrived migrants have little desire to settle in Italy as they consider it a transit nation for other European countries with more encouraging economic prospects. Nevertheless, her announcement on the need of cooperation efforts for redistributions has found the (explicit or unspoken) resistance and threats of political exponents. The oppositions are coming not only from the municipalities and regions with center-right leadership but also from those led by the Movimento Cinque Stelle, part of the current government coalition. As a result, the current attempts to move immigrants from Sicily to other regions have so far failed¹⁶⁰. In sum, due to the complex Italian political framework, adopting comprehensive strategies of burden sharing requires a strong effort and a coordination among different actors that is not always easy to achieve.

Focusing now on a redistribution of migrants at the European level, the EU Member States have not yet come to an agreement on a long-term binding strategy of relocation. In 2015 the First Emergency Relocation Scheme was proposed in the framework of the European Agenda on Migration, as a common action to cope with the unprecedented numbers of arrivals on EU's southern borders and the worrying death tolls in the Mediterranean. The proposed relocation was foreseeing a reallocation of migrants from Italy and Greece towards other EU Member States which should apply until September 2017. Receiving Member States would get € 6,000 for each person welcomed, while Italy and Greece € 500 for each person relocated to cover transport costs¹⁶¹. The redistribution

¹⁵⁹Conferenza delle Regioni e delle Province Autonome, (2020), Migranti: Lamorgese, fare di più anche con Regioni, <http://www.regioni.it/news/2020/07/29/migranti-lamorgese-fare-di-piu-anche-con-regioni-616881/>, accessed on 05/09/2020

¹⁶⁰Il Sole 24 Ore, (2020), Migranti, con le Regionali in vista sindaci e governatori dicono no all'accoglienza, <https://www.ilsole24ore.com/art/caos-migranti-no-all-accoglienza-sindaci-e-governatori-le-regionali-vista-ADa5Vig>, accessed on 05/09/2020

¹⁶¹ European Commission, European Solidarity: a Refugee Relocation System. Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/2_eu_solidarity_a_refugee_relocation_system_en.pdf

among states was based on four criteria: the national GDP (40%), the size of the population (40%), the unemployment level (10%) and the number of asylum-seekers already hosted (10%). At the time of the adoption of this measure, the European Parliament highlighted the need of a permanent system, and the adoption of a compulsory and automatically triggered relocation system in case of emergency. Despite also the European Commission proposed a mandatory scheme, the agreement was found on temporary and exceptional relocations on a voluntary basis. Consequently, Member States were often reluctant to concretely implement the relocations and European bodies spoke out asking them to fulfil their obligations. In December 2017, the European Commission referred Poland, Hungary, and the Czech Republic to the Court of Justice of the EU for non-compliance with their legal commitments on relocation. From the start of the emergency plan until March 2018, a total of 33,846 asylum seekers (of which 11,999 from Italy) had effectively been relocated¹⁶². In particular, the Commission stressed that the legal obligations on relocation would not cease at the end of the emergency scheme (September 2017) but will continue for a reasonable period of time thereafter. Some States did pursue their relocation efforts and a group of countries has also pledged to establish a more structured and effective solidarity mechanism with the adoption of the Malta declaration (also involving voluntary relocations), but an overall agreement at the European level has not yet been set up¹⁶³. One of the root causes of the lack of a structured policy on relocation is the crisis of the so-called “European solidarity”. In fact, the principle of solidarity enshrined in the Charter of Fundamental Rights of the European Union Ch. IV and in the Treaty on European Union ex Article 2, is not being properly implemented by Member States especially in the migration domain. Besides the different political alignments, some countries are much more exposed to the migration flows for geographical reasons and hence they should receive support and help from the less affected ones. The failure of the Dublin system has proven that one of the greatest political issues of migration management in the EU is how to distribute the refugees across the Schengen area. A stronger implementation of the European solidarity could lead to progresses in this sense, but it would require the voluntary action of each state, which is

¹⁶²European Parliament, 1st Emergency Relocation Scheme, <https://www.europarl.europa.eu/legislative-train/theme-towards-a-new-policy-on-migration/file-1st-emergency-relocation-scheme>, accessed on 06/09/2020

¹⁶³ IOM, Relocation, <https://eea.iom.int/relocation>, accessed on 06/09/2020

often lacking. This is strictly linked to Member States' will to protect their sovereignty and national authority. Indeed, countries are more and more reluctant to cede part of their sovereignty to the EU. Specifically, the populist and souveranist movements claim the importance of the national sovereignty, the political independence of the nations and the prevalence of the state's interests. The call for "getting the sovereignty back" was clear, for instance, with the Brexit. In particular, the issue of immigration played a primary role in the Brexit campaign which led to the withdrawal of the United Kingdom from the EU¹⁶⁴ : the prevailing argument was that the arrival of an "unsustainable" number of foreigners was bringing discomfort to the welfare of the country, especially in terms of social services. This case shows the will of increasingly more European states to deal with the issue of migration at a national level rather than at a communitarian one, because of the lack of trust in European institutions. As a consequence, there is an ongoing tension and a weakening of the European Union, which is based on the very idea of giving up part of the state's sovereignty to a supranational authority. This conflict constitutes an obstacle for an effective multi-level governance of the migration phenomenon at the European level.

In sum, Brazil's scheme of efficient migration management at the border, relocation of immigrants from Roraima to other federal states and efforts for the protection of UAMs could serve as an example for both Italy and the EU. In particular, a synergy among all the stakeholders, based on a strong commitment and will to cooperate and share the burden, is lacking in the Italian and European contexts.

3.3 A Structured System of Data Collection for Tracking UAMs

When dealing with the migration phenomenon, the collection of data often represents a challenge especially in terms of accuracy and recency, since trends may quickly shift, and numbers may dramatically change even in a short time frame. However, the development

¹⁶⁴ Kaufmann E.P.,(2017), Values and immigration – the real reasons behind Brexit and Trump, in Research Gate. Available at: https://www.researchgate.net/publication/318317407_Values_and_immigration_-_the_real_reasons_behind_Brexit_and_Trump

of statistics and quantitative information is vital for understanding the dynamics of migration, its causes and effects, and the possible responses. In fact, according to the UNHCR, data collection is essential for understanding the migration paths, the size of the movements, the demographic profiles of individuals, the push and pull factors, the motivations behind the movement, the threats faced. Such pieces of information are the very basis for designing, implementing, and evaluating policy responses and programmatic interventions¹⁶⁵. Yet, systematically gathering data on migration is very challenging, also due to the very nature of the phenomenon which involves a rapid speed of change in the profiles and paths of migrants. Due to this and other reasons, not all the governments decide to fully engage in such a complex work, which is often carried out by independent organizations. In particular, the collection of data is even more complicated and often less considered when it comes to UAMs. The efforts for counting unaccompanied minors include considering the ones crossing the border and arriving in the national territory, and those already present in the territory and inserted (or not) in the protection system. Tracking UAMs is fundamental not only for giving them subjectivity and recognition among the population of the host country, but also to guarantee their visibility and a follow-up on their path. Recognizing UAMs as a vulnerable group presupposes entailing specific measures and schemes aimed at guaranteeing a specific and accurate type of protection. Data collection can be considered a very useful and concrete action in this sense. Considering the two case studies presented in this work, Italy's commitment to data collection can be seen as a best policy to analyze, as to inspire Brazil's further engagement in this action. Indeed, the South American country has not made the tracking of UAMs a priority in its policies yet, and this results in a total lack of information, numbers and statistics on the arrivals and presence of unaccompanied minors.

3.3.1 The Italian Government's Efforts for Data Collection on UAMs

Providing precise statistics on the number of UAMs who arrive and are present each year in Italy represents a challenge with uncertain outcomes. Not all those who manage to

¹⁶⁵ UNHCR, Data collection and analysis, <https://www.refworld.org/pdfid/584188031.pdf>

cross the borders, in fact, are intercepted by the territorial authorities, also because many of them, for several reasons, do not want to leave trace of their presence in order to be able to continue their own journey to their final destination. Hence, during their stay in the Italian territory some boys and girls remain in a grey area, on the edge of the reception system and thus escape official statistics¹⁶⁶. The efforts to track migrant minors are fundamental precisely to bring out UAMs from that grey area and give them the active subjectivity and guarantees of children's, migrants', and human rights. Despite these structural difficulties, in Italy several bodies of the Government are tasked to produce and publish quantitative information about the immigrants on the territory.

First of all, the Italian National Institute of Statistics (Istat): a public research body, the main producer of official statistics to support citizens and public decision makers. In particular, the Istat produces and disseminates numerous statistics on international migration and on the presence of foreign people in Italy. The data come from various sources, both sampling and administrative, and cover a variety of thematic areas ranging from demographic to socio-economic aspects¹⁶⁷. In order to make these data available, a data warehouse was created, named Immigrati.stat. This new information system collects and systematizes statistical information on immigrants in order to make them more easily disposable by all users. The information contained in the data warehouse, coming from various sources, is organized into eight themes: population and families, health and healthcare, work, education and training, economic conditions of families and inequalities, assistance, social participation and crime. For each thematic area, the main data and some summary indicators are made available, as to provide an overall picture of both the well-established phenomena but also of the emerging aspects of the migratory reality in Italy¹⁶⁸. Overall, it consists of a comprehensive database including a variety of data very easy to access, mostly concerning the analysis on immigrants already residing in the territory. Although it does not include specific information on unaccompanied minors, it provides very useful facts on the background, social challenges and living conditions of the immigrants present in Italy. Moreover, it includes also useful statistics

¹⁶⁶ Save the Children, (2017). Atlante Minori Stranieri Non Accompagnati in Italia, <https://www.savethechildren.it/sites/default/files/AtlanteMinoriMigranti2017.pdf>

¹⁶⁷ Istat, Tutti i dati sulle migrazioni internazionali e la presenza straniera in Italia, <https://www.istat.it/it/immigrati/tutti-i-dati>, accessed on 09/09/2020

¹⁶⁸ Immigrati.Stat, <http://stra-dati.istat.it/>, accessed on 09/09/2020

to understand the size of the foreign presence in the territory, such as the number of entries in each year of non-EU citizens for asylum request and humanitarian reasons.

A governmental body with a major role in the elaboration of information is the Ministry of the Interior, which is tasked to elaborate reports, data and statistics concerning its areas of competence. In particular, the Department for Civil Liberties and Immigration deals *inter alia* with immigration and asylum policies, civil services for immigration and asylum, civil rights, citizenship and minorities and the National Commission for the right to asylum¹⁶⁹. The Department works for the collection of data on disembarkations and reception of migrants. A set of aggregate numbers on the phenomenon is easily available to everyone through a daily statistical dashboard. The information includes an up-to-date picture on the trend of arrivals and on the presence of migrants in reception facilities, also in the context of the asylum seekers and refugees protection system¹⁷⁰. Specifically, the daily statistical dashboard presents data and graphics on: the number of migrants disembarked in a specific time frame, compared with the data referring to the same period of the previous two years (with daily and monthly numbers); the number of migrants present in the system of reception, including the numbers by region and by type of structure (hotspots, reception centers and SIPROIMI); the nationalities declared at the time of landing; and the yearly number of unaccompanied migrant minors¹⁷¹. The latter, in particular, is very helpful for monitoring the arrivals of UAMs on the Italian shores and analyze the trend of the fluxes, which may change rapidly. Such a promptly updated database is helpful to create an immediate and adequate response to unexpected trends, such as the rapid increase in arrivals in the Sicilian shores in the very last months.

Another executive branch involved in the elaboration of data on immigration, with a specific focus on UAMs, is the Ministry of Labor and Social Policies. The Directorate General for Immigration and Integration Policies publishes monthly the statistical Reports on the data of UAMs. This document includes graphics and tables with: the number of

¹⁶⁹ Ministero dell'Interno, Dipartimento per le Libertà Civili e l'Immigrazione, <https://www.interno.gov.it/it/contatti/dipartimento-liberta-civili-e-immigrazione>, accessed on 09/09/2020

¹⁷⁰ Ministero dell'Interno, (2020). Sbarchi e accoglienza dei migranti: tutti i dati, <https://www.interno.gov.it/it/stampa-e-comunicazione/dati-e-statistiche/sbarchi-e-accoglienza-dei-migranti-tutti-i-dati>, accessed on 09/09/2020

¹⁷¹ Dipartimento per le Libertà Civili e l'Immigrazione, (2020). Cruscotto Statistico Immigrazione.

Available at:

http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/cruscotto_statistico_gio_maliero_08-09-2020.pdf

UAMs present and registered in the territory, with their gender, age range and nationality; the distribution by host region; the number of entries of UAMs in the Italian territory; the number of UAMs who moved away from the reception system; and a focus on UAMs of female gender¹⁷². Moreover, the same Ministry is also tasked to produce Monitoring Reports on UAMs present on the national territory. The Reports, held every six months, analyze the main characteristics of unaccompanied minors present in Italy paying particular attention to the evolution of the phenomenon in quantitative and qualitative terms, by comparing the various indicators of analysis with data from previous periods. This is a comprehensive document, with a much more discursive methodology compared to the statistical reports, which also tries to analyze the legal developments, social impacts, and the living conditions of UAMs. The Monitoring Report deals with: the evolution of the procedures and the regulatory framework; data on UAMs' characteristics and territorial distribution; the entry of UAMs into the Italian territory (landing events); the reports of UAMs who moved away (left the reception system); unaccompanied minors seeking international protection; the data on the different structures of reception; request to convert the residence permit for minors into a residence permit (allowed for reasons of study, access to work, self-employment or subordinate work); the measures for autonomy (interventions carried out in order to favor the socio-labor insertion of vulnerable migrants); and the financial framework (endowment of the Fund for the reception of unaccompanied foreign minors)¹⁷³.

The information collected through these bodies is crucial for tracking the numbers of UAMs arriving and residing in the territory, and consequently coordinate the efforts for granting their protection. The most important goal of this work is to avoid the invisibility of UAMs, starting from their first entry and during the whole stay in Italy. As already discussed earlier in the text, that of invisibility is still a major problem, mostly concerning those who “voluntarily” leave the reception system. Undoubtedly, keeping track of their number is a helpful instrument to both understand the size of the phenomenon, which allows to question the effectiveness of the reception system, and to elaborate methods to

¹⁷²Ministero del Lavoro e delle Politiche Sociali, (2020). Report mensile MSNA in Italia. Available at: <https://www.lavoro.gov.it/temi-e-priorita/immigrazione/focus-on/minori-stranieri/Documents/Report-MSNA-mese-luglio-2020.pdf>

¹⁷³ Ministero del Lavoro e delle Politiche Sociali, (2020). Report di Monitoraggio. Available at: <https://www.lavoro.gov.it/temi-e-priorita/immigrazione/focus-on/minori-stranieri/Documents/Report-di-monitoraggio-MSNA-31-dicembre-2019.pdf>

try and reach them. Finding UAMs that are considered untraceable means allowing them to re-access all the services and protection that they are entitled to, and also to free them from all the risks related to another irregular journey and/or the risks of falling into crime networks and becoming victims of violence and exploitations. Besides the governmental bodies, several organizations in Italy conduct independent research on the phenomenon of migration and particularly on UAMs, such as Save the Children, UNICEF, INTERSOS, UNHCR and many others. Their work provides an additional set of eyes on the issue, together with a comparison of the data that can partially solve the problem of the margin of error. Moreover, data are collected also at the European level, both through institutional instruments and by independent organizations. This wide set of resources is a good example for a comprehensive strategy of data collection, helpful for upholding the protection of UAMs.

3.3.2 The Poverty of Data on UAMs in Brazil: a Gap in the System

The Brazilian government is engaged in the collection of data on migration, especially within the context of the *Operação Acolhida*. Differently from Italy, the research is conducted jointly between executive bodies and independent bodies. A great part of the work is conducted by the Observatório das Migrações Internacionais (OBMigra), an observatory that cooperates with the Ministry of Justice and Public Security and with the National Immigration Council (CNIg). OBMigra aims to expand knowledge about international migratory flows in Brazil, through theoretical and empirical studies, and to point out strategies for the social innovation of public policies directed at international migrations¹⁷⁴. Every month, the observatory publishes a Report dealing with the monitoring of the migration flow and the employability of immigrants. The document provides statistics as: the number of authorizations granted (residence, visa, etc.) per month and by factors (gender, home country, age range, schooling, occupation, host region); number of migrant registrations according to classification (resident, temporary, border) and by factors (home country, age range, host region and municipality); number

¹⁷⁴ Portal De Imigração, Ministério da Justiça e Segurança Pública, (2019), O Observatório, <https://portaldeimigracao.mj.gov.br/pt/observatorio>, accessed on 10/09/2020

of entry and exit of Brazilian territory at border points per month and by factors (home country and host region); number of asylum applications per month and by factors (gender, home country, host region and municipality)¹⁷⁵. Not all the aforementioned data include the age range differentiation, but the ones that present it do not make a differentiation based on the minor age (less than 18 years old), but rather other age frames such as less than 20, or others like 0-15 and 15-25. Thus, there is no analysis based only on the minor age *per se* – besides the fact that there is no information at all concerning unaccompanied minors. Even the official number provided by the Ministry of Citizenship together with the Public Defender's Office and the UNHCR concerning migrant children is considering the age range from 0 to 15 years¹⁷⁶. The UNHCR also provides information on the number of applications for recognition of refugee status, divided in the age ranges >4, 5-11, 12-17 and 18-29¹⁷⁷. Albeit being useful for a differentiation among minor and adult applicants, this data only refers to the individuals who apply for refuge, which is far from the total number of migrants present in the country.

As a matter of fact, in Brazil there is a true gap in the data collection when it comes to unaccompanied migrant minors. The only context in which there is a higher collection of information is that of the *Operação Acolhida*, since it involves also the first reception along the frontier with Venezuela. The Public Defender's Office (DPU), who interviews children and teenagers at the border, can realize esteems on the numbers of arrivals of UAMs. At the time of writing, the latest data available on the news refer to a survey conducted by the from August 2018 to June 2019 which pointed out that in this 11-month period almost 400 children arrived in Brazil totally unaccompanied, other 1,499 came separately from their parents and 1,701 with insufficient documentation. Nonetheless, there is no structured system of data collection periodically published and made available for the public. Due to a variety of factors, among which the lack of a systematized process

¹⁷⁵ OBMigra, (2020). Relatório Mensal – Acompanhamento de fluxo e empregabilidade dos imigrantes no Brasil. Available at: https://portaldeimigracao.mj.gov.br/images/dados/relatorio-mensal/OBMigra_JUN_2020.pdf

¹⁷⁶ Gov.br, (2020). Crianças e Adolescentes Migrantes. Available at: <https://www.gov.br/mdh/pt-br/navegue-por-temas/crianca-e-adolescente/dados-e-indicadores/CRIANASEADOLESCENTESMIGRANTES.pdf>

¹⁷⁷ UNHCR, (2020), Decisões plenária CONARE, <https://app.powerbi.com/view?r=eyJrIjoiNTQ4MTU0NGItYzNkMi00M2MwLWFhZWtMdBjM2I1NkVWjMTY5IiwidCI6ImU1YzZMOTgxLTY2NjQtNDEzNC04YTBlTY1NDNkMmFmODBiZSIsImMiOjh9>, accessed on 10/09/2020

of research and data collection, minors often remain ignored or depreciated. The recognition of young children as subjects is still a challenge in Brazil, especially if they are immigrant¹⁷⁸. The case of Venezuelan children involves different cultural and social factors, including the indigenous background, which undoubtedly requires an even more sensitive and specific type of analysis. Research is essential to understand the size of the phenomenon and consequently to get to know minors in different contexts, due to the possibility of bringing to light different practices, procedures, and relationships between and with minors. Moreover, a systematized data collection system can represent a strategy to fight UAMs' invisibility, track their presence, follow-up on their protection. In conclusion, data collection can be crucial to shed a light upon UAMs and provide them with the protection they should be granted, especially in crises situations. Indeed, developing statistics on unaccompanied minors can represent a first step for laying the foundations of the full implementation of the human rights they are entitled to, both as children and as migrants - a step that Brazil is still far from accomplishing.

3.4 A Favorable Framework for NGOs Working for the Effective Protection of UAMs

Governments have a crucial role for establishing a comprehensive framework of protection for all the individuals present in the national territory, including third country nationals – especially if they are in a vulnerable condition such as UAMs. We have seen how the legislation is an essential basis both for setting standards of care and safety and for holding states accountable thanks to monitoring activities. Following, in order to concretely implement the obligations set forth by the legal basis, states (shall) adopt different policies and strategies. Their effectiveness depends on a variety of factors, including the capacity to coordinate all the stakeholders involved in a joint and harmonized work. Among the measures governments can choose to endorse, there is the important practice of data collection, which appears to be valuable not only in terms of research but also for the follow-up on individuals who risk to fall into invisibility and

¹⁷⁸ Nascimento, M.L. & Pereira de Moraes ,C.G., (2020). (In) visibilidade das crianças imigrantes na cidade de São Paulo: questões para pensar a cidadania da pequena infância. In Espaço Pedagógico v. 27, n. 2, Passo Fundo, pp. 437-458. Available at: file:///C:/Users/helec/Downloads/11435-Texto%20do%20artigo-15301824-2-10-20200801.pdf

dangerous circles. This explains that all actions governments undertake are essential for respecting, protecting, and fulfilling individuals' rights. Nonetheless, civil society can play a major role in the effective implementation of the legislation and policies aimed at guaranteeing migrants and refugees' rights, in particular those of minor age who are often left behind. The work of NGOs, philanthropic organizations, charities, non-profit organizations and all the actors belonging to the third sector can occur in a fruitful cooperation with the state, as in the case of Brazil, or with more difficulties and hindrances coming from the hostile political frame, as in the case of Italy. The last best policy that will be presented in this chapter is precisely the positive cooperation between the Brazilian institutional structure and the third sector, which has created a favorable environment for the work of non-profit organizations in the protection of migrants and refugees' rights, including UAMs. The main points and ideas that Italy could borrow from Brazil will be stressed, insofar as the former country is facing a difficult relationship between governmental and non-governmental actors which often hinders the efforts of the independent organizations fighting for the protection of migrants' rights.

3.4.1 The Acknowledged Vital Role of the Non-Governmental Sector in Brazil

As mentioned in the first chapter, the earliest steps for the protection of migrants in Brazil, and especially Roraima, were undertaken by the civil society. The activities of the third sector are essential to complement the state's action and cope with the gaps in public policies and services, which often happen to be insufficient. Across Brazil, there are several organizations that specifically work to support migrants, refugees, and asylum seekers. In a complex framework, where oftentimes public policies are not completely succeeding in fulfilling migrants' rights, the role of civil society can be decisive. In fact, the latter can directly implement projects and partnerships to integrate and support migrants, including UAMs.

The third sector has an important role in promoting actions for the reception, protection, and integration of migrants in Brazil and it gets involved by idealizing and executing projects that benefit them. There are plenty of local institutions or networks that join

efforts to work with the migratory issue. Other than the main international organizations, a variety of associations of different sizes are devoted to a concrete work for the protection of immigrants, including minors. Some services were specifically opened in 2018 after the increase in arrivals of Venezuelans in the state of Roraima. For instance, in March 2018, the Instituto Migrações e Direitos Humanos (IMDH), and philanthropic organization founded in 1999 dedicated to providing legal, social and humanitarian assistance of migrants, opened an office in Boa Vista aimed specifically at aiding Venezuelan women and children. The IMDH assists about 80 migrants daily in four areas of work: reception and socio-assistance support, educational and cultural integration - protection, documentation, work processes, employment, and income generation. In addition to direct monitoring for migratory regularization, other assistance services are offered, such as home visits, referral to job vacancies, guidance on access to education, reservation of school enrollment, referral to a Portuguese course, distribution of a multilingual booklet, which contribute to the social insertion of migrants. The work of the IMDH is crucial for guaranteeing the safeguarding of minors, especially the unaccompanied ones, since the services provided are strictly related to the implementation of their rights to health, education, and adequate standards of living. In the first year of operation, more than 5,000 people were attended, of whom 3,398 were women in a situation of vulnerability, a significant part of which lives in overcrowded rented houses, or on the street¹⁷⁹. This is just one example of the plurality of initiatives coming from the civil society to support refugees and migrants. Several NGOs but also (and probably mainly) religious institutions are involved in this field. Specifically, in the context of Brazil, the participation of Catholic organizations has been crucial in the development of social policies for immigrants and refugees residing in Brazil: many Catholic associations lead the field of humanitarian reception. Among them, it is worth to mention the emergence and expansion of a Catholic congregation whose charism is found specifically in migrations: the Scalabrinian brothers and sisters. It is an order founded at the end of the 19th century by João Batista Scalabrini precisely devoted to the assistance of migrants and refugees around the world. In Brazil, this order acquired the

¹⁷⁹ IMDH, (2019), IMDH Solidário atendeu mais de cinco mil migrantes em Boa Vista-RR no último ano , <https://www.migrante.org.br/migracoes/balanco-2018-imdh-solidario-atendeu-mais-de-cinco-mil-migrantes-em-boa-vista-rr-no-ultimo-ano/>, accessed on 12/09/2020

leadership in the field of humanitarian reception¹⁸⁰. In Boa Vista, the sisters are currently welcoming Venezuelans -as they did before for Haitian migrants-, offering them shelter and legal advice, teaching the local language, granting also a job orientation service and a space for the spiritual part¹⁸¹.

Together with these local organizations, UN agencies such as the UNHCR and UNICEF are also directly and consistently involved in the first reception, integration, and relocation of migrants through the *Operação Acolhida*.

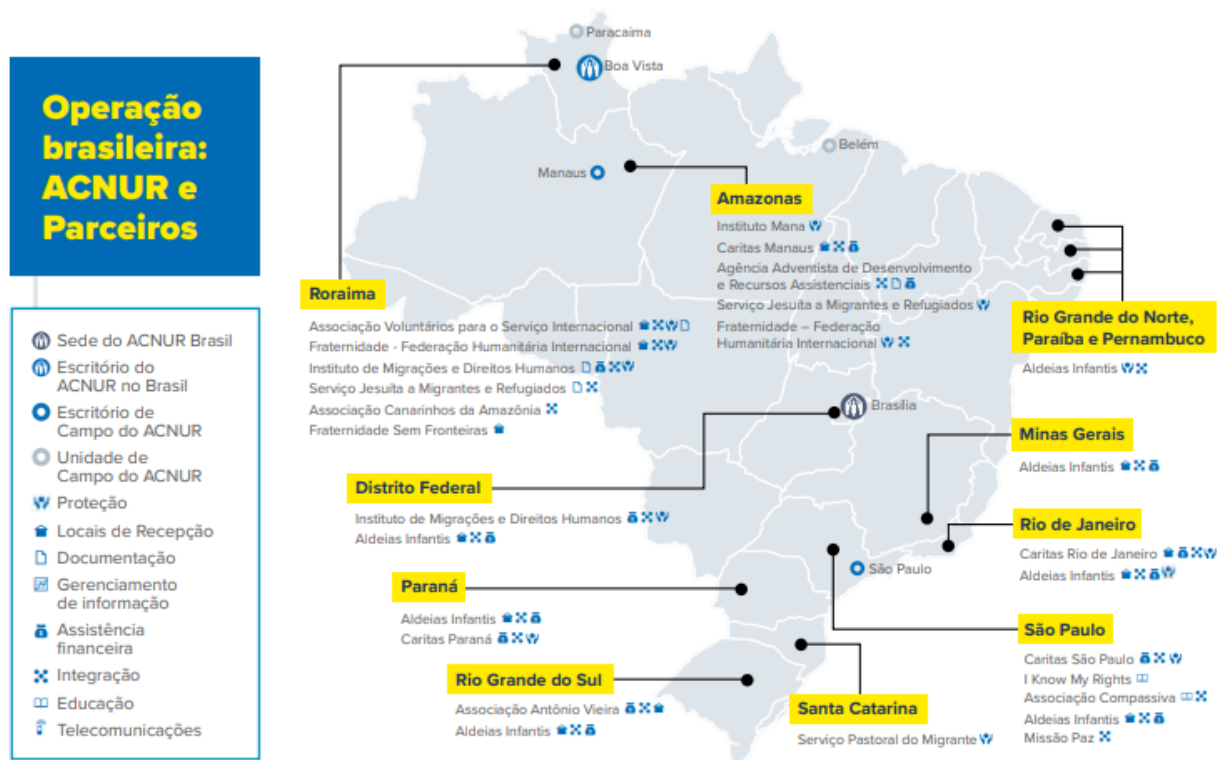


Figure 4. The main third sector organizations in partnership with UNHCR within the Operação Acolhida¹⁸²

¹⁸⁰ Decker, N. (2017). *Nessa Terra Somos Todos Migrantes - Interfaces entre religião, acolhida humanitária e políticas de imigração no Brasil de ontem e de hoje*, Universidade Federal do Rio Grande do Sul. Available at:

<https://www.lume.ufrgs.br/bitstream/handle/10183/172393/001057083.pdf?sequence=1&isAllowed=y>

¹⁸¹ Centro Scalabriniano de Estudos Migratórios, (2019), *Suore scalabriniane, dal Brasile solidarietà per il Venezuela*, <https://www.csem.org.br/noticias/suore-scalabriniane-dal-brasile-solidarieta-per-il-venezuela/>, accessed on 12/09/2020

¹⁸² Source: UNHCR. Available at:

file:///C:/Users/helec/Downloads/ACNUR%20Brasil%20Newsletter%20Agosto.pdf

As already stressed throughout the text, the action of these international agencies was crucial for the protection of a great percentage of UAMs arriving in Roraima, providing them with services and shelter. Their cooperation with the Brazilian central government and the federal state governments is very close, creating a fruitful framework favorable to the action of the third sector. This is reflected also in the availability of the government to invest money in the Operation. For instance, only in the first half of 2020, in order to allow the relocation of more than 12.6 thousand Venezuelans, the Federal Government invested 630.9 million Brazilian Reais, which correspond to more than 100 million Euros¹⁸³. It is true that current president Bolsonaro has repeatedly taken adverse position towards NGOs, especially against the environmental ones that are advocating for the protection of the Amazon rainforest. Nonetheless, it must be recognized that the government has been cooperating with the third sector in the field of migration with some quite positive results. Perhaps the partnership with internationally well-known agencies of the UN created a sense of responsibility in the government, as the failure or success of a peculiar and singular program as the *Operação Acolhida* would influence the reputation of the country in the international relations and politics spheres. In any case, this cooperation has created a favorable framework for the work of organizations of the third sectors, which also managed to gain a positive esteem due to the successful results obtained in the response to the Venezuelan migration crisis. The government and the third sector managed to work together involving a great number of actors, each one dedicated to a sphere of interest relevant to its own competence. This multi-stakeholder approach is efficient only if the cooperating actors manage to put faith in the other actors' work, without questioning the validity of the ethical reasons behind it. In these terms, the Brazilian case could serve as a lesson learned and a good example of both cooperation among the executive and the third sector, and of trust and upholding of the work of non-governmental bodies, which seems to be lacking in the current Italian context.

¹⁸³ Gov.Br, (2020), Governo Federal investe mais de R\$ 630 milhões na Operação Acolhida , <https://www.gov.br/pt-br/noticias/assistencia-social/2020/08/governo-federal-investe-mais-de-r-630-milhoes-na-operacao-acolhida>, accessed on 15/09/2020

3.4.2 The Criminalization and Hampering of NGOs' SAR Work in Italy

Similarly to Brazil, a great amount of actors belonging to the non-governmental sector are involved in the management of migration in Italy. This includes both leading international NGOs, such as Save the Children, Emergency, Amnesty International, INTERSOS and many others; several UN agencies as the UNHCR, UNICEF and IOM; but also smaller realities of less known actors that work tirelessly especially on the ground. Many organizations are involved in the reception and social integration of immigrants, including UAMs, but the recent Italian governments have not always fruitfully cooperated with them nor shown support towards their important work. For the purpose of this subchapter, we will mainly refer to the NGOs working in the Mediterranean Sea, which are the ones that have been suffering the most from the mistrust and accuses by the government. Indeed, in the last few years the Italian political sphere has been putting under pressure the organizations involved in SAR activities, with strong accusations and criminalization of their humanitarian work. This has escalated in a general framework of suspicion and discrimination of the NGOs, which not only has hindered their concrete actions but has also resulted in concrete negative impacts on the protection of migrants – especially those most disproportionately impacted, such as UAMs. Before mentioning the issue and its consequences more in detail, let us consider the context first.

The SAR operations in the central Mediterranean have changed dramatically since 2015. If formerly they were mainly conducted by public assets (framed for example in the Italian mission Mare Nostrum, or in the European ones as Triton, Themis and Sophia), the trend shifted towards an increasingly frequent use of private boats, operated mostly by NGOs¹⁸⁴. Many NGOs working in the stretch of sea that separates Libya from Italy were founded between 2014 and 2015, when the flow of boats departing from Libya increased. Presumably, the end in 2014 of Mare Nostrum, an Italian military operation aimed at rescuing migrants leaving from North Africa, is the underlying reason behind the proliferation of organizations. Most of these NGOs do not fly the Italian flag, as they

¹⁸⁴ Istituto per gli Studi di Politica Internazionale, (2020), *Migrazioni nel Mediterraneo: tutti i numeri*, <https://www.ispionline.it/it/pubblicazione/migrazioni-nel-mediterraneo-tutti-i-numeri-24892>, accessed on 16/09/2020

come mainly from France, Spain, and Germany. Such organization work with the specific purpose of helping rescue operations and their ships go back and forth between the Libyan coasts and Italy to help migrants at sea. For each operation they shall coordinate with the Italian Maritime Rescue Coordination Center (IMRCC) of the Italian Coast Guard, which is located in Rome and manages SAR interventions in the stretch of sea assigned to Italy. NGO ships are asked to systematically communicate their position, speed, and route to the Rome power station. The NGOs are stationed off the coast of Libya until they receive news of a boat set sail from Libya and full of people or, in the worst cases, of a shipwreck. Following, they contact the Rome station, which formally assumes control of the operations, and they reach the boat. Unless the Libyan Coast Guard "rescues" migrants (taking them to detention centers where human rights are rarely respected), the rescued people are crammed on board, provided with food and clothing, and medically visited to assess their condition. The crew of these ships is made up of different figures, including rescuers, interpreters, and medical personnel¹⁸⁵. In order to understand the importance of the work carried out by these organizations, it should be noted that for instance, in 2017, NGOs guaranteed around 40% of the relief efforts carried out in the central Mediterranean. Considering that within the fluxes of migrants trying to reach Europe by crossing the Mediterranean there are many vulnerable people, such unaccompanied minors, which are at high risk of trafficking and exploitation and therefore in need of immediate protection, the work of NGOs becomes even more important.

Since 2016, harsh criticisms against NGOs became widespread in the Italian political and media spheres. The most common accusations against the organizations involved in the rescue (among them: Proactiva open arms, Doctors without borders, Sos Méditerranée, Moas, Save the children, Jugend Rettet, Sea watch, Sea eye and Life boat) were four: their role as pull factor for migrants; the lack of transparency in their financing and their supposed link with smugglers; the will of bringing migrants to Italy to feed the hospitality business; and the increase in deaths and shipwrecks in the Mediterranean due to the SAR missions¹⁸⁶. In particular, harsh criticisms were presented by important political

¹⁸⁵ Il Post, (2018), Tutto sulle ong che soccorrono i migranti, <https://www.ilpost.it/2018/06/14/ong-migranti-mediterraneo/>, accessed on 16/09/2020

¹⁸⁶ Internazionale, (2017), Perché le ong che salvano vite nel Mediterraneo sono sotto attacco, <https://www.internazionale.it/notizie/annalisa-camilli/2017/04/22/ong-criminalizzazione-mediterraneo>, accessed on 17/09/2020

exponents of the Italian government. For instance in 2017, current Minister of Foreign Affairs Luigi di Maio described the NGOs as the “Mediterranean’s taxis”, arguing that the presence of their ships in front of the Libyan coast encouraged the departures of those who wanted to reach Europe. In other words, he referred to the fact that NGOs were generally transporting migrants at sea rather than just saving them while they were about to drown¹⁸⁷. In 2019, the same Minister stated: “NGOs are part of the problem. [...] We must not fall into the game of NGOs. While they are doing the show with Italy, the smugglers continue the trafficking towards our coasts ”¹⁸⁸. The former Minister of the Interior and Vice-President of the Council of Ministers Matteo Salvini has been one of the main promoters of the campaign against the NGOs. In fact, the Lega party has been increasingly determined to discredit the work of these actors and to hinder the phenomenon of landings on the Mediterranean. Besides the strong condemnation in public statements, Salvini worked for restraining the work of NGOs also at a legislative level. As already mentioned, the *Decreto Sicurezza Bis* allows the Minister of the Interior to limit or prohibit the entry, transit or stopping of ships in the territorial sea for security reasons, when there is a suspect of aiding and abetting illegal immigration. The penalty ranges from 150 thousand euros up to one million, and could also envisage the seizure of the ship, in case of violation of the prohibition of entry, transit or stop in Italian territorial waters¹⁸⁹. This measure was clearly meant to create a legal basis for undermining the SAR work of NGOs. The text is currently under review and one of the key points on which the government has not yet found an agreement is precisely that of the fines against NGOs carrying out aid without notifying the flag state and the coordination and rescue center. At the time of writing, in the draft modification decree the fines of up to one million Euros for NGOs that violate the navigation ban are reduced from 10 thousand to 50 thousand euros, and the rescue operations "promptly communicated" are excluded. In future

¹⁸⁷Internazionale, (2018), I taxi del mare non esistono, <https://www.internazionale.it/bloc-notes/annalisa-camilli/2018/02/23/taxi-mare-non-esistono>, accessed on 17/09/2020

¹⁸⁸Open, (2019), Di Maio sui soccorsi nel Mediterraneo: «Le Ong sono parte del problema. Non cadiamo nel loro gioco», <https://www.open.online/2019/07/06/di-maio-sui-soccorsi-nel-mediterraneo-le-ong-sono-parte-del-problema-non-cadiamo-nel-loro-gioco/>, accessed on 17/09/2020

¹⁸⁹La Repubblica, (2019) Sicurezza bis, ecco cosa prevede il testo: dalle multe alle Ong alla lotta ai clandestini, https://www.repubblica.it/politica/2019/08/05/news/sicurezza_bis_ecco_cosa_prevede_il_testo_dalle_mu_lte_alle_ong_alla_lotta_ai_clandestini-232905639/, accessed on 17/09/2020

meetings of the Council of Ministers the aspects of sanctions against NGOs will also be verified, as there is also the possibility to convert them in penalties of a criminal nature¹⁹⁰.

Former Interior Minister Matteo Salvini's iron fist against NGOs also escalated into a judicial process against him, authorized last July and yet to start at the time of writing, with the accusations of "aggravated multiple kidnapping" and "abuse of official documents", for preventing the disembarkation of 107 migrants stranded off the coast of Lampedusa in August 2019 on board the ship of the Spanish NGO Open Arms¹⁹¹. Let us describe the facts very briefly, in order to understand Salvini's rhetoric of stigmatization of the work of NGOs as aid of illegal immigration, very far from the recognition of their humanitarian and life-saving task especially for vulnerable migrants as UAMs. After a first aid off the coast of Libya, where migrants were saved, Open Arms required a port of landing in Italy, but it was denied out of *Decreto Sicurezza Bis* and the ban on entering Italian waters was applied. Among the people on board there were 32 minors, of which 28 unaccompanied. After several requests and the filing of appeals at the Palermo juvenile court and the administrative court of Lazio region, the ban was suspended. The ship, which in the meantime had rescued more migrants, was heading to Italy but still not receiving a port of disembarkation. Tension was growing on board, several people were transferred for medical reasons, some throw themselves into the water in desperation. Finally, on August 20th, the ship was allowed to disembark in Lampedusa with 83 people on board. Salvini is accused of depriving the migrants, including several minors, of their personal freedom for 19 days aboard the Open Arms ship, abusing his power and violating a number of international laws such as the SAR Convention and the 1979 Hamburg Treaty. The former Interior Minister will also be tried with the accuse of kidnapping for the Gregoretti ship, a similar case that occurred in July 2019, when 116 migrants rescued by the military ship remained outside the port of Augusta for three days¹⁹².

¹⁹⁰ Ansa, (2020), Sicurezza: bozza decreto migranti, stop multe milionarie alle Ong, https://www.ansa.it/sito/notizie/politica/2020/09/24/sicurezza-bozza-decreto-migranti-stop-multe-milionarie-alle-ong_a3192a38-3e1d-4ac2-8501-2d056fdfca53.html, accessed on 26/09/2020

¹⁹¹ Internazionale, (2020), Tutto quello che c'è da sapere su Salvini e il caso Open Arms , <https://www.internazionale.it/notizie/2020/07/30/open-arms-senato-processo-salvini>, accessed on 18/09/2020

¹⁹² Internazionale, (2020), Il senato autorizza il processo contro Matteo Salvini per il caso Open Arms, <https://www.internazionale.it/notizie/2020/07/30/matteo-salvini-andra-a-processo-open-arms>, accessed on 18/09/2020

More generally, a series of measures taken by Italy forced NGOs to abandon their activities almost completely, without being replaced by state-led rescue operations to avoid the loss of lives in the Mediterranean. Severe actions were adopted against the actors who respect the ancient duty of saving people in difficulty at sea: currently, also the captains of commercial and fishing boats may face judicial and administrative proceedings for helping people in distress at sea and taking them to a safe harbor for landing. The criminalization and obstruction of such humanitarian acts have particularly targeted NGOs. A particularly worrying aspect of the interaction of the Italian state with NGOs engaged in monitoring the Mediterranean migration movements are the frequent smear campaigns and attacks perpetrated by the media against them, as well as repeated criminal investigations, often on the charge that NGO-operated ships are involved in human trafficking. So far, no accusations against the NGOs that worked on the Central Mediterranean route have led to convictions, but the simple opening of an investigation process is enough to interrupt their activities for a long time, or even permanently. In addition to harassing legal actions, NGOs were also subject to restrictions on the use of ports. The general political decisions to "close ports to NGOs" run counter to the shared responsibility of ensuring that life and human dignity are protected in the Mediterranean. The closure of the ports has been denounced by numerous international bodies, including the Commissioner for Human Rights, the Parliamentary Assembly of the Council of Europe and United Nations bodies and experts.

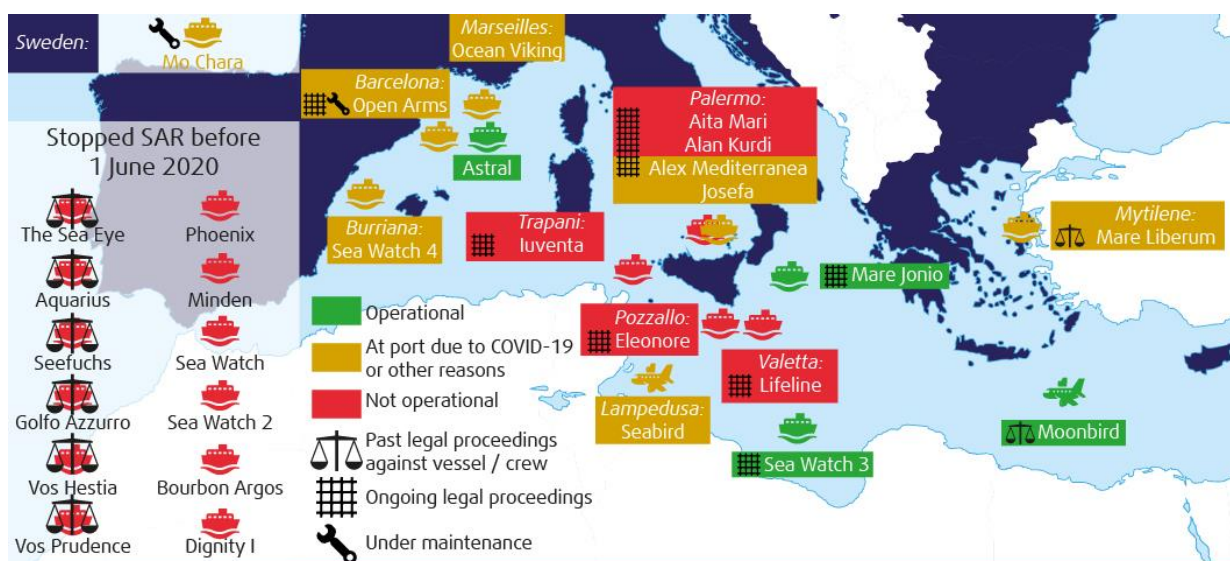


Figure 5. NGO ships involved in SAR operations in the Mediterranean Sea between 2016 and 15 June 2020¹⁹³

In 2019 the Council of Europe issued some recommendations to Member States that clearly expose the main issues caused by this skeptical approach towards NGOs, and the further steps that governments, including the Italian one, should take¹⁹⁴. Throughout the document, the CoE affirmed that effective coordination of rescue operations needs to be strengthened, including by ensuring that NGOs are not penalized for complying with their duty to rescue people in distress at sea. Moreover, it affirmed the necessity for governments to seek constructive cooperation with NGOs involved in SAR operations, to avoid any stigmatizing rhetoric and stop any harassment at the political, judicial, and administrative levels. The CoE also suggested to conduct meaningful consultations with NGOs and resolve any issues relating to compliance with technical or administrative requirements in a cooperative spirit. In fact, the work of NGOs that save lives at sea should be facilitated, including by allowing them access to ports and by canceling generalized policies that close ports or deny all NGOs entry into territorial waters, or prohibit navigation in certain areas of the international waters. Member States, including Italy, should seek constructive cooperation with NGOs conducting SAR operations to

¹⁹³ Source: European Union Agency for Fundamental Rights. Available at: <https://fra.europa.eu/en/publication/2020/2020-update-ngos-sar-activities#TabPubOverview0>

¹⁹⁴ Consiglio d'Europa, (2019), Vite salvate. Diritti protetti. Colmare le lacune in materia di protezione dei rifugiati e migranti nel Mediterraneo. Available at: <https://rm.coe.int/vite-salvate-diritti-protetti-colmare-le-lacune-in-materia-di-protezio/168095eed7>

safeguard life and the dignity of migrants and refugees rescued at sea. The stigmatizing rhetoric against NGOs operating search and rescue should be avoided and their work for protecting the life and dignity of migrants and refugees at sea should be recognized. According to the CoE, Member States should respect their obligation to ensure that NGOs carrying out SAR operations can carry out their work in a safe and supportive environment. States should indeed facilitate the work of NGOs in saving lives at sea, including by allowing them access to ports for disembarkation and for any other needs related to their work or technical needs.

In sum, the framework of mistrust towards NGOs in the public sphere severely restrained their capacity to act and obstructed the possibility of a beneficial cooperation with the Italian government. This led to several setbacks in terms of protection of migrants, including UAMs, which happen to be one of the subjects most negatively affected by the issue. Precisely for this reason, Italy needs to rethink its relationship with NGOs as to encourage combined efforts aimed first and foremost at granting basic rights and freedoms of migrants and refugees, especially those in vulnerable conditions. The fruitful collaboration among governmental and third sector actors is crucial for concretely applying the standards of protection set forth by the international, regional, and national frameworks. Clearly, a joint work not only allows to better face the most complicated issues in terms of migration management, but also to share the burden of such activity between a variety of actors. In this sense, the Brazilian case can be considered as a best practice of support towards the work of third sector organizations and advantageous partnership between them and the government. Clearly, the Italian example of the NGOs in the Mediterranean represents a very peculiar situation that does not find the same exact replication in Brazil, where there is no such thing as SAR operation at sea. Yet, the lesson learned consists in the faithful approach the government adopted towards the work with the third sector and its active cooperation with the organizations, which allowed fruitful results in terms of general protection of migrants.

CONCLUSION

In this research, we overall aimed to highlight the current status of the protection of unaccompanied minors and ascertain some best practices for its further developments, starting from two case studies on migration crises. The analysis of Brazil and Italy were helpful to understand the main achievements and gaps in the fulfilment of UAMs' rights across two different continents. Despite considering quite different cases from several points of view, in both cases the conclusive takeout is that the road for the full implementation of the protection of UAMs is still long and needs concrete efforts at all levels. We can indeed assess that none of the two countries considered is fully complying with the recognized international, regional, and national standards of protection. In order to reach better outcomes, more efforts shall be taken first and foremost by the governments, but also by and in cooperation with all the stakeholders involved – including and mostly with the third sector. Specifically, the protection of vulnerable categories of migrants shall become a priority in governments' policies. Indeed, several human rights violations are still being carried out towards UAMs both by governments and by the stakeholders involved in the system of protection. The actors that are supposed to be accountable at an ultimate stage are the states, since the whole international human rights legal system is based on the idea of states being responsible for their own actions. Considering that, due to their particularly complex migratory background and journey, UAMs can be easy victims of specific abuses (trafficking, exploitation, etc.), the states must ensure that, from their arrival in the national territory (which includes cross-border territories in the case of Brazil and territorial waters in the case of Italy), they are safeguarded and supported. The conventions, treaties and agreements to which states have pledged set specific obligations to which they can be held accountable in case of non-compliance. Although the non-binding nature of the majority of the legal instruments adopted at the international level does not allow sanctions against states' disobedience, the very lives of UAMs are at stake – and this should be enough to prevent states from resisting their duties.

We have considered four examples of best practices, two for each case study, that the two countries could borrow from each other. They consist in legislative measures, policies and strategies that could partially and progressively enhance the protection of UAMs.

Such best practices refer to shared problems that are common to both case studies, despite the intrinsic diversities of the two states. Since both Brazil and Italy need to work for the improvement of the protection of UAMs, a mutual exchange of (at least partially) successful practices can represent a starting point for future progresses in public migration policies. Clearly, the best practices discussed in the research were not meant to represent an exclusive list, but rather a point of departure for further analysis. Indeed, there are several positive and critical points that have not been stressed hereby, due to the limits of this work. Nonetheless, the research will hopefully provide some stimulating points of reflection especially for the stakeholders and decision-makers that have key roles within the legislative, political, lobbying, and humanitarian activities in this field. Far from being exhaustive, this work can be considered successful only if it will inspire future questions and analysis on this complex topic.

An implicit goal of this research was to reframe the narrative on migration with a human-rights sensitive approach. More and more the public sphere is focusing on xenophobic, nationalist, and exclusive positions, and the debate seems to be polarized in extreme positions where a constructive dialogue is often difficult to reach. This work considered important to help ensure that when it comes to unaccompanied migrant minors, and more generally the migratory phenomenon, the dialogue can be carried out in an inclusive and balanced way, overcoming divisive narratives. Finding common understandings, such as the importance of the respect for children's rights, (and more generally human rights), is seen as a basis for further developments in the field. When dealing with important issues with a high emotional impact such as that of migration, it is important to focus on shared values and moral principles of the parties concerned to open a beneficial dialogue and a real participation. The idea behind this research is to promote an approach that starts from the "human" side of the issue, from the values shared by the community. Specifically, the understanding that children are children first and foremost, besides their migratory status, allows to recognize their identity and their entitlement to a specific set of rights and freedoms. Following, the identification of children as unaccompanied and as migrants, allows the acknowledgement of their condition of vulnerability, from which derive internationally recognized standards of protection. This open and inclusive process of understanding can allow a fruitful analysis and constructive challenge of the positions that leverage fears and promote exclusion. In the light that all communication bearers

have responsibilities, the research hopefully presents a consciously inclusive and human rights-based perspective as to inspire future steps for a beneficial cooperation among all the actors involved in the migratory discourse.

In conclusion, this research strived to present some contributions and insights for the improvement of public migration policies in terms of protection of a specific vulnerable category of migrants, i.e. unaccompanied minors. Whilst several policies and measures have been adopted by governments (and the third sector) to guarantee better standards, they are most definitely not sufficient for ensuring a thorough and systematized type of protection. The history of mankind has always been marked by migratory movements and as long as phenomena such as crises, conflicts, inequalities, poverty, discriminations and general human rights abuses will occur, (forced) movements will inevitably continue. Moreover, in the forthcoming years the migration trends are not expected to decrease, but rather to exponentially grow - also due to the increasingly common manifestation of environmental disasters linked to climate change. Hence, it is important to analyze current migration crises, not only to promptly respond to ongoing violations, but also to create a system of expertise and best practices helpful for gaining preparedness in future scenarios. Specifically, vulnerable categories of migrants are and will also be part of migration crises. The importance of working for their protection relies in the consciousness that creating a risk-free environment is the basis for each and every person's fulfillment of her/his own dignity in the interconnected and interlinked society in which we are living. This becomes even plainer when referring to the protection of children, the most disproportionately affected members of the community by (in)actions of governments and changes in the society. As we have addressed throughout this research, due to their developing condition, children are particularly vulnerable to specific abuses and human rights violations. Subsequently, their future is threatened and so is the future of the societies in which they live¹⁹⁵. Therefore, the protection of UAMs should be placed at very the center of the migration discourse, as to plan inclusive and peculiar strategies with long-term beneficial effects not only for the most vulnerable categories of migrants but for the well-being of the whole community.

¹⁹⁵ UNICEF, Child rights and why they matter, <https://www.unicef.org/child-rights-convention/child-rights-why-they-matter>, accessed on 6/10/2020

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