

**Self-Inflicted and
Transnational Side Effects
of the Nationality Laws:
The Italian case
in Comparative Perspective**

Guido Tintori - FIERI -
Copenhagen, June 14, 2007

Main Outlines of the Project

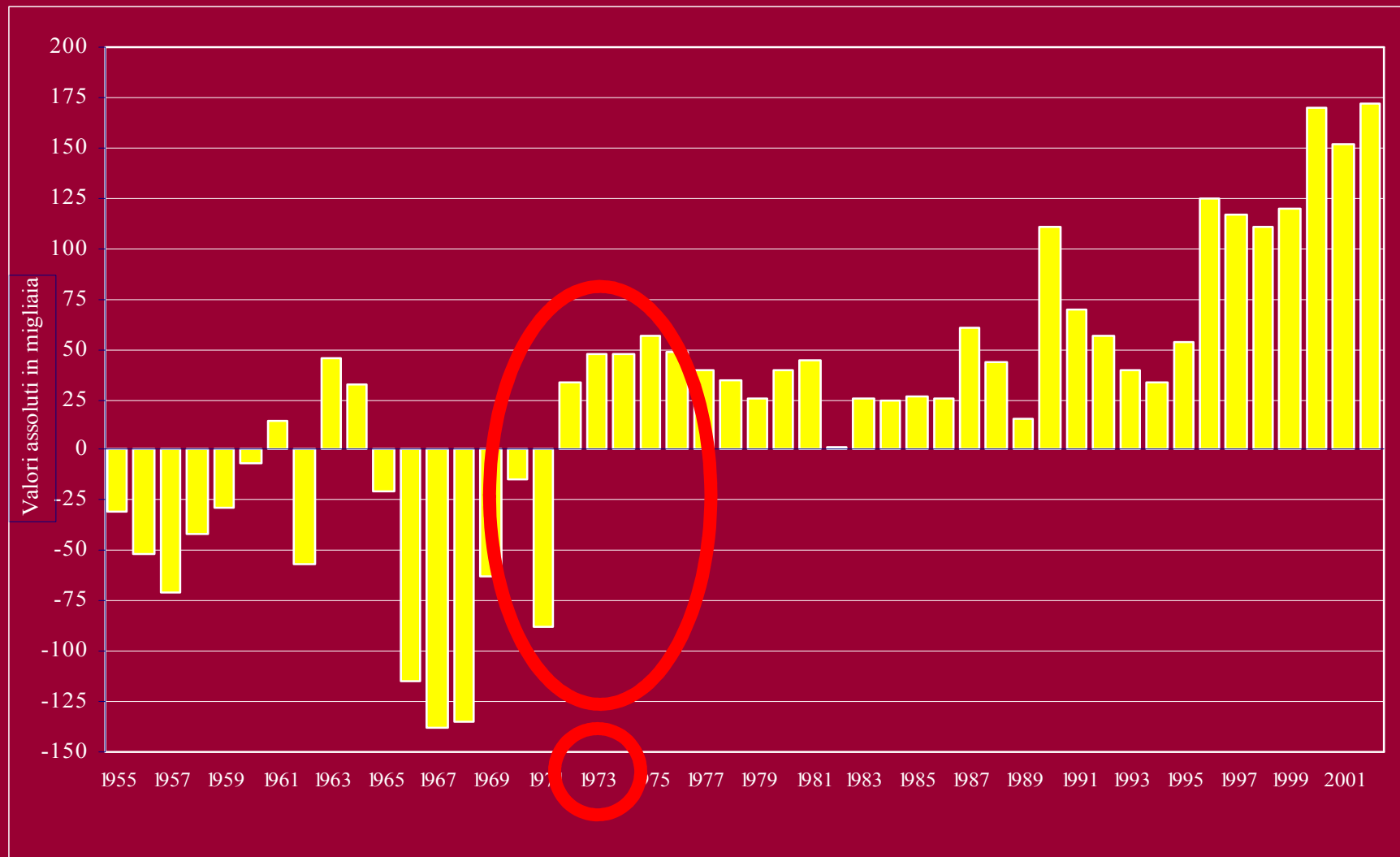
- Comparative perspective: German, Portuguese and Spanish cases.
- Historical perspective: from the Unification of the Italian state in 1861 to 2007.
- Methodology:
 - review of the policy making process
 - statistical data on ethnic migrants' presence (and transfers of residence)
 - qualitative analysis of the expectations, strategies, behaviour, belonging and compliance with duties.



Summary

1. **The Italian case: preliminary result of empirical research**
2. **The Italian case in comparative perspective**
3. **Analysis of the possible transnational consequences of the adoption of co-ethnic criteria in the field of nationality (by Giovanna Zincone)**

Italy's Net Migration Rate 1955-2001 (ISTAT)



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Italian Nationality Laws: Shaped by Emigration

- Starting point: 1865 Civil Code (articles 4-15)

MAIN REFORMS:

- The Emigration Law of January 31, 1901 (Act n° 23 - articles 33-36) and
- The Nationality Law of June 13, 1912 (Act n° 555)
- Nationality Law of February 5, 1992 (Act n° 91).

- *ius sanguinis* criterion

- Art. 4: '[a] child of a national is a national'

- *Ius sanguinis* criterion reasserted

- ambiguity

- Art. 7 If not stated otherwise by means of bilateral international agreements, Italian national born and resident in a foreign State that consider him/her its national by *ius soli*, keeps the Italian nationality, but, when coming of age, he/she CAN renounce it. Not MUST or LOSE it if...

- A great (great) nephew of a national is a national

Newly-Recognized Italians 1998-2005 (Foreign Office)

Country	Recognitions <i>iure sanguinis</i>	In the Pipeline	%	
			2005	2004
Argentina	275,275	53,537	44.7	43.7
Brazil	129,325	129,489	21	21.7
Uruguay	32,371	20	5.3	4.8
Australia	29,421	38	4.8	4.9
Canada	21,815	462	3.5	3.8
France	21,717	62	3.5	3.7
Chile	21,716	217	3.5	3.7
United States	13,745	1,147	2.2	2.3
Per ^u	13,454	0	2.2	2.2
Switzerland	13,446	224	2.2	2.3
Ecuador	10,283	n.a.	1.7	1.6
Venezuela	6,692	n.a.	1.1	1.1
Colombia	5,445	730	0.9	0.9
United Kingdom	707	27	0.1	0.1
Germany	657	83	0.1	0.1
First 15 countries	596,069	206,016	96.8	96.9
Other countries	19,917	2,639	3.2	3.1
Total	615,986	208,655	100	100
Paraguay just for the year 2005 1.102 recognitions and 1900 still in the pipeline.				

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Italian Roots

- 80-90%

**Do not speak/understand
Italian**

Destination

**No knowlegde of Italian
culture/history**

- 5-10% to Italy

- 55-60% stayed

- 30-40% another country

80-90% EU (Spain - the UK)

10-20% USA

Self-Inflicted and Transnational Side Effects

S-I

- Strong devaluation of the Italian citizenship
- Instrumental and opportunistic use
- Unforeseen burden on Italian welfare
- Perverse combination with external voting rights legislation

T

- Affect national governance of inflows and labor market within EU
- Welfare shopping
- Tourist visa to U.S. other non-EU and overstay
- Overlapping polities, blurred membership, dual allegiance, potential international tensions

The Italian case compared

- **Portugal and Spain:**

- Partially similar historical background (emigration)
- Nationality laws as a means to keep ties with émigrés
- Even broader co-ethnic preferences (colonies)

BUT

- Recent reforms: restrictive trends
- Public debate: Pro-co-ethnic arguments still strong

- **Germany:**

- Late unification
- Nation-building process also by means of *ius sanguinis*
- A past as a country of emigration
- Few reforms of nationality law (1913 – 2000)

BUT

- 1990s to 2000: progressive abandon of co-ethnic preferences
- The *Aussiedler* lesson
- Public debate: from Pro- to Anti-co-ethnic

Examples of transnational consequences

(By. G. Zincone: full version available at www.fieri.it)

- **Green** for the State which adopts co-ethnic criteria
- **Blue** for States where people who retain or reacquire the nationality reside
- **Black** for States connected to **Green** by special agreements and treaties concerning entry and possibly residence, work permits access to political and social rights
- **Blue-Green** for minorities residing in Blue States, which have also retained or reacquired Green nationality.

What are the side effects?

(by G. Zincone)

- **Blue-Green** people become a privileged minority in their own state, i.e. in the **Blue** states, since they can enjoy all the rights of **Green** citizens in the **Green** country.
- **Blue-Green** people become a privileged minority in comparison with other citizens of **Blue** States since they can enjoy the rights **Green** citizens enjoy in **Black** countries.
- **Black** countries such as EU partners, the US and Canada are probably unwilling to extend the privileges assigned to **Green** citizens to these **Blue-Green** citizens.
- Rules on entry, residence, access to the labour market from **Blue** countries to **Black** countries can be circumvented and undermined. Depending on the kind of transferability of welfare rights, the social budget of **Black** countries could also be forced to cope with unforeseen and unwanted expenses.
- If **Black** countries reserve local voting rights only to citizens of **Green** countries, **Blue-Green** citizens will also enjoy this right.

Self inflicted side effects

(by G. Zincone)

- **Green** countries are likely to face the same problems they can potentially or actually export to **Black** countries, sometimes to a greater extent. They may be the main and almost sole recipient of co-ethnic flows. For this reason some **Green** States have already started to look for some remedy.
- A disentanglement between civil society, between social and economic membership, on the one hand, and the State, and public membership on the other hand, is likely to be the consequence of co-ethnic preferences. Especially if **Green** states also adopt restrictive criteria for access to nationality for documented resident immigrants, as often occurs. Active members of society residing in the country are not citizens, and as in many of **Green** countries they do not even enjoy local voting rights.

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