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Changes in Asylum-Seeking Policies Through the Lenses of the Structuration Theory: The Case of the 'Salvini Decree' in Italy

Master's thesis

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Declaration

1. I hereby declares that I compiled this thesis independently, using only the listed resources and literature.

2. I hereby declare that the thesis has not been used to obtain any other academic title.

3. I fully agree to his work being used for study and scientific purposes.

Prague, 27th of July 2021   Daniela Bonilla Machado

References

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Abstract

This paper explores the complex relationship between the structuration theory, proposed by Anthony Giddens and the changes in the asylum-seeking policy in Italy, introduced by the Law No. 132/2018, also known as the 'Salvini Decree'. The text proposes a set of elements drawn by the theory, specifically the concepts of structure, agency and power that enable to approach and explain the main changes in the migration policy. During the text, it is argued that, throughout these elements, it is explained the changes seen as the imposition of new rules for granting asylum and the eradication of humanitarian protection. With the introduction of the Salvini Decree, the perception of migration turns as a security issue and not as a humanitarian act, pushing the denial of entry of migrants in an irregular or asylum-seeking mode. The paper ends with a brief outline of the limitations of the theory and the suggestion of some topics that could be considered in the continuation of this text.

Keywords: Asylum-seeking, migration, structuration theory, structure, agency, power, Italy, Salvini Decree

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Changes in Asylum-Seeking Policies Through the Lenses of the Structuration Theory: The Case of the 'Salvini Decree' in Italy

1. Introduction

Over the past years, especially after 2015, migration has become an important topic in the national agenda of each country, specially countries that are geographically located in places of transit for migrants or countries which are attractive for people to settle, either for family reunification, new job offers and studies among others. Or for reasons of extreme danger, political persecution, asylum-seeking, war, or better life conditions.

Even though migration has been an inevitable phenomenon throughout history, some States try to prevent or rather encourage it. This is the case of most western countries, a series of measures have been taken, rendering access to Europe more difficult. Italy is not the exception. Libya, one of the preferred routes by migrants to reach Italy, has become deteriorated mainly due to a series of bilateral agreements, which introduced extreme and hard measures for migration flows. Bilateral agreements existing between Libya (but also other African countries) and Italy have strongly contributed to making the passage difficult through the Mediterranean Sea (Van Reisen, Estefanos, & Rijken, 2012).

The main agreements between these countries have been the collaboration and fight against 'illegal' migration. As a consequence of these agreements, several accidents and refoulements at sea have occurred in the past years, and many boats coming from different parts of Africa have been intersected by Italian authorities and sent back to their country of origin (Van Reisen, Estefanos, & Rijken, 2012).

The last most important, but almost polemic legislation issued in Italy regarding migration topics was the Salvini Decree of 2018. In few words, this decree, also known as Law 132/2018

was introduced by the previous Minister of Interior, Matteo Salvini and it is important because it changed the rules for migrants entering Italy, specially the procedures for people seeking asylum. Through this decree, issued in September but amended and implemented by December 2018, the category of 'humanitarian protection' was removed, and the change of new implementation centres and procedures were changed (Szulc & Szymaniak, 2020).

This is the main decree that this text intents to analyse. Specifically, this paper aims to conduct a theoretical debate of the new approaches to asylum-seeking policies introduced with the Salvini Decree using the structuration theory by Anthony Giddens. The final goal is to highlight the importance of the problem of finding the explanation of the changes of asylum seeking with the elements of structure, agency and power, suggested by the Structuration Theory. According to this, the text is divided into two main sections; first, through the construction of a theoretical description of the structuration theory using Anthony Giddens as the main author. Second it is built a framework of the main elements and then is applied to the case study of the asylum seeking and the Salvini Decree in Italy.

Brief Context of Migration in Italy

Migration in Italy has been increasing in the last years especially since 2010, due to external factors such as economic and social issues in other countries which lead to major migration flows mainly to European countries. In 2010 approximately 4.6 million to 5.4 million people arrived in Italy, mainly from Nigeria, Pakistan, Gambia, Albania, Tunisia, and Libya (UNHCR,2018). Then, from 2010 to 2017 there was a constant migration flow from mainly African countries to Italy. But since arrivals decreased by 80% in 2018 compared to 2017; from 119,400 arrivals by boat to Italian coast to 23,400 (UNHCR,2018).

Between 2017 and 2018, the IOM and UNHCR published the reports "World Migration Report 2018", "Four Decades of Cross- Mediterranean Undocumented Migration to Europe" and "Desperate Journeys". They stated that 80% of the migrants who arrived in Italy between 2016 and 2018 were from Sub-Saharan Africa, mainly from Nigeria, Eritrea, Sierra Leone, Gambia and Libya (IOM,2017, Pg. 17). Additionally, the main reasons for the migration from Africa to Italy were insecurity of conflict, discrimination, economic or work reasons and no protection in the country of origin (IOM, 2017).

According to statistics from the UN Refugee Agency (UNHCR) in 2018, there was a considerable decrease in the total arrival of migrants, the main reason was that Italy adopted a new migration policy; "Salvini Decree" by Matteo Salvini, Minister of Interior (Corsi,2019). The Salvini Decree provided a new legal framework for particularly asylum-seeking and abolished humanitarian protection of migrants in Italy (Armadilla,2018).

Figure 1 shows the decline in number of sea arrivals and asylum applications after the issue of the Salvini Decree in 2018:

Figure 1. Sea arrivals and Asylum Application in Italy 2008-2019
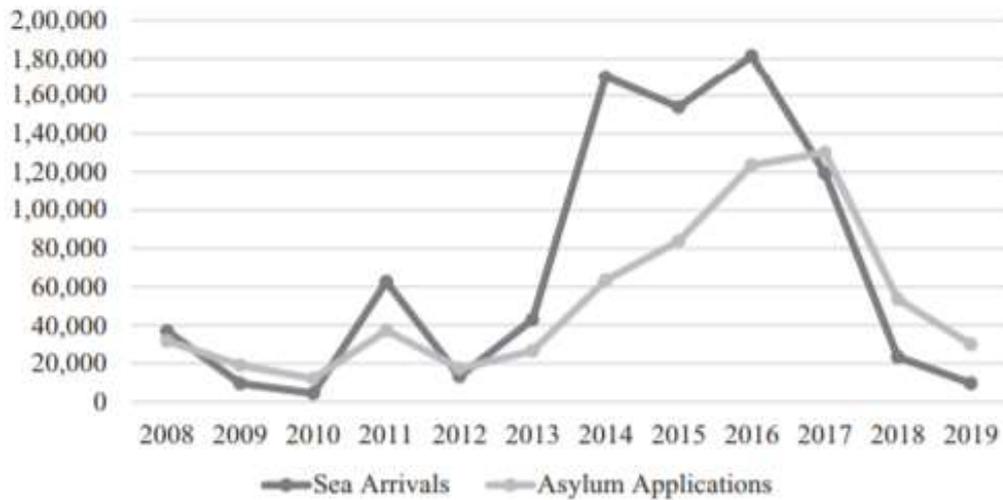
Source: Geddes, A., & Pettrachin, A. (2020). Italian migration policy and politics: Exacerbating paradoxes . *Contemporary Italian Politics, 12:2*, 227-242, Page 232

After the highest peak in 2016 and 2017 the number of arrivals by sea and the requests for asylum-seeking decreased in 2018 and 2019. Authors such as Geddes & Pettrachin (2020), pointed that this was affected also by the memorandum of understanding, mainly between Italy and Libya which mainly highlights the bilateral cooperation of the Libyan Coast Guard to attempt to stop migrant boats departing.

Perspective of different actors involved in the Salvini Decree

Also, another explanation for this phenomenon is the introduction of the Salvini Decree, also known as *Decreto di Sicurezza* issued in October and amended on December 2018. For this topic, the governmental institutions, civil society and academic groups have analysed it in different ways. International organizations such as the International Organization for Migration (IOM) and the UN Refugee Agency (UNHCR), have played an important role in the migration situation in Italy.

They have made several investigations and reports describing the situation with some recommendations for the Italian State. Mainly, through a text issued by UNHCR called

'Desperate Journeys' they recommend the Italian state to establish a solid and coordinated mechanism to strengthen the rescue at sea and strengthen of those migrants in need of international protection in the border and access to asylum procedures, even for those who arrived irregularly (UNHCR, 2018).

Meanwhile, civil society represented through NGOs managed the migration to Italy from the perspective of human rights. Especially the organization "Armadilla" (www.armadilla.coop) and the Center for research "Centro Studi e Ricerche" which stated that the Salvini Decree considered migration as a national emergency and primary a security issue instead of a humanitarian crisis (Armadilla,2018, p. 20).

The position of the government for implementing the Salvini Decree are seen through declarations and reports issued. An evident position made was through the Ministry of Foreign Affairs in the report "*La Strategia Italiana Nel Mediterraneo*". It gave information about how to stabilize the migration crisis and construct a positive agenda of the phenomenon. In the report, the Italian government stated that the migration flows are a matter of solidarity and security and that the Italian government helped to reduce deaths by 30% of people who arrive in the Italian cost. From 159.000 people in 2016 to 111.302 in 2017 (Ministero degli Affari Esteri e della Cooperazione Internazionale, 2017, p. 25).

Additionally, other authors managed the migration theme in Italy from another perspective. Maurizio Ambrosini (2013), stated in his investigations that the restriction in the Italian migration policies have been polemic and civil society throughout the years has been against the reforms. He highlighted four forms of action identified: protests, networks as an important power against policies, advocacy, and the production of services (Ambrosini, 2013). As another position, Francesco Strazzari and Mattia Ghandi (2019) focused their research in demonstrating through empirical evidence that the Italian government is ending migration through three main

actions; difficulty for ships with migrants to dock the ports, obstruction of civil society activities working in the coasts assisting migrants and changing the place of intervention by placing it far from the national territory (Strazzari, 2019, p. 337).

This introductory chapter is followed by an analysis of the Salvini Decree throughout the main elements of the structuration theory proposed by Anthony Giddens (1984). In the next chapter, the methodology is specified in accordance with the main and sub research questions that are answered during this text. Then, the theoretical background of the Salvini Decree is clarified, in accordance with the main elements of analysis of the theory, the main use in the migration topics or other fields of study and finally the main criticisms made to the application of this theory. After this, chapter 2 gives and overview of the concept of asylum seeking, which is the main type of migration which is analysed and the main characteristics of asylum-seeking policies in Italy. Finally, chapter three introduces and analyses the case study of the Salvini Decree in Italy and the structuration theory is detailly applied.

1.2 Objectives and Methodology

My ambition through this research is to highlight the importance of the problem of finding the balance between the elements of structure, agency and power in the analysis of migration, specifically through the case study of the Salvini Decree into the migration policies in Italy in 2018, and according to the analysis suggest a way forward. These elements, are part of the structuration theory, proposed by Anthony Giddens (1984). This is the main theory used for analysing the case study.

The paper aims to conduct a theoretical debate and stimulate new approaches to migration research. For achieving this, it is conducted an explanatory qualitative research based on the analysis of secondary data. The primary source of data collection is the existing literature, policy documents and reports relevant to the topic. Based on this, the research intends to carry

out an analysis of the speeches and texts issued by a series of fundamental actors within the phenomenon of asylum seeking in Italy, especially, the rhetorical constructions around the "Salvini Decree" also known as Law no. 132 of 1 December 2018 will be the main piece of the discourse analysis.

For the data the evaluation and analysis of results is collected through research papers and reports previously published about the main topic of analysis. Mainly, it is focused on the review of legal/policy documents such as the Salvini Decree and reports issued by the Italian government. Specially by the Ministry of Interior and Foreign Affairs, International Organizations such as the United Nations and papers by authors specialized in the topic.

The main sources are the texts *Asylum Information Database* by the Italian Judicial Association for migration (Aida); *Beyond closed ports: the new Italian Decree-Law on Immigration and Security* written by the European Union Immigration and Asylum Law and Policy; Italy and the EU undeclared operation to stem migration across the mediterranean by Pezzani; Evaluating the 'Salvini Decree' Doubts of constitutional legitimacy by Cecilia Corsi and Government policy and the migrant crisis in the in the meditarrean and african arenas by Mattia Grandi and Francesco Strazzari.

The theory used for explaining the changes of Italy towards migration will be the Theory of Structuralism by Anthony Giddens. Particularly as structuration, power and agency process, which is understood as social systems performed through social conduct. Structuration theory allows migrations to be connected in a macro and micro level and show the interdependence between social structure and human agency, this means, the interaction between migrants and their environment (Stjernström, 2004). The main book used is the Constitution of Society, by Anthony Giddens, as well as other studies that have applied the structuration theory into migration studies.

Specifically, *Asylum-Seekers and Refugees: A structuration theory analysis of their experiences in the UK,* written by Ruth Healey; *Migration in the New World Order: Structuration Theory and its contribution to Explanations of Migration* by Richard Wolfel and *Knowing 'how to go on': structuration theory as an analytical prism in studies of intercultural engagement* by Orla McGrarry among others.

The thesis in mainly divided in two main sections; the first one aims to construct the theoretical analysis of the structuration theory, using as a main source, Anthony Giddens explanation about this theory and also using secondary sources such as books and journals related to this topic and scholars who have deeply studied this theory in depth. Based on the theory, I build a framework of the main elements of the structuration theory (mainly elements of structure, power and agency) in order to apply them in the case study.

The second part is devoted to the case study, in which the concepts of structure, power and agency of the structuration theory are applied to the changes in asylum seeking policies in Italy, introduced by the *Salvini Decree* in 2018. For the analytical results, the structuration theory by Anthony Giddens is used to explain observed behaviours and have an accurate assessment of the changes in the migration policy, the main actors and the impact in the asylum-seeking of migrants arriving in Italy.

Regardless of the qualitative methodology used in this paper, it is important to highlight that these procedures, as well as the secondary data analysis, have limitations that could affect the current research. For instance, this methodology may not contain the specific information for the analysis, or it could limit the investigation. The major disadvantage is that considering that the Salvini Decree was issued in 2018, there is not enough analysis made of the public policy and the existing analysis is based on previous migration policies that could be outdated. Also,

it is important to consider the challenges faced by the limited application of the elements of the structuration theory under a migration perspective.

Thus, based on the analysis of the available secondary resources and applied methods, this text aims to answer the following main research question:

To what extent, the elements of structure, power and agency, are applied to the changes in asylum seeking policies in Italy, introduced by the Salvini Decree in 2018?

And three following research sub-questions:

·   What were the key policy developments related to changes in asylum-seeking incorporated in the Salvini decree?

·   What are the changes on asylum-seeking incorporated in the Salvini decree?

·   How can be the elements of the structuration theory applied to developments in Italian asylum-seeking policy?

2. Structuration Theory as Theoretical Background

2.1 Describing Structuration Theory based on Anthony Gidden's Work and Application to Migration Flows

This chapter introduces the Structuration theory under Anthony Giddens reasoning. However, it is also shown the criticisms and its main application in different areas, including migration studies. First, it is presented the different structuration theorists and a context of the creation of the structuration theory. Then, the structuration theory is explained according to Giddens based on the book "The Constitution of Society", written by Giddens in 1984 and finally, the chapter deals with the criticisms and limits of the theory and its responses to it.

There existed several structuration theorists, among these; Urry (1982), Bordieu (1977), Bhaskar (1979), Berger and Luckmann's (1976) regarding the constitution of individuals and society itself. But the work of Giddens has been the most remarkable and cited across the world by numerous social and research fields (Jones & Karsten, 2008).

As a small context of the creation of structuration theory, Giddens in his first books *Capitalism and Modern Social Theory, The Class Structure of the Advanced Societies and Sociological Method* began to construct his theoretical position about the structuration theory. And then on his further books *Central Problems in Social Theory, A Contemporary Critique of Historical Materialism and The Constitution of Society* he held a considerable debate regarding the academic perspective of the theory proposed (Jones & Karsten, 2008).

The origin of the structuration theory constructed by Giddens is based on the deficiencies in the approached dominating social analysis between the period of 1970 and 1980. One of these was positivism identifying functionalist and structural approaches, for what Giddens states that this approach is seen as strong on the structure but weak on the action (Jones & Karsten, 2008).

Giddens states also the strength on the structure of approaches such as phenomenology or ethnomethodology but also the weakness on actions due to the concept these theories have of conceiving human agents as inert and inept and focusing on the pre-eminence of the social whole over the individual (Jones & Karsten, 2008). Given the rejection of previous theories, Giddens adopted a more empirical and anti-positivism approach to individuals and structures (Jones & Karsten, 2008).

The structuration theory, proposed by Anthony Giddens (1984), tries to understand human social behaviour by examining the relationship between structure and agency from a macro and micro level perspective. For explaining social phenomena Giddens states that it cannot be sustained by structure or agency theories by itself. On the contrary, he admits that actors necessarily operate within a series of rules generated by social structures, and only acting together, the structures are strengthened.

As a result of this, also social structures are useless outside agency because they are socially constructed (Britannica, n/a). Throughout this chapter, the main idea and the explanation of structuration theory based on Anthony Giddens will be discussed. The theory explanation will be based primarily on the book "The Constitution of Society", written by Giddens in 1984.

2.2 The Main Concepts of Analysis under Anthony Gidden's Theory

The concept of structure is the key and fundamental element of this theory. Giddens defines it as 'rules and resources, organized as properties of social systems that exist only as structural properties' (Giddens, 1984, p. 25). He divides the structure into two types; allocative and authoritative. The first one refers to the transformation capacity that generates command over objects, goods, or material phenomena, and authoritative is the transformative capacity that generates commands over persons or actors (Giddens, 1984).

The duality of the structure is very important for Giddens theory, it is considered the most important contribution to social theory and the foundation of structuration theory. What it means is a mutual dependence between structure and agency, they both interact together and aim to influence change within society (Giddens, 1984).

The relationship between the concept of agency and structure is what Giddens calls the 'duality of structure' in which people produce and reproduce their social life (Tucker, 1998). According to Giddens, the agency is directly involved with a notion of practical consciousness. By practical consciousness, it is understood all the things that actors know for making social life occur but cannot be given a discursive form (Tucker, 1998).

Agency is the key concept of structuration theory. For Giddens, an appropriate conception of the agent is involved with his/her reflexivity and the ability to monitor life experiences and give a reason for actions and choices (Tucker, 1998). When Giddens refers to agency, he is not referring to the intentions, but to the capacity of executing things. Agency is related to events in which an individual is a committer that could have, in specific conduct, acted differently (Giddens, 1984, p. 9).

Agents reproduce resources that are structured properties of social systems and are created generally within the course of interaction with other agents. For this theory agency is directly identified with reasoning and knowledge and people are rational and capable to act in life circumstances. Gidden sees rationality through the ethnomethodological conception of rationality and this rationality is an accomplishment connected to particular social contexts (Tucker, 1998).

Agency is composed of three levels; discursive consciousness, practical consciousness, and unconscious. Discursive consciousness means the explanations people give to explains their actions and motivations, this level is considered as an active awareness action of agents.

Practical consciousness is the unarticulated beliefs people use to guide themselves in situations and understand or interpret other's actions. And unconscious is what is not easy to express in words, it is directly associated with motivation but 'resides beneath our conscious existence' (Tucker, 1998, p. 81). For the structuration theory, practical consciousness is the most important level of agency because most of the time people act in social life and monitor their actions according to certain conduct (Tucker, 1998).

The other key element of Giddens's structuration theory is the differentiation of structure, system, and structuration. As previously said, the structure is defined as a set of rules that exist, so individuals can change the laws in society. Additionally, a system is defined as reproduced relations between actors, organized as regular practices. And the process of social change is structuration, which is defined by Giddens as the conditions governing the transformations of structures and systems (Wolfel, n/a). It is important to differentiate these three factors because all together describe the methods and the patterns of change that are directly influenced by the structure of society.

According to Giddens in his book "The Constitution of Society" (Giddens, 1984), there are different elements of the structuration theory. The first he describes is the stratification model of the agent because is a feature of daily activities and not only involves an individual but also others. This means that actors are not just responsible for their decisions but also, they monitor other activities such as physical and social aspects of the contexts in which they live. In other words, actors have in general an understanding of the environment in which they move, a rationalization of action (Giddens, 1984).

Giddens identifies a series of social institutions which are important to understand and apply the structuration theory. The following table (figure 1) shows the four types of institutions mentioned in the theory:

Figure 2. Dimensions of the Duality of Structure according to the Structuration Theory
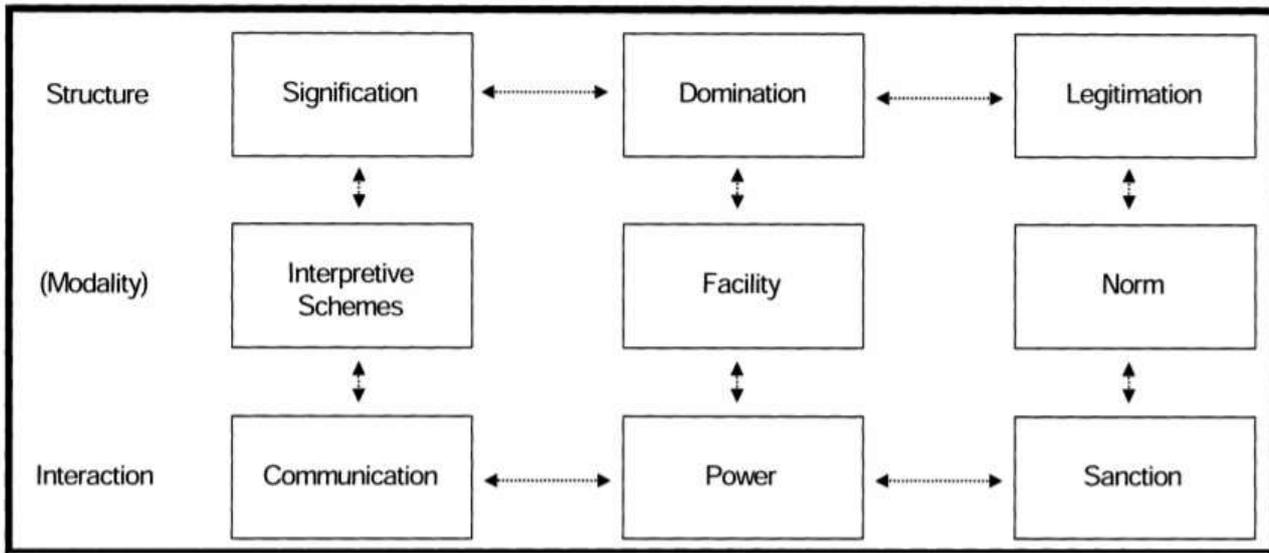

Figure 1. Dimensions of the Duality of Structure, adapted from Anthony Giddens (1984, Pg.29), taken from Jones & Karsten/Giddens's Structuration Theory & IS Research Pg. 130

The types mentioned are divided into symbolic orders or modes of discourse, political institutions, economic institutions, law, or modes of sanction. Each of these institutions are influenced mainly by signification, domination, and legitimation. According to Giddens, all the agents use the different types of institutions to influence the structure of society. Institutions tend to diverge from resources in the way they are employed more frequently and deeply immersed into society than resources (Wolfel, n/a).

As Giddens points, the structure is rules and resources which allow the binding of time and space in social systems. The structural properties implicated in the social totalities are structural principles. For the structuration theory, the greatest time-space extension is institutions (Giddens, 1984). Rules cannot be understood without the resources, which are converted into the production and reproduction of social practices. According to Giddens, these features are expressed into forms of domination and power.

Giddens contends that agents follow rules that are somehow patterned in a social structure. He states that people are creators and followers of rules and all social rules, and including codes

and norms are transformational (Giddens, 1984). Rules can be generalized to new situations and normally they vary according to societies and historical periods. One of the most important features of rules is that is made concrete people they are closely tied to social practices (Tucker, 1998).

While the rules and behaviour are intrinsically bonded together with social action, rules are also inseparable from resources and power. Rules are bound with penalties for incorrect social behaviour, which are also related to domination structured into social systems (Giddens, 1984). Rules and resources are not distributed aleatorily, they are coordinated with one another according to the difference in the social power (Giddens, 1984).

Rules and structures involve the communication of modes of typification, the exercise of power, and the assessment of conduct through rules and norms. Power, for the structuration theory, has a double sense; first, it is the capacity of getting things done and second is the ability to accomplish desires. Exercising power involves material resources but also verbal skills and people use power to establish authority and allocate resources (Tucker, 1998).

The structuration theory develops a complex view of the agency that is directly connected to ontological security, practical consciousness, rules, resources, and social routines. Giddens highlights and tries to conceptualize through the theory how social interaction produces structures and how the structures affect directly social action. Therefore, he is always explaining that agency and structure cannot be separated (Giddens, 1984).

The structures created by people such as language and social conventions are windows for new opportunities by also factors of limitation. Agency is also limited in ways, as people cannot formulate in terms of linguistic all they know, and the capacity of some with more power sanction other people's limit for freedom of action (Giddens, The Stucturation of Society , 1984).

Another obstacle that limits agency is the unintended consequences. This means that an individuals' knowledge is limited as they can "live in a restricted social area in an increasingly globalized and culturally diverse world. In such context, neither people nor governments can fathom all the outcomes of their social activity" (Tucker, 1998, p. 85). According to this, social interaction and the reproduction of society can only succeed under the application of rules and resources by actors in situated social contexts. However, Giddens also analyses the elements of structure that are beyond individual understanding, which is tied to the time-space issue (Giddens, 1984).

According to Giddens view, social interaction takes place in social time and space and time is integral to all social action (Tucker, 1998). Giddens argues that the time and space of everyday life situations are essential for all aspects of social systems. These elements are not external to social lives, and time can be broken down into everyday life, life cycle, and the long-term social change over history. These time-space relations function in diverse ways on the level of the individual (Giddens, 1984).

According to the above paragraph, time and space are key elements of social theory, but they must be contextually specified within social conventions and routines, expressed in body language, and the definition of the locales in which the social action is taking place (Tucker, 1998). The locale is important to Giddens because is the use of the space that provides the setting for the social interaction to occur. He also realizes that not all social interaction and integration has to be face to face interaction, which means that social systems can be also situated over large periods and space and, these are structured spaces where actors occupy certain positions, which also include power as part of its constitution (Tucker, 1998).

In a conclusion, five key points represent together the main aspects of structuration theory. The first is that every person is a knowledgeable agent. This means that every human being is

capable to describe their actions and the reasons for them and they are conscient about the conditions and consequences of their everyday life. Second, the knowledgeability of human actors is bounded by the unconscious as well as by the unacknowledged conditions and the unplanned consequences of action (Giddens, 1984).

Third, according to Giddens, the study of context meaning the interaction is inherent in the social research. The context involves the time-space boundaries within the interaction, the presence of actors making possible the use of expressions and communication that influences the interaction between agents (Giddens, 1984). Fourth, social identities are the generators of the time-space of structure. They are associated with normative, or form roles. There are standardize markers that are available in all societies (Giddens, 1984).

Fifth, structural principles are essential because they specify types of societies. This is important to structuration theory because it highlights the degree of societal totalities and social systems and depends to the degree it can be seen whether a society has more forms of an inclusive social system (Giddens, 1984).

2.3 Main Criticisms of the Structuration Theory

The main criticisms done to the Structuration Theory of Anthony Giddens can be divided into three main categories. First, the fusion of structure and human agency, second, the contradictions within the theory and third, the lack of methodological guidelines.

To start, the fusion of structure and agency can be considered the main criticism of Giddens Structuration Theory. Giddens (1984), states that structural is not external to individuals and it exists into the agency mind (Giddens, The Stucturation of Society , 1984). But Archer (1990) highlights that the way Giddens sees it decreases the analytical perspective since it leads to a non-conclave of concepts like interaction and social system. Also other authors, including Archer, Barnes (2001), Kort & Gharbi (2013), Craib (1992) and Bernstein (1986) among other,

postulate that the simultaneous constitution of structure and action do not permit the evaluation of structure or of agency (Archer, 1990).

Additionally, when Giddens highlights the advantages of the transforming capacity for agents, he ignores the idea that structures can also constrain or enable the agent. He gives more emphasis to the enabling power of structure but not to the constraint dimension (Kort & Gharbi, 2013). Besides, according to Barnes (2001), Giddens only focuses merely on the agent for explaining its relationship with rules and norms but he does not explain rules and norms by themselves (Barnes, 2001). Barnes states that human agency change the interpretation of rules and norms according to the interaction with others apart from their interactions with structures, but apparently Giddens ignores that level of analysis inti the structuration theory (Barnes, 2001).

The second category outlines the complexity of the theory which sometimes leads to contradictions. The main factor which makes the structuration theory difficult to understand is the writing style. Some authors, including Craib (1992) and Bernstein (1986), agree on the disorientation and chaos found in the way of organising the ideas in the Structuration Theory text. They also add that this theory is quite complex and involves a series of concepts that come from a high level of abstraction (Kort & Gharbi, 2013).

Along the text, Giddens gives a series of definitions and diagrams which makes it difficult to understand the relationship between all of them and lead to contradictions. The main contradiction is in the conceptualization of agency. According to some critiques, Giddens makes too much emphasis on agency rather that structure so the relationship between these two concepts in not deep enough and equally analysed (Franzen, 1992).

Besides, Craib (1992), states that the structuration theory shows the individual as unconsciously depending on the routine and the lack of emotional reactions. Also, Giddens

presents the people in harmony and evidently this underestimates the prevalence of self-interest and its effect on people's relationships (Kort & Gharbi, 2013).

On the other hand, Giddens also omits the cultural dimension and presents agents, or individuals, as unconsciously victims. Through this, the is presented a contradiction between power and practical consciousness (Kort & Gharbi, 2013). To resume, what the criticisms say about this topic is that the theory makes more emphasis on the agent and lack of a consistent explanation for structure in order to uphold the dualism that Giddens aims to avoid in his text (Bertilsson, 1984).

Likewise, deeps criticisms have been made regarding the conceptualization of time-space. According to some authors, Giddens makes a deeper analysis on time rather than space. In fact, there is an absence of the conceptualization of space in the structuration theory. For this reason, there are a total disconnection between the analysis of time-space into the agent and the structure (Kort & Gharbi, 2013).

Giddens builds a model based on a distinction between the time dimensions of daily time, biographical time and institutional time. But the problem with this, is that they cannot be separated. For this, Giddens creates a separation between the structural properties (Kort & Gharbi, 2013). The concepts about time and space distinction belong to a macro level where Structuration Theory does not explain the relationship between the agent in action, it just focuses on the power that time and space gives to the agent (Bertilsson, 1984).

The third category of criticism shows the lack of methodological guidelines. The structuration theory does not give a clear law, or procedure. And its empirical application is limited and controversial although the author offers a chapter regarding empirical application there is not a clear guideline to follow (Kort & Gharbi, 2013). According to Joseph (2006) the theory does not permit the study of casual relationships because relationships into the theory

are recursive (Joseph, 2006). Therefore, Joseph also states that the structuration theory should be used as a complementary theory because it is difficult to test it in an empirical way due to the lack of propositions (Joseph, 2006).

Giddens (1984) offers some recommendations for conducting a research with the structuration theory. First, it is necessary to conduct an ethnographic or anthropological experience; second, the researcher should be sensitive to the agent complex skills and he also make emphasis into the individuals characteristics. Third, he suggests that the research must also be sensitive to the time and space of social life because that reflects the scenario where agents interact daily.

The criticisms say that the research steps stated by Giddens has contradictions in the sense that the lack of empirical guidelines leads to see the concept of structuration theory so abstract that is not possible to think on applying it on a daily basis, For this reason, Gregson (1989), describes this theory as a second order theory which and deal with abstract terms such as agency and power but not as an empirical first order theory that tends to make an analysis of specifics situations (Gregson, 1989).

Giddens response to all these criticisms is quite general, but he makes emphasis in the time-space analysis and duality of structure elements. He replies that structural principles are not the same as rules, on the contrary, are principles implicated deep into society and it is seen as the base of society. Structural principles for him are not just rules, are the pure relationship with time and space that determine and give space to an organisational ordering of things and events (Giddens, 1982).

2.4 Application of Structuration Theory in different areas of study

The structuration theory has been applied in several areas of study, from archaeology, accountancy, business and management, informatics, political science and sociology among others. The aim of this chapter is to show the application of structuration within other disciplines in order to understand the interdisciplinary field of the theory and the Giddens provision of a 'friendly- intermediate theory'. According to Phipps (2001), the application of this theory is not easy due to a not clear methodology, so the proposal of this chapter is to analyse how this theory has been introduced and applied into other areas of study and including migration studies.

In the text *Empirical Applications of Structuration Theory* by Alan G. Phipps, he makes a review and classification in fifty-three applications in different areas. The authors of the applications take five reservations of Giddens theory into account; the types of social behaviour characterized by structuration processes, the data, methodological in an empirical application, the role or time and space and finally, the ontological requirements for a duality of structure (Phipps, 2001). However, it is important to highlight that these were not all the cases where the structuration theory was used, this is just one case. These studies are mentioned here to give a brief overview of how the theory was used in the past and to learn for the achievements but also errors of applying the structuration theory in different study areas.

In resume, the fifty-three applications of structuration theory showed that the studies applied to broader substantive areas than Giddens proposed (Phipps, 2001). Also, three quarters of them had structuration methodology and 40% of them had an application of time and space beyond a reference to their study area (Phipps, 2001). Also, one third tried to show and interpret a duality of structure and other one third and agency-structure dualism. The structuration theory in other words, has helped on contributing something new in terms of concepts to almost all of

the fifty three studies but only a quarter of them for interpretation of a duality of structure (Phipps, 2001).

Additionally, newer applications to business organizations and criminology were more imaginative in the conceptualization of the data and the social actor were identified by new cultural and ideological structures for their behaviours. The conclusion of these studies show that the structuration theory had a productive application on the ethnographic data for individuals through time and across space. But the application to non-individuals like collectivities can be constrained due to the unavailability about the spatial or temporal data about them (Phipps, 2001).

On the other hand, one of the boldest uses of structuration theory had been a reconstitution of whole disciplines like accountancy and archaeology. In accountancy, Roberts and Scapens (1985) used the structuration theory to create a new paradigm for analysing accountability in organisations. Specifically, they used Giddens terms of structures and latter systems to distinguish bodies of rules and resources from accounting from systems in use of accounting (Bryant, 1999). These authors used the structuration theory for understanding the operation of systems of accounting in organisations and they realized an application to management accounting which makes a particular use of dimensions of the duality of structure and the stratification model of the agent (Bryant, 1999).

After the study of Roberts and Scapens (1999), they showed through the structuration theory that the management accounting systems represent modalities in three dimensions; signification, legitimation and domination. Regarding the signification dimension, it was seen as the interpretative schemes which managers use to interpret results and take actions. In the domination dimension, accounting systems are a tool that it was be used in all management levels to co-ordinate and control other agents. The legitimation dimension accounting systems

communicate constructed values for justifying actions and rights of people and the legitimation of the use of rewards and sanctions (Bryant, 1999).

Moreover, the structuration theory has also been used on the information technology area. Specially, it was used for acknowledging the duality of technology meaning that is the product of human action but also assumes structural properties explaining that technology is physically constructed by actors in each context of time and space and is socially constructed through different meanings. Once developed, technology becomes institutionalized, losing the main connection with humans that constructed it and then it appears to be a part of the structural property of the organization (Bryant, 1999).

The application of the structuration theory on migration topics will be presented in the next subchapter in depth. Specifically, it will be explained based on the authors Richard L. Wolfel, Orla McGarry, Karen O'Reilly, Oliver Bakewell and Ruth L. Healey.

2.5 Structuration Theory Applied to Asylum- Seeking and Migration Topics

Different studies have emphasized in the advantages of including the structuration theory into the migration analysis. Before this, it is important to highlight that the structuration theory is not a popular theory used in different case studies or study areas. Nevertheless, this the aim of this work is to apply structuration theory within a migration case study, so for that in this part it will be shown how it has been applied in previous migration researches. As example, Derrick Gregory (1994) states that this theory is a social approach which deals with the intersection of capable social agents, social systems and structures. This helps to understand the motives that migrants have and the decisions they take and the societal issues that influence the migration (Dereck, 1994).

Nonetheless, two geographers, Jon Goss and Bruce Lindquist (1995) used a structuralist perspective to explain international labour migration, specifically, they used Giddens on

institutionalisation to characterise the institution of migration (Goss & Lindquist, 1995). Throughout the routinization of social practices within migration and goals of institutional agents, international labour migration is structured according to some modes of interaction and creation of specific rules for mobilizing resources (Bryant, 1999).

Also, through the structuration theory the labour migration is explained by the duality of structure, in the sense that structures of patriarchy, represented by the exploitative position of the wife at home and at work in order to constitute migration. In Giddens terms, the rules of signification, legitimation and domination from which the migration was constituted (Bryant, 1999).

Richard L. Wolfel (n/a), in this text Migration in the *New World Order: Structuration Theory and its contribution to Explanations of Migration* gives examples of different case studies where authors tried to explain specific migration issues with the structuration theory. Specifically, he suggest the study of Keith Halfacree (1995) in the study of household migration and the structuration of patriarchy, where he highlights the importance of the duality of structure in the migration decision making process (Wolfel, n/a). Halfacree states that migration is not just a cost/benefit analysis, it is also the analysis of institutional structures which explain and sustain the sex/role structure seen in a gender perspective of the migration (Halfacree, 1995).

Wolfel (n/a) also highlights in the study of Paul Boyle (1998), who states that seen from a structurational view, migration emphasizes the importance of unintended consequences of the decision of agents. By deciding to migrate because the place-utility in the migrants place is not improved, seen from a gender migration perspective, the movement improve the place utility for the male of the household and women unintentionally accepting or perpetuating the encouragement of patriarchy in society (Wolfel, n/a).

Within the studies presented by Wolfel (n/a) the authors promote and apply Giddens theory partially, none of them apply the six elements of the structuration theory. None of these studies evaluate the dialectic of control. But applying Giddens perspective definitely helps somehow to understand, by identifying the individuals main source of power to have and influence in the structuration of the society (Wolfel, n/a).

Considering the six key concepts of Giddens theory (agency, structure, duality of structure, institutions, dialectic of control and time/space relations), can be explained within the theory of migration. The first element, agency, which is seen by Giddens as person who knows perfectly the purpose and the reason of his/her actions is seen in migration studies as the agent makes decisions based on personal characteristics but sometimes is not completely rational and can also take unintended decisions (Wolfel, n/a).

On the other hand, structure influences migration because it could change the decision process of a migrant. The changing economic and political arena can unleash a large amount of migration. The third element, the duality of structure, seen from the perspective of migration. The interaction between proximate and structural determinants of migration demonstrate the importance of this element because they are interdependent from each other. Both next to interact for bringing social change (Wolfel, n/a).

The dialectic of control is also linked to the duality of structure when Giddens states that all agents have some power but when they lose their power, they stop being agents. An example of this is when agents migrate to a country where they believe they have opportunities and they can gain power and their statues as agents.

Institutions is also a key factor for structuration process, it is applied in migration studies through different ways. First, through institutions in the society and how agents use them; also as an institution that influences through a set of networks between migrants which provide

information that helps the decision making of people who decide to migrate; finally, as a set of geopolitical institutions that encourage the connectivity and interaction between agents (Dereck, 1994).

Finally, the element of time/space constitutes society in the structuration theory. In the study of migration, it is essential to evaluate the origin and destination factors that influence this flow. The analysis of the natures of spaces or regions in this case, provides an important and starting point for creating and understanding migration patterns (Wolfel, n/a).

Olivier Caldwell on his text *Some Reflections on Structure and Agency in Migration Theory* (2010) explores the complex relationship between structure and agency and the way it is understood and incorporated into the migration theory. He argues that theories of migration have tried to skirt the problem of structure and agency.

Some approaches have tended to show a more determinist position regarding the decisions of the migrants and other approaches focus on the agency of the individuals but struggle to consider the bigger social structures which shape migration practices apart from the migrant decision making (Bakewell, 2010).

On the other hand, Ruth Healey (2006), tries to apply the structuration theories on the asylum-seekers and refuges condition. These types of migrants respond in different ways to the opportunities and the constraints available into the structure they daily face. Giddens intends to analyse how the social practices are ordered across time and space and therefore it sees the interactions between the structure and the agency of humans within that structure.

The agency is interpreted as the ability to act and the structures are basically related to the culture and discourses within a society (Healey, 2006). These ways of perceiving the world are affected by culture and may influence the behaviour and decision making of individuals throughout the imposition of rules and laws (Healey, 2006). Healey (2006) states that the

structure of society affects the way in which social processes function, and she gives as example the case of asylum seekers and refugees through the discourses of patriarchy and colonialism.

It is also important to highlight the way Ruth Healey (2006) applies the Gidden's concepts about reflexivity, this translates into the ontological security, practical and discourse consciousness within the asylum seekers case and refugees.

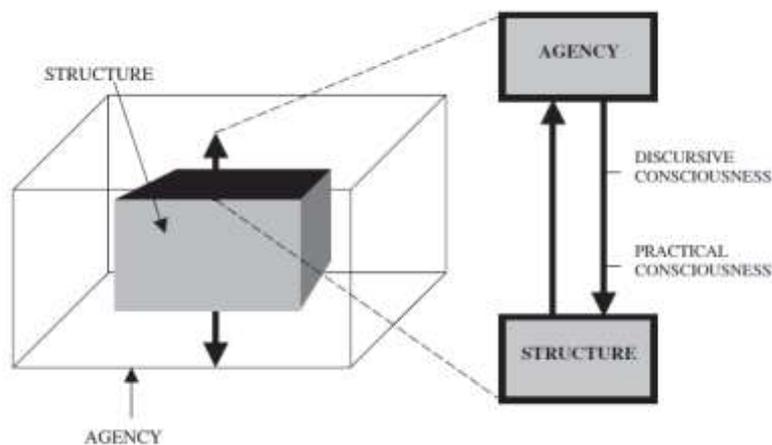**Figure 3. Reflexivity Factors of Agency and Structure**

Figure 2: The reflexivity factors to agency and structure within the experience of asylum seekers and refugees. Source: Healey, R. (2006). Asylum-Seekers and Refugees: A structuration theory analysis of their experiences in the UK, page 262

Reflexivity illustrates the experiences of migrants in a new space or country of destination and the adaptation to new cultures and how their own culture affects the way they adapt into society. Ontological security refers to how a person understands a place within its own view, when there is forced movement migrants lose stability and certainty about their own world so they have to establish a new level of ontological security throughout the understanding of their new structural forces and the level of agency they can apply (Healey, 2006).

Nonetheless, practical consciousness is the way a person recognizes under an unconscious way event and structures surrounding. Healey (2006) gives the example of asylum seekers and refugees in the UK and how they experience could be more positive experience who had

colonial conditions prior to arrival due to the fact that they might have a broader understanding of the practices in the UK (Healey, 2006). Finally, discursive consciousness means people capable of giving coherent reasons and account of their activities and the main reasons for the decision taken. This reflexivity factor operates in an individual's agency (Wolfel, n/a).

As a summary, the structuration theory is rarely used when dealing with international migration topics. However, in the study that used this approach, the theory has been applied as a social approach that deals with the idea of capable social agents which are the migrants, the social system and the structures within they interact.

By applying the elements of the structuration theory, it helps to understand the reasons and motives migrants have and the decision they should take as rational agents. Also, the Giddens perspective somehow helps to understand the main source of power of individuals and how they can influence the structuration if the society.

3.Asylum Seeking: Definitions and Procedure in Italy

3.1 Definition

This chapter introduces the technical concepts of Asylum-Seeking based on the Organisation for International Migration (IOM) and the Intergovernmental Consultations on Migration, Asylum and Refugees (IGC). First, it is defined asylum-seeking, then, the types asylum, and finally, the current framework applied in Italy.

According to the Intergovernmental Consultations on Migration, Asylum and Refugees (IGC), asylum is understood as the 'grant, by a State, of protection on its territory to persons from another State who are fleeing persecution or serious danger' (IGC, 2015, p. 8). Asylum also includes a variety of elements, including non-refoulement, and humane standards of treatment among others (IGC, 2015).

Additionally, an asylum seeker is defined as an individual who seeks safety from serious harm and or persecution in a different country other than his or her own one and awaits a decision on the application for a refugee status under international and national instruments. It is important to add that according to the OIM and the IGC, not every asylum-seeker will be recognized as a refugee, but every refugee is for instance, considered and asylum seeker (IOM , 2021).

3.2 Types of Asylum-Seeking

Asylum seeking falls into two main categories; affirmative cases and removal cases. Affirmative cases involve people who have not yet applied for asylum seeking or had any contact with immigration services. Removal cases involve people who but are not granted asylum and therefore, their asylum request can be referred to a court for an adjudication (The Advocates for Human Rights, 2021).

From July 2013, there are 145 States to the 1951 refugee Convention and 1967 Protocol which gives the obligation to these parties under the international law to concede asylum to people who fall under the definition of asylum previously said and the one stipulated in the Convention and Protocol (Gil-Bazo, 2006).

There are also other types of asylum-seeking modes, such as subsidiary protection. This is an international protection for people who do not qualify as refugees and have applied for asylum seeking. According to article 14 of the Universal Declaration of Human Rights, everyone has the right to seek and enjoy asylum from persecution in other countries (United Nations , 1948).

3.3 Asylum- Seeking Framework in Italy

Asylum Seeking procedures are determined according to each country. In this opportunity the procedure that Italy has followed in the last years is as follows. According to the Italian

legal framework, the is no formal timeframe for making an asylum application and it should be orally expressed by the applicant either in his/her language of through a linguistic cultural mediator. The deadlines for presenting an asylum-seeking request is 8 days from arrival for migrants to present directly to the Italian authorities (Associazione per gli Studi Giuridici sull'immigrazione, 2020).

The authorities in charge of reviewing this application is the border police, the Provincial Immigration Office or the police (*Questura*) (Associazione per gli Studi Giuridici sull'immigrazione, 2020). The police is in charge of sending the requests in a formal registration form to the territorial commissions of international protection, these are the only competitive entity in charge of granting asylum interviews (Associazione per gli Studi Giuridici sull'immigrazione, 2020).

The territorial commission interviews he applicants within 30 days after receiving the application and has the obligation to decide in the following 3 days. However, these entities may have the right to extend the limit for no longer than 9 months for reason like; complex issues of fact and law involved in the case, high number of simultaneous asylum applicants, failure of applicant to comply with his/her obligations (Asylum Information Database (AIDA), 2021).

Asylum seekers have the right to appeal towards negative decision made by the territorial commissions within 30 days before the competent Civil Court. There are special competent courts which deal with asylum appeals. Applicants can be placed in detentions facilities until the Italian law decided their status. The decision of the civil court (where the first appeal goes), can only be challenged within 30 days before the Court of Cassation (where the final appeal goes) (Asylum Information Database (AIDA), 2021).

4. **Case Study: Changes on Asylum-Seeking in Italy under the Salvini Decree (2018) and the elements of the Structuration Theory**

The aim of this chapter is to demonstrate how the structuration theory can be applied to the changes in asylum seeking of the *Salvini Decree* issued in 2018. Throughout the chapter, the elements of agency, power and structure are analysed and applied to the case study.

This chapter starts with a historical overview of the legal framework regarding migration and asylum-seeking policies in Italy. This, to show the evolution and the perception of migration throughout time. After this, the Salvini Decree is analysed in detail linking it directly to the structuration theory.

4.1 Overview of Historical Legal Framework of Migration and Asylum-Seeking Policies in Italy

This section of the text aims to show an overview of the main legislative acts regarding migration and asylum-seeking policies on procedures, reception conditions and protections regulations in Italy from 1990 to 2018. Through this, it will be clearer to show the evolution of the policies and the main changes between legislative decrees and the perception of migration according to each mandate.

To start, migration flows have been a long-term phenomenon in Italy, but they appeared to be visible with the first immigration law in 1986. The number of immigrants reached five hundred thousand by 1987 and ten years later more than a million. By then, the number of immigrants continue to grow faster; "1.5 million in 2002, 2 million in 2004, 3.5 million in 2006, nearly 5 million 2010" (European Migration Network (EMN), 2012, p. 9).

In terms of legislation, the Italian system for migration and asylum seeking is highlighted in the Republican Constitution. In paragraph 3 of article 10 it is pointed that the right of asylum is granted within the Italian territory to any foreigner prevented from democratic liberties

concede by the Italian Constitution (Repubblica, 2012, p. 10). Also, this article refers to ordinary law regarding the juridical condition of people arriving to Italy and should be always aligned with the international norms and treaties (Repubblica, 2012, p. 10).

Regardless of the wording of the Constitution, the right to asylum has been developed slowly into the jurisdictional and legislative tools in Italy. In 1997 a sentence of Court Cassation named the Ordinary Court as the relevant body for granting asylum, in accordance with the Constitution (European Migration Network (EMN), 2012). Within the Constitution, there is only one article, article 117 which was modified by the Constitutional Law of October 18,2001 which considers migration as one of the matters which the State has to exercise is legitimate monopoly exclusively without the participation of the Italian regions (Repubblica, 2012).

In 1954, the Law no. 722 ratified the Geneve Convention of 1951, but this was limited only for the recognition of the refugee status for European refugees. Then, it was abolished by the Decree law no. 416 f 1989, converted then in the Law no. 39 of 1990 which dictated the Ministry of Interior and the main responsible institution in charge of the assistance of asylum seeking and refugees (European Migration Network (EMN), 2012).

The Law no. 39 of 1990, also known as the "Martelli law", introduced standards in terms of asylum, entry and stay non-European migrants. This law is considered as a milestone in Italian migration regulation since is the first regulation on asylum and refugee seeking which highlighted new procedures and new assistance mechanisms (Parati, 1998).

Until 1998 the Law "Turco Napolitano" passed as the new regulation on migration (Figueroa, 2016). This act contained specific provisions to immigration control for people, in matter of asylum, it did not change that much in respect to the "Martelli Law" mentioned above, but it established residence permits for humanitarian social protection (Corte Suprema di

Cassazione, 1998). It also established, for the first time, temporary residence centres for irregular migrants which were subjected or waiting to be deported (Figueroa, 2016).

In terms of asylum seeking, there was introduced the law 189 in 2002, also named as the 'Bossi-Fini Law'. It simplified the procedure of interviews for asylum seekers and it accepted the issue of humanitarian protection of people escaping from specific conditions such as war, violence. Through this law, the National Action Plan on Asylum (PNA), in cooperation with the UNHCR, the Ministry of Interior and the National Association of Italian Municipalities (ANCI) established a reception network for migrants applying for asylum and also an inclusion and integration program for people already granted asylum or refugee status (European Migration Network (EMN), 2012).

Within 2000 and 2002 sea patrols were strengthen and the police had more power to stop undocumented migrants, but not asylum seekers. Basing on the Bossi- Fini Law, signed in 2002, further agreements were made between Tunisia in 2003 and 2009 and Libya in 2000,2003,2004, 2005 and 2008 (Caponio & Cappiali, 2017) for strengthening the capacity of patrols in coasts and identification of undocumented migrants. In 2008, the Bengasi Treaty was endorsed and its aim was that Libya would have to accept people living its coasts and deported from Italy (Caponio & Cappiali, 2017).

After these legislative texts, Italy implemented a series of different European Union Directives regarding migration and asylum seeking. Within this, the Directive 2003/9/EC which is applied for people applying to the recognition of refugee status in the Italian territory. Other important directives implemented were 2004/83/CE and 2005/75/CE, which guaranteed minimum standards for migrants in need of international protection (Figueroa, 2016).

In 2009, the laws started to have a different direction, more restricted regarding irregular migration polices (Santoro, Di Bari, & Hermanin, 2010). With the Law no.94 of 2009, known

as "security package", it was introduced the illegal entry punishable with a fine up to 10,000 euro. This included foreigners entering Italian territory without authorization and those residing in an irregular way (EMN European Integration Network , 2009).

The Security Package, also extended the extension from 60 to 180 as a maximum period of detention of people in the centres for expulsion, and the extension up to 12 months of imprisonment of people who were unable to produce the respective documents upon request to the police (Santoro, Di Bari, & Hermanin, 2010). Among other measures, this law highlights the promulgation of a repatriation fund for financing the return of migrants to their country of origin, specifics fees for every citizenship application or residence permit and Italian language tests for whoever applying for different migration status (EMN European Integration Network , 2009).

After the Law no.94 of 2009, the government introduced the Decree no. 179/2011 also denominated the "Integration Agreement". It basically dictates that every person aged over 16 who enters the Italian territory must sign an integration agreement for the duration of 2 years. Then in a second session, the government approved another security package that legitimated the expulsion of European Union citizens for more than 90 days without having a job and also the expulsion of prostitutes (European Migration Network (EMN), 2012).

After these legal decrees, more international programmes were applied to migration policies in Italy. *Mare Nostrum* operation implemented in 2013, aimed at facing and tackling the humanitarian emergency faced in the strait of Sicily due to increase in migration flows. The main purpose of this operation was to safeguard human life at sea and to bring to justice human traffickers and migrant smugglers (Ministero della Defensa , na).

When Mare Nostrum came to an end, the European Union Agency Frontex introduced *Tritton* operation in 2014, which was focused on border control and not on rescue of migrants.

After one year, budget was tripled (from almost 2,9 million euro to 9 million euro) and allowed a new military operation in the Libyan search and rescue area (SAR) for stopping and disrupting smuggling networks and migration boats leaving the coasts of Libya (Caneva, 2014).

In 2017, with the Law 46/2017 also known as "Minniti-Orlando Decree" the role of centres of identification and expulsion, renamed then for centres of permanence and repatriation, boosted the effort to accelerate repatriation for migrants that were not eligible for international protection (Caneva, 2014). The most significant measure was the relaunching of detention centres for people waiting to be deported.

Through the Minniti Orlando Law, from 14 courts, there were established 26 courts in total with departments focused on migration and international protection and procedures. Not only the number of courts were extended but also the capacity and the competences of the migration departments. Into these new responsibilities, were the conduct and control of the international protection procedure and the abolishment of a second instance for asylum seekers (Szulc & Szymaniak, 2020).

The Minniti- Orlando Act changed the procedures for recognizing migrants introducing humanitarian operations and intercepting persons crossing the border or arriving to Italy by irregular means. According to Natalia Szule and Adam Szymaniak (2020), this law correlated the issue of migrants with national security. "It strengthened the xenophobic and racist perception of migration processes. The law imposed the status of public officials on the staff of reception centres" (Szulc & Szymaniak, 2020, p. 144).

Changes in the migration policy have had different impacts, one of them is the lack of coordination of reception centres dedicated to evaluating the case of every migrant arriving to Italian territory. According to reports for non-governmental organisations, foreigner were staying in these centres without appropriate medical care and totally isolated until the decision

of its status, which do not meet the requirements or the principles of the Italian Constitution and the Convention for the Protection of Human Rights (Szulc & Szymaniak, 2020).

The previous migration policies, specifically since the 'Security Package' Law, the perception of migration has been a national security matter rather than a humanitarian matter. This has led, in 2018, to the Law. 132. Also known as the "Salvini Decree". It started functioning and introduced a series of new guidelines for migrants seeking asylum in Italy (Szulc & Szymaniak, 2020).

This Decree will be described in the following chapter, but widely speaking, it converts within other measures the denial of international protection of people exposed to persecution and exploitation in the countries of origin and denial of people feeling life threats and natural disasters (Szulc & Szymaniak, 2020). Additional to this, the decree introduced other new procedures for refusal and withdrawal for protection or refugee regardless its country of origin or the circumstances that made the person migrate (Szulc & Szymaniak, 2020).

Here are the main legislative acts resumed in a table which are considered relevant to asylum seeking procedures in Italy from 1999 to 2018:

Figure 4. Legislative acts and decrees regarding asylum seeking procedures in Italy (1990-2018)

Policy Name	Main Characteristics and/or changes
Law No.39/ 1990 'Martinelli Law'	First Italian law to treat financing of reception of migrants on asylum and refugee seeking which highlighted new procedures and new assistance mechanisms. Regulation of asylum seekers and refugees. The purpose of this law was to regularize immigrant workers who risked being irregular workers.
Law No. 40/ 1998 'Turco Napolitano Law'	Regularised around 217,000 migrants (Caponio & Cappiali, 2017). Defined specific procedures for family reunification and the possibility to work. Irregular immigrant detention centres were settled, and it was the main place where people were being accommodated meanwhile the were deported to their country of origin.
Dlgs 286/1998 Consolidated Immigration Act	Introduction of 46 legislative provisions regarding immigration divided into rights and duties of foreign people in Italian territory, legal entry into territory including residence permit and visa procedures; determination of entrance flows; protection of minors, and family reunifications; essential rights regarding healthcare, and housing assistance of migrants (Repubblica Italiana, Governo italiano, 1998).
Law no. 189/2002 'Bossi-Fini Law'	Main objective: combat "illegal" immigration. Allowed the greatest regularization in Italian history with a total of 650,000 (Caponio& Cappiali, 2017). Legitimacy for the police for stopping undocumented migrants, but not asylum seekers and return them to their country of origin.
Laws no. 125/2008 and 94/2009 *Pacchetto Sicurezza* (Security Package)	Reinforcement of the measures for expulsion of irregular migrants and introduction of entrance and irregular residence crime. Creation of unarmed civic patrol groups for identifying "illegal" migrants (EMN European Integration Network , 2009).
Decree No.179 of 2011 'Integration Agreement'	Every person aged over 16 who enters the Italian territory must sign an integration agreement for the duration of 2 years. Integration is seen as a process for promoting the assimilation of foreign nationals in Italy (KPMG, 2016)
Mare Nostrum 2013	Approaching and dealing with the humanitarian emergency faced in the strait of Sicily. The main purpose was to safeguard human life of migrants arriving by sea from Africa and to tackle human traffickers (Ministero della Defensa , na).
Triton Operation 2014	Border control and not rescue of migrants as the main aim. Budget extended to 9 million euro for organising military operation for stopping smuggling networks and confront migration boats arriving from Libya (Caneva, 2014).
Law 46/2017 'Minniti Orlando Law'	Abolishment of the second instance for asylum seekers and introduction of provisions for identifying of migrants intercepting during recue and humanitarian operations, included the irregular crossing of the State border (Szulc & Szymaniak, 2020).
Law No. 132/2018 'Salvini Decree'	Category of 'humanitarian protection' was removed, denial of international protection of people exposed to persecution and exploitation in the countries of origin and denial of people feeling life threats and natural disasters (Szulc & Szymaniak, 2020).

Source: Table created by the author

4.2 Elements of Structuration Theory applied to the Changes in the Salvini Decree: Agency, Structure and Power

Throughout this part of the text, it is demonstrated and explained in detail how the structuration theory is applied to the changes in asylum seeking introduced by the Salvini Decree. Specifically, the concepts of structure, agency and power are highlighted and applied to the case study.

Agency

Giddens (1984) defines agency as events of which an individual could in any phase have acted differently, is basically the intervention of that individual or the action of that individual to change a specific scenario. Action is a continuous flow, where the reflexive monitoring is fundamental for the control of the actor's daily activities. Agency is doing, and the consequences of what actors do intentionally or unintentionally are events that are affected by the way an actor behaves but that occasionally are not within the scope of the agents power of control (Giddens, The Stucturation of Society , 1984, p. 5).

The agent is always involved into a reflexive monitoring of activity of his/her daily actions. But this not only depends of own actions but also others. In other words, actors or agents, monitor their individual activities and expect the others to do it as well, the monitoring of aspects in social and physical life of the contexts in which they move (Giddens, The Stucturation of Society , 1984). Apart from this, Giddens says that as agents have the capability of monitoring individual and others activities, they should be also capable of explaining most of what they do (Giddens, The Stucturation of Society , 1984).

In this sense, the structuration theory creates a distinction between reflexive monitoring and rationalization of actions based on the agent's motivations. For Giddens (1984), motivation refers to the potential action and not to the mode in which action is carried by the agent. Agents

in general, can report and explains their reasons for acting but not always the intentions or reasons of their motives. Here is where Giddens explains the notion of unconscious motivations, which, according to him, is significant feature of human conduct.

To start, the changes in the migration law through the Salvini Decree are seen specifically in terms of how the law addressed to asylum seekers. The Decree revokes the possibility for asylum seekers and refugees to access entrance to Italian territory under the known system for protection of Asylum Seekers and Refugees (SPRAR). The SPRAR was transformed into the System of Protection for Beneficiaries of Protection and Unaccompanied Minors (SIPROIMI) (Carta, 2018). Before the Salvini Decree, the SPRAR system aimed to provide basic reception to immigrants and to encourage social integration of asylum seekers. With the Decree, specially by the article 12, just refugees who have been already recognized by the Italian government were granted accommodation in SPRAR. Asylum seekers, were only hosted in collective centres of reception where, according to the law, only basic level of reception conditions were to be met (Gazzeta Ufficiale della Repubblica Italiana, 2018).

It is important to highlight that before the Italian reception system was modified with the Salvini Decree, the reception systems already had records of not providing the adequate needs and conditions for asylum applicants, which was advised and showed by the European Court of Human Rights in 2014 (European Court of Human Rights , 2014).

Since this was already acknowledge by the European Court of Human Rights, the Salvini Decree raises more questions about the structural deficiencies in the asylum-seeking reception centres. According to what the International Court of Justice in the Hague pointed, the Salvini Decree restricts access to adequate reception conditions for asylum seekers and recommended the Italian government to reconsider the asylum application and people requesting asylum

should not be deported until a final decision had been made (International Court of Justice, 2018).

The changes that come with the Salvini Decree for asylum seekers in terms of agency can be seen also in the decrease of humanitarian protection and number of people requesting asylum after the Decree came into force. The figure below (Figure 5), shows the decrease in humanitarian protection before and after the Salvini Decree, also known as 'decreto sicurezza'. While from 2017 to April 2018 the accepted humanitarian protection according to the judicial cases presented was of maximum 30%, it started to decrease drastically since the security decree in October 2018, almost to 13%. This represents that the humanitarian protection almost dropped 50% between the periods of the beginning of 2018 and the end of 2018.

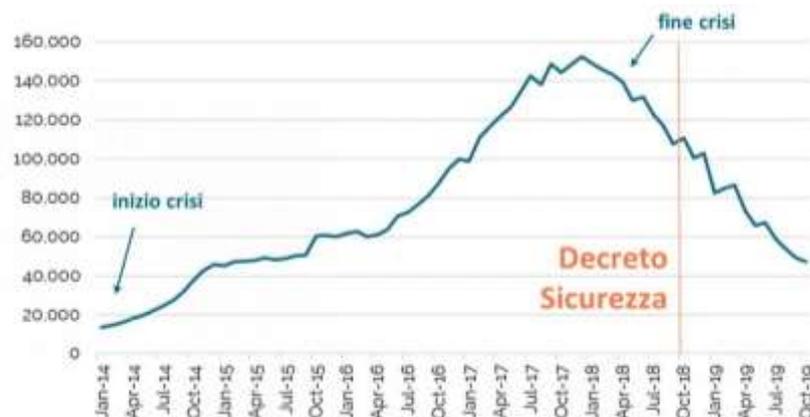**Figure 5. Humanitarian Protection after the 'Salvini Decree'**
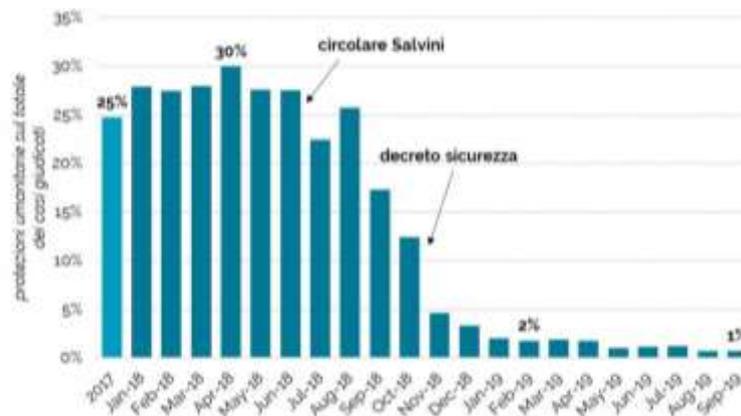
Source: Villa, M. (2020, January 31). *Migrazioni In Italia: tutti i numeri.* Retrieved from Istituto Per Gli Studi Di Politica Internazionale (ISPI):https://www.ispionline.it/it/pubblicazione/migrazioni-italia-tutti-i-numeri-24893 Translation: Migration in italy: all the numbers

This also has a negative effect in the way migrants are being perceived after this decree, because they passed to be considered as people in need of humanitarian protection to irregular migrants. According to the International Institute for Political Studies in Italy (Istituto per gli Studi di Politica Internazionale), remodelling the humanitarian protection and asylum seeking in Italy has effects on the increase in the presence of irregular foreigners in Italy (Villa, Migrazioni In Italia: tutti i numeri, 2020).

Also, the number of asylum-seeking requests dropped dramatically after the Salvini Decree; this is show by the figure below (figure 6). After peaking at over 150,000 in December 2017, the number of pending applicants in october decreased to almost 110,000 applicants and then it started to drop even more as months passed.

This is directly connected with agency and the agents in terms of intentions and motivation. According to the Structuration theory, agency means also the capacity of the actors involved to reflect on their position and situation. This approach enables to analyse migration and asylum seeking as a process that is shaped by legislation but also by the migrants taking the decision to move and to promote migration as a rational response to a set of social, economic and cultural events in their lives (Bakewell, 2010).

Figure 6. Asylum requests after the 'Salvini Decree'

Source: Villa, M. (2020, January 31). *Migrazioni In Italia: tutti i numeri.* Retrieved from Istituto Per Gli Studi Di Politica Internazionale (ISPI):https://www.ispionline.it/it/pubblicazione/migrazioni-italia-tutti-i-numeri-24893 Translation: Migration in italy: all the numbers

Structure

The concept of structure is the core of structuration theory. According to Giddens (1984) when analysing social relations, and this also applies to migration topics, it is very important to acknowledge a patterning of social relations in time space, which he names 'syntagmatic' dimensions, and paradigmatic dimension, involving what he names as 'modes of structuring'.

In this sense, Giddens highlights that structure refers to a set of rules and resources that allow the connection of time-space in social systems (Giddens, The Stucturation of Society , 1984). He names the deepest and based structural properties that are related to societal totalities as 'structural principles', and those structures which have the widest time-space extension as 'institutions'.

It is important to precise what the structuration theory understands by rules and resources as the main factors when defining structures. Citing Giddens (1984, Pg.15), rules and resources cannot be considered as two isolable sets, they have a very strong connection with each other when shaping structures. Resources are modes where transformative relations are added to the productions and reproduction of social practices (Giddens, The Stucturation of Society , 1984). Rules, refer to methodical procedures in social interaction and have two essential aspects; they relate to the constitution of meaning and to the sanctioning modes of social conduct (Giddens, The Stucturation of Society , 1984).

Structures are also important on the sense that they involve in social change. This means that structure is never static, it is always modifying and in constant evolution. It is important also to mention the differentiation between what Giddens (1984) calls the structure, system and structuration. Structure, as clarified before, is a set of rules that exists in society and is also the ability for individuals to change the laws of society or a specific phenomenon (Wolfel, n/a).

Oppositely, system refers to the relationship or interaction between groups of individuals, and structuration is the process of social change into a specific society (Wolfel, n/a). This is important to consider when applying this theory into the Salvini Decree changes because the structuration refers to the methods through which a society changes, and the factors or structure, system and structuration together can describe the methods or patterns of social change.

In 2018, with the change of the new Italian governments assumption and Matteo Salvini becoming the new Minister of Interior, the policy direction with regard to migration and asylum seeking changed considerably. With the new government, a new approach leading to the increase of tight restrictions on the activities of institutions and non-governmental organisations involved in the rescue of migrants in the Mediterranean coasts, the closure of Italy's port for people arriving. All these measures coincide with the government's strategy to change the structure of the previous migration policies and the treatments towards migrants and asylum seekers (Strazzari & Grandi, 2019).

The Structuration theory explains the changes in the asylum-seeking policies introduced by the Salvini Decree in terms of how migration is being treated and how security measures instead of humanitarian ones are applied to migrants. According to Strazzari and Grandi (2019), while previous governments emphasized in their discourses and actions the need to keep the number of migrants arriving to Italy between manageable limits in accordance with humanitarian principles, the Salvini Decree introduced the closing of channels of access via the sea giving the argument of the preservation of public order, decrease of criminality and State security.

The Salvini Decree changes the structure of migration in Italy by introducing restrictions on the granting of permits for humanitarian reasons and protection offered to asylum seekers by abolishing the rights granted as humanitarian protection (Strazzari & Grandi, 2019). In terms of structuration theory, as the series of norms for migration were changed through the Salvini Decree, the changes in system and structuration are also noticeable. Since all these concepts are linked, the terms of system referring to the relationship or interaction between groups of individuals changes and the structuration, which is the process of social change is also modified.

The above concepts are explained as follows; governmental migration policies, in this case the Salvini Decree, influences on the structure of society and migration by imposing new rules for granting asylum and the entrance of migrants to Italian territory itself. Before, the migration policies were a way of seeking humanitarian protection but now a security discourse determines the new structure of migration. All these events are structural determinants of migration. The identification of migration conflicts as security issue over humanitarian acts as an important push factor for not accepting migrants in an irregular or asylum-seeking mode (Carta, 2018).

These changes that came with the Decree, as said before, were represented by the Minister of Interior, Matteo Salvini, as being aimed for improving Italian security but, it encouraged undocumented migration. And this immediately changes the structure of migration and asylum seeking and the way migrants are perceived as agents arriving 'illegally' to Italian territories and gives the political institutions, which would change the system, that according to Giddens is the relationship between individuals, as the political institutions exacerbate the sense of insecurity that leads to the politization of migration (Geddes & Pettrachin, 2020).

As previously said, the Salvini Decree reformed the process of asylum-seeking reception. The most important change was the complete abolition of humanitarian protection, which represented the most common type of protection granted to asylum seekers before 2018 which gave the right to work and access to basic services (Geddes & Pettrachin, 2020). The following chart (figure 7) shows how in 2019, the humanitarian protection process disappeared from the migration procedures in Italy and the number of rejected requests increased considerably.

Therefore, this mode of migration request was replaced by 'special procedures' granted specifically for asylum seekers who arrived to Italian territory in need of urgent medical help, domestic violence or exploitation and natural disasters among others (Geddes & Pettrachin,

2020). The main issue with this new special procedure request is that they just lasted one year and could not be converted in the future to permanent residence.

With this policy, the government made sure that the positions in the country for asylum seekers became reduced. Through the lenses of the structuration theory, this new mode of migration request is part of a set of rules and resources which are converted into social practices, which can be also expressed into forms of domination and power by setting special procedures for seeking asylum (Palm, 2018).

**Figure 7. Asylum Decisions in Italy from 2014 to October 2019**
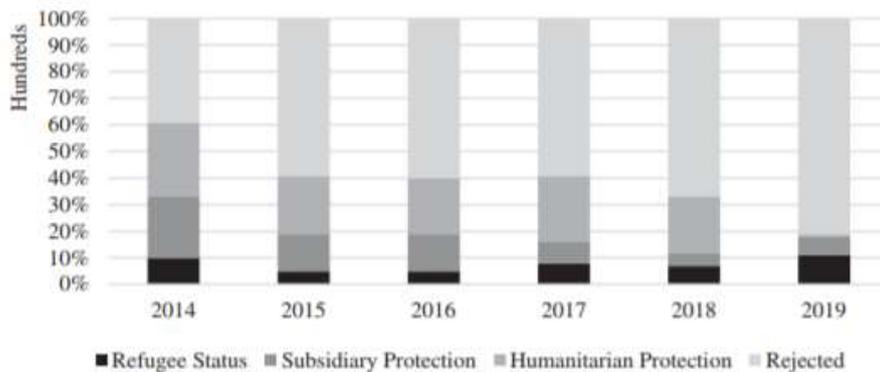
Source: Geddes, A., & Pettrachin, A. (2020). Italian migration policy and politics: Exacerbating paradoxes .
Contemporary Italian Politics, 12:2, 227-242, Page 236

Relationship Between Agency, Power and Structure

There is a connection between the three elements of the Structuration Theory proposed by Giddens (1984). An agent has the ability of intervene the world or to withhold from acting, with the specific effect of being able to influence specific processes. This means that, the agents are granted by nature a range of powers to change the course of events. All these elements compose what Giddens denominates the duality of structure (Giddens, The Stucturation of Society , 1984).

The duality of structure can be expressed in terms of power relations; resources are guided by structured properties of social systems via legitimation and signification, are drawn and reproduced by the agents in the development of their interaction with other agents, systems and structures (Giddens, The Stucturation of Society , 1984). It is important to highlight that for the Structuration theory power is not seen as a resource; it is seen as an element that characterizes all types of conduct of all actions. Resources as means through which power is exercised (Giddens, The Stucturation of Society , 1984).

Figure 8. Dimensions of the Duality of Structure according to the Structuration Theory
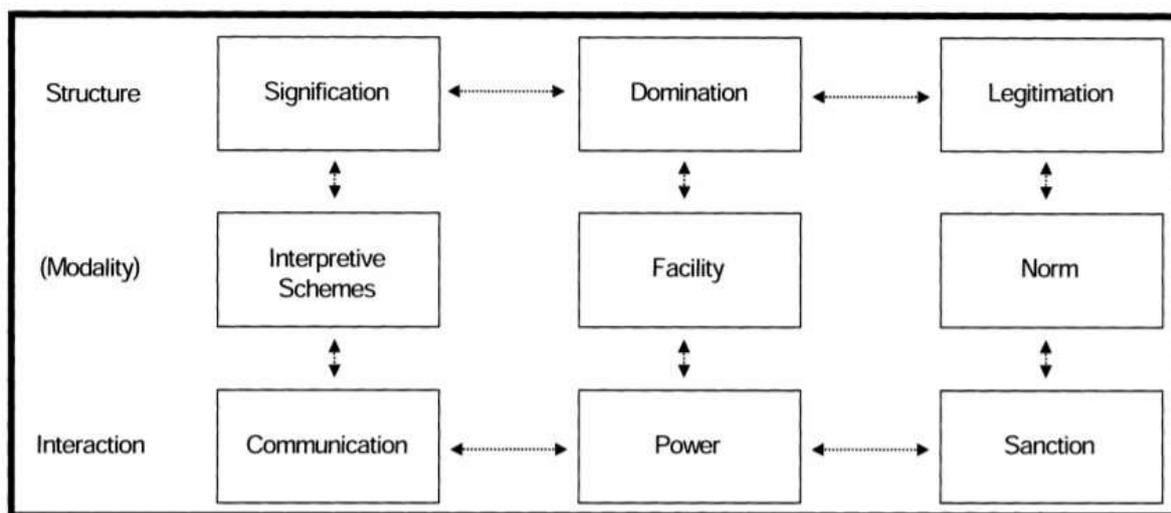
Source: Dimensions of the Duality of Structure, adapted from Anthony Giddens (1984, Pg.29), taken from Jones & Karsten/Giddens's Structuration Theory & IS Research Pg. 130

Figure 8 shows the dimensions of the duality of structure. Anthony Giddens explains this figure as follows; actors are capable of not only monitoring their own activities but also throughout discursive consciousness. The interpretative schemes are understood as a modality of typification part of an agent's knowledge. This is constructed upon the production and reproduction of interaction. Communication, as an element of interaction, can occur between temporal and spatial features and is seen as a more inclusive concept than a communicative intent (Giddens, The Stucturation of Society , 1984).

The normative component focuses in the relationship between the obligations and rights of the agents participating in a specific context. And formal codes of conduct, as for example law and norms expresses a symmetry between rights and obligations, one justifying the other. On the other hand, sanctions express structural asymmetries of domination (Giddens, The Stucturation of Society , 1984).

In terms of structural properties of the social systems, Giddens distinguishes the dimensions of signification, domination and legitimation. Structures of signification always have to be in connection with domination and legitimation because it is influenced by power in social life (Giddens, The Stucturation of Society , 1984). By signification, Giddens refers to symbolic order or modes of discourse; by domination, the political or economic institutions and by legitimation the legal institutions.

According to the structuration theory, all actors have power when influencing the direction of the action and the elements incorporated within the theory. Power links to all elements, especially with structuration and agency. Agents need to understand what is their power source and how to use it and also to understand the resources available to them (Wolfel, n/a).

Power for the structuration theory is treated in a different way because for Giddens, all agents possess power and they can influence changes in society. For Giddens, when agents have no power, they stop being agents. This is really important for migration studies because when an individual losses the ability to influence society they stop being agents and may take a decision of moving to another society as an opportunity of being agents again (Wolfel, n/a).

All this explanation about the relationship of power, agency and structure is adapted according to the figure 8. Here is the procedure and the way the structuration theory would explain the changes in asylum seeking with the Salvini Decree:

Figure 9. Dimensions of the Duality of Structure applied to Changes in Asylum Seeking by the Salvini Decree
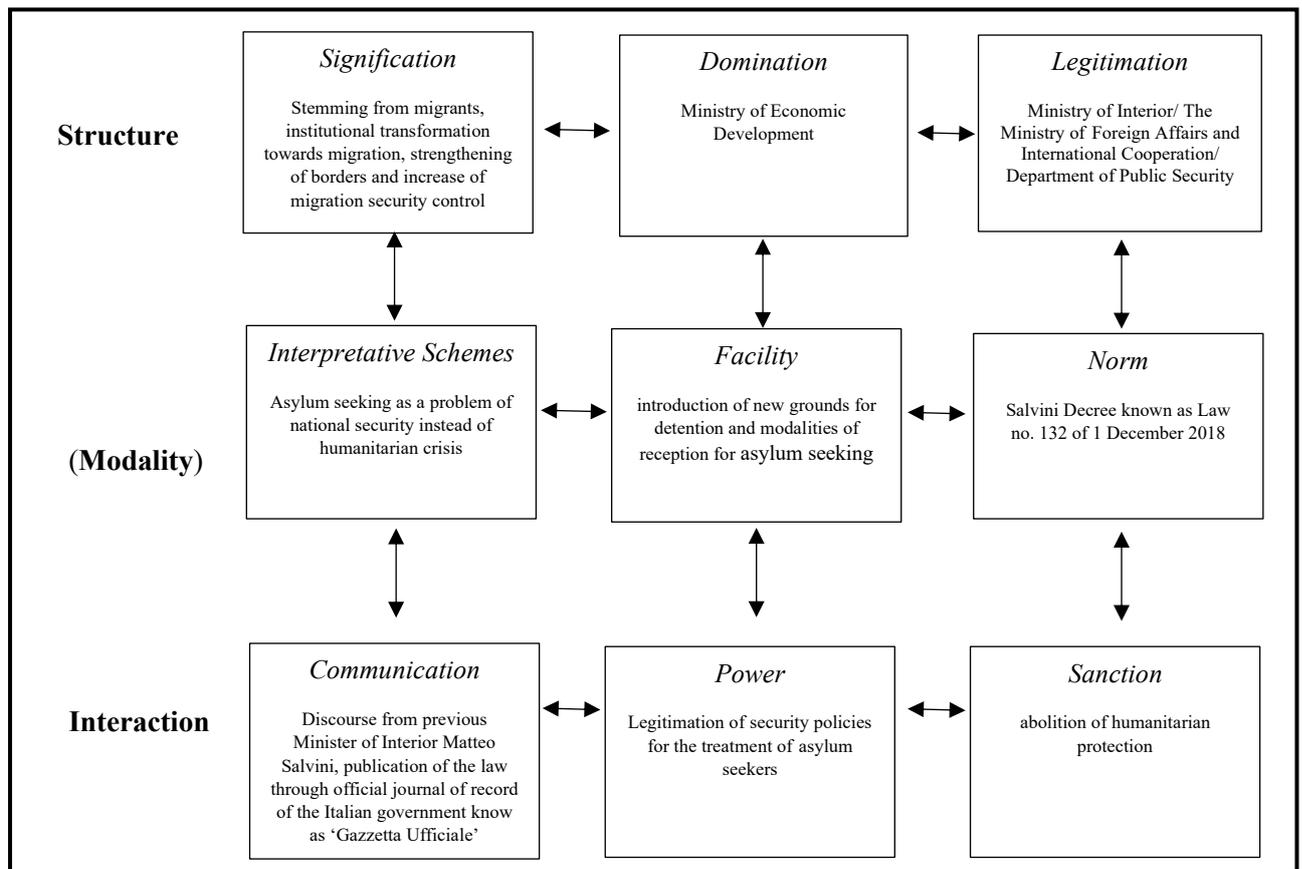
Source: created by the author of this text

Figure 9 shows how the dimensions of the duality of structure explain the changes in Asylum seeking in Italy. Also, it demonstrates the direct connection between structure, power and agency, which are the elements of the structuration theory analysed during this text. As described in previous chapters, the structuration theory has 6 elements (agency, structure, duality of structure, institutions, dialectic of control and time/space relations), as aimed, the paper only focuses on three of these elements but the figure above shows a basic connection between them all.

To start, according to Giddens (1984), signification equals signs that only exist as an outcome of communicative processes in interaction of the agents. In other words, it means symbolic order or modes of discourse. The government implements the Salvini Decree using

key words like 'security', 'strengthening of borders' and the stemming of irregular migrants from Italian territory (Corsi, 2019).

This immediately connects to domination and legitimation of the asylum-seeking structure. Being the domination, according to Giddens, a mode of resource authorization and resource of allocation, which in this case is corresponded to the Ministry of Finance and Economic Development of Italy. This Ministry takes responsibility in the fields of economic policy and budgeting policy, which means that it decided the specific limit allocated for migration procedures in the country (MEF, 2021).

The legitimation involves the normative regulation and the legal institutions (Giddens, The Stucturation of Society , 1984). In this case, the Ministry of Interior and the Ministry of Foreign Affairs and International cooperation are the main institutions in charge of deciding the decrees and new laws regarding migration in general and asylum-seeking policies. These institutions are responsible for issuing visas to foreign travellers and keeping the bilateral relationship with third countries and other international organizations. The Ministry of Interior is the most important decision maker in the migration topics. This because is it in charge of migration and asylum-seeking policy, integration, applications and border control (European Commission, 2019).

Additional to these institutions, there are others that are also important and complementary to the Ministers when it is necessary to legitimate policies; such as the department of civil liberties and immigration, department of public security, national commission asylum rights, immigration and border police, border police and aliens service, civil services immigration and asylum policy (European Commission, 2019).

All the elements of structure previously explained, are stretchily connected to the elements of modality (please refer to figure 9). The norm, which is the Salvini Decree itself, and that

introduces the facilities such as the application of new modes of treating migrants when they arrive to Italy, so new grounds of detention and new modalities of reception are implemented for individual seeking asylum. As a result of this, new interpretative schemes arise from structure and the norm, giving the idea to people and the government that asylum seeking is a matter of national security instead of a humanitarian crisis that need to be addressed (Corsi, 2019).

The interaction shown around the Salvini Decree is explained through the elements of sanction, power and communication. Citing and agreeing with the explanation of Cusumano & Gomber (2020), while the main finality of the decree is the sanction of abolition of humanitarian protection for asylum seekers, this is explained through the power as the capacity of legitimation of the government of security policies instead of humanitarian ones and the discourse of reinforcing the border security from irregular migration and undocumented migrants.

The political discourse given by the previous Minister of Interior, Matteo Salvini, is a way of communication in which the government shows power. According to Dylan Mcginnis article in the Review of International Studies of the University of Yale, in an analysis made of the political discourse of Salvini, it is highlighted the anti-migrant strategy. The rhetoric of this discourse falls into two categories; the criminalization of those migrants who are attempting to enter Italy and the ones who have already residing in the territory (Dylan, 2021).

The Italian government uses the tool of power and communication to reflect arguments of criminalization of migration. According to Berti (2020), migrants are criminalized in two main ways; by using the term 'illegal' meaning that the act of migrating its per se an illegal act itself, and making the people believe that migrants tend to commit more crimes than the Italian citizens, augmenting that the increase in the number of migrants its immediately an increase of

organised crime and insecurity (Berti, 2020). The consequences of this are seen directly in the policy decisions and orientations directly directed to the securitization of migration and the criminalisation act of immigrating and requesting asylum (Berti, 2020).

5. Discussion and Conclusions

This research has demonstrated the utility of the structuration theory proposed by Anthony Giddens when applied to the main changes in the asylum-seeking policy in Italy introduced with the Salvini Decree in 2018. This application has shed light on the complex relationship between agency, structure and power and has brought an analytical prism when analysing the manners of interacting through the structures of systems and how these interactions change across contexts.

In resume, the structuration theory explains the changes in the Italian asylum-seeking policy introduced by the Salvini Decree through the elements of agency, power and structure. The Salvini Decree, seen as a government migration policy, influences on the structure by imposing new rules for granting asylum and the entrance of migrants. Before this decree, there was a safe way of seeking humanitarian protection, but now a security discourse determines the political agenda of migration. The perception of migration as a security issue and not as a humanitarian acts as a push factor for denying the entry of migrant in an irregular or asylum-seeking mode.

These changes that came with the Decree were being aimed for improving Italian security but, it encouraged undocumented migration. And this immediately changes the structure of migration and asylum seeking in the way migrants are perceived as 'illegal agents' to Italian territories. This changes the system and gives the political institutions the power to exacerbate the sense of insecurity and the lead to the politization of migration.

On the contrary, no doubt the arguments about agency, structure and power will continue unresolved and unbated for many years to come. As I argued along the text, the migration literature to date has not been clearly linked to the structuration theory, and it is rare to try to apply this theory to explain a migration phenomenon. I showed Giddens notion of structuration and its main elements and I applied in detail three of them; structuration, agency and power, but not the other elements in depth. This is one limitation of my text but also it can be a continuation of the application of the structuration theory with the last changes made to asylum seeking policies in Italy.

However, the theory has limitations. The first one does not alter that much the application to this case study, but it is worth mentioning. First, Giddens does not make a clear position about culture and the importance in migration, and according to Cosgrove (2000) culture is an active force working through people and a factor that also explains agency beyond history and geographical characteristics of migration.

Second, structuration theory draws attention to the idea that all agents are moved by rational action (Wolfel, n/a). Although in this text this idea is incorporated when analysing it can also be a limitation because it gives reduced space for the passions and desires of asylum seekers involved in the flight from their homes and the uncertainties related to the migration flow process. And although the Italian State is also considered as a structure that is conformed by rational agents, also they have other types of emotions and fears that could affect the decision-making process and the change of political moves.

These limitations weaken the structuration theory since rational action is more fundamental to the relationship between structures, agency and power. Although these are topics that could not be covered in this discussion it leaves an open door for further analysis about the relationship

of structuration theory combined with other social theories that include impact of emotions and desires in the decision making process of migrants and migration policies of a State.

Given the fact that there are limitations for the structuration theory as mentioned before, the application for the case study on the Salvini Decree gave an explanation on how the changes for asylum seeking in Italy became an issue of national security instead or a tool to deal with humanitarian crisis. And the elements of power, structure and agency clearly showed how the changes affected the way migrants and asylum seekers are seen nowadays in Italy.

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