

CHAPTER 1

PERFORMING INCOMPETENCE

Race and Migration in Italy

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INTRODUCTION

There is a joke we tell in European Studies. It goes something like this:

In Heaven, lovers are French, cooks are Italian, dancers are Spanish, bankers are Swiss, the police are British and everything is run by Germans.

In Hell, lovers are German, cooks are British, dancers are Swiss, bankers are Spanish, the police are French and everything is run by Italians.

There are different versions of the same joke in circulation. Sometimes cooks in Heaven are French, and sometimes Germans become the police from Hell. Sometimes there are mechanics instead of dancers. But across all different versions, the punchline always stays the same: *in Hell everything is run by Italians*.

The stereotype of Italians' incompetence, corruption and inefficiency dates back to racist and Orientalist portrayals of the *bel paese* in northern European accounts (Schneider 1998). Despite being a founding member of what is now the EU, and an early adopter of the euro common currency, Italy continues to occupy a precarious position in European political and financial arrangements. In a union of nominal equals, Italy has long struggled to gain traction for its national interests against the will of wealthier member states, such as Germany, France and, until Brexit, the United Kingdom.

One of the policy areas where tensions have been most pronounced between Italy and the rest of Western Europe is foreign migration. Given its geographic position on the Mediterranean, Italy is one of the first ports of

entry into the EU for thousands of migrants and refugees every year. Since the 1990s, hundreds of thousands have landed on Italian soil after boarding ships in Libya, Tunisia or other parts of North Africa. For most of those who land on its shores, however, Italy is not the final destination. Northern Europe, and especially countries such as Germany, Sweden, Norway and the United Kingdom, which are reputed to offer the most welcoming and generous resources for refugees, have typically been the intended destination.

EU regulations, however, do not allow refugees a legal pathway to continue their northbound journeys after arriving in Italy. According to the Dublin Regulation, a treaty that controls asylum policies across Europe (including those of both EU member states and non-EU signatories, such as Switzerland and Norway), asylum petitions may only be processed by a refugee's first country of entry into Europe. Geographically, that first country of entry could only be one of a handful of southern and eastern European nations that have external EU borders, including, of course, Italy. For context, Germany has no external European borders, and the only way to approach Norway without touching European soil first would be from the north.¹ Geography and common sense notwithstanding, the Dublin Regulation provides that any refugee apprehended in a European country other than their first port of entry must be sent back for processing to that first country.

In this chapter, I focus on Italy's (mis)management of the Mediterranean refugee crisis and, specifically, on its skirting of the Dublin Regulation through ongoing and systemic practices of incompetence. From routinely neglecting to fingerprint migrants to forgetting to lock the doors of detention centres, Italian authorities for many years failed to comply with EU migration law. Facilitating the escape of refugees so that they could cross the border (illegally) into Northern European nations, Italy at once defied the unfavourable terms of the Dublin Regulation and got rid of unwanted migrants, all the while appearing to do so out of incompetence rather than political will.

Italy's performance of incompetence in matters of migration could be read as a 'weapon of the weak' in James Scott's (1985) sense of the term, wielded by an underdog state against the political will of some of the wealthiest nations in the world. It is irreverent, admittedly humorous and perfectly in character with Italian national self-stereotypes of cunningness and rule-breaking. In fact, in some languages there is even a term for those small, non-confrontational acts of insubordination that slowly but surely undermine a system of production: they are referred to as an 'Italian strike'. Unlike a formal strike, which carries considerable risks of retaliation, tactics of incompetence such as dragging one's feet at work, slowing down productivity or misunderstanding assignments are enshrouded in a veil of plausible deniability. Similarly, incompetence provided an alibi for Italy's systemic

failure to uphold the Dublin Regulation. But if it was any kind of resistance, perhaps even the weapon of a weak state against European superpowers, Italy's incompetence in handling the refugee crisis was also harmful. Those it harmed most were refugees from the Global South, the vulnerable populations whom European and human rights law claim to protect.

I read Italian incompetence in the bureaucracy of migration as a performative act with morally questionable outcomes. It is a performance in the sense that it is feigned or fictive, at least according to reports by both journalists and refugees alike, which convincingly suggest a wilful defiance on the part of state authorities. But it is also performative in the sense that it created new ways of being and acting. When migrants were intentionally left off the rosters of juridical recognition, disappeared by state bureaucracies without paper trails or fingerprints, their internationally protected status as rights-bearing asylum seekers turned into that of *clandestini* – undocumented migrants crossing borders illegally. Being made undocumented by state-sanctioned incompetence was both a blessing and a curse. On the one hand, undocumented refugees could live in the 'shadows' (Chavez 1992) and gain an otherwise impossible freedom of movement to travel out of Italy to the more desirable countries of Northern Europe. On the other hand, the enormous human and financial costs of that freedom were borne by refugees themselves, rather than by the liberal democratic countries on whose soil they were promised safety, as shown by the broader literature on refugees (Coutin 2000). The moral ambiguity of incompetence thus entrenched structural inequities, all the while providing a cover for both Italy's and Europe's humanitarian failures (Ticktin 2011).

DUBLIN, ITALY

The Mediterranean is the deadliest border in the world. Its most active migration path, which Interpol refers to as the Central Mediterranean Route, converges straight into Italy and, from there, disperses on to the rest of Europe. As the first port of entry into the EU for thousands of refugees each year, Italy is tasked with a double mission: to receive and process refugees, according to the Geneva Convention, and to secure European borders, according to EU law.

The cornerstone of European migration and asylum policies is the Dublin Treaty. Also known as the Dublin Convention, Dublin Regulation or just 'Dublin' colloquially, the treaty was first signed in 1990 and took effect in 1997. The Dublin Convention stipulates that the first country of arrival shall be the one responsible for processing refugees' asylum petitions. Because southern and eastern European member states are the only ones with

external EU borders, they are the only ones, according to Dublin, required to process asylum petitions. When Dublin was first created in the 1990s, the numbers of foreign migrants and refugees coming through the Mediterranean were so low that the agreement made sense (Carter 1997; Cole 1997); even border nations like Italy ratified it. The rule was designed to avoid ‘asylum shopping’ across Europe, and to establish a clear system to swiftly allocate responsibility for processing asylum petitions among European member states. As global migration patterns have changed drastically over the ensuing decades, however, there have been mounting critiques of the Dublin Regulation by border member states, such as Greece, Hungary and Italy (Cabot 2014).

Later amendments to the original treaty, referred to as Dublin Regulation II (2003) and Dublin Regulation III (2013), tried to fix some of the problems that Dublin had created. For instance, they granted exceptions for minors seeking family reunification in countries other than their first port of entry, they set a statute of limitation on a non-border country’s ability to ‘send back’ refugees to the first country of entry and they established an appeal process against such forced returns. Overall, however, the general principle of Dublin has remained unchanged since 1997: asylum petitions in Europe must be processed by the first country of entry.

To better enforce that principle, Dublin II established a Europe-wide fingerprint database known as EURODAC. All migrants are supposed to be fingerprinted upon first arrival, and their biometric record serves as definitive proof of their entry point. If undocumented migrants are later caught anywhere else in Europe, local authorities can access their electronically stored fingerprints in EURODAC and, on that basis, initiate return proceedings to the first country of entry, where migrants are then eligible to apply for asylum. Since 2003, it has been primarily thanks to EURODAC that Northern European countries have been able to send refugees back to southern and eastern EU states. Out of all EU member states with external borders, Italy is the country receiving the highest number of returnee petitions from Northern Europe (Fratzke 2015). The phenomenon has become so common that there is now even a word in Italian for migrants who had made it to Northern Europe, but who got caught and sent back to Italy: they are called *Dublinanti*. A grotesque present participle, *Dublinanti* might translate to something like ‘Dublinings’ in English. Legally, Italy is responsible for processing the asylum petitions of new arrivals as well as those of Dublinings, who are sent back to Italy from elsewhere in Europe.

At first sight, there is little question that the Dublin Regulation looks skewed in favour of Northern Europe. Refugee rights advocates have amply criticized it for unduly burdening asylum seekers. Given the vast discrepancies in the quality of asylum systems between poorer border member states

and wealthier northern ones, the requirement that refugees apply for asylum exclusively at their first port of entry means consigning them to longer detention periods, worse conditions and uncertain outcomes. Moreover, the policy of sending refugees back to the border country where they first entered can cause significant delays in the processing of asylum applications, as member states waste months fighting over who should be responsible for a particular asylum case.

Its supporters, however, argue that Dublin actually redresses historical inequities in the allocation of refugees among European nations. It is Northern Europe that has long had the most hospitable policies for foreign migrants and refugees, and that continues to host a larger share of refugees. By contrast, Italy did not even have an asylum law until 1990, in direct breach of the Geneva Convention.² It was only with the arrival of the first waves of foreign migrants from North Africa and Albania in the early 1990s that the country passed its first set of immigration reforms and created the possibility of asylum. Even so, the Italian asylum system and migration services more broadly have remained so labyrinthine and ineffective as to be essentially moot (Però 2007; Sorge 2021). Proponents of Dublin have suggested that the treaty helps ensure that countries with poorly developed asylum systems, such as Italy, do not abdicate their responsibility entirely.

Despite what the Dublin Regulation stipulates, what happens in practice on the ground is a different story altogether. In a report aptly titled *Not Adding Up*, Susan Fratzke (2015) shows that as of 2015 non-border nations like Germany continued to receive a share of refugees far higher than would be mathematically expected, and that Italy and other border nations have not, in fact, borne the brunt of asylum petitions. There are multiple possible explanations for these discrepancies. For instance, some migrants avoid triggering a match in the EURODAC database by burning off their fingerprints or by going underground to avoid detection. But in many cases, there has also been another reason that real-life numbers have not matched statistical estimates.

For a long time, rumour had it, Italian authorities would simply ‘forget’ to fingerprint migrants who landed on their shores. If they remembered, their computers would mysteriously break down before they had the chance to upload fingerprint records into EURODAC. The doors of detention centres might occasionally be left unlocked, accidentally, allowing migrants to escape to the north. The systematicity with which these practices took place would suggest that they could not merely be the result of individual officers’ decision-making. But whether these acts were intentional, and whether they were mandated by higher levels of government, could neither be confirmed nor denied. ‘We are in Italy’, after all, as locals recite whenever confronted with nonsense. What is certain is that for a long time Italian immigration

authorities failed to enforce the Dublin Regulation and thus enabled huge numbers of foreign migrants to cross over into other European countries.

The following story illustrates how incompetence served to facilitate the displacement of refugees from Italy to Northern Europe, and how the practice of incompetence was common knowledge among migrants and in broader Italian society.

INCOMPETENCE AS A PUBLIC SECRET

When Semir³ landed in Sicily in early 2014, Italian officials met the ship that had transported him and about a hundred others at the port of Trapani. They helped everyone onto the ground, checked their health status in the Red Cross tent at the port, then loaded everyone who was in stable physical condition onto a bus. The bus took them to a nearby migration ‘hub’, a recent Anglophone term in an ever-changing lexicon of migration that refers to a detention centre. Once inside, Semir and his fellow travellers were shown to the showers, lounge and dormitories. He barely had time for a warm meal before a military police agent working at the facility approached him and the couple of friends he had made on the boat, as they huddled together discussing what to do next.

‘You know, the door is not locked’, the officer allegedly told them. First, he said it in Italian, then he repeated the important part in English: ‘not locked’. His finger pointed to the exterior door of the facility.

Later that night, Semir and his friends walked right out the front door of the Sicilian hub where they were detained. Nobody had taken their fingerprints up to that point – not at the docks, not on the bus, not even when they were processed into the hub. Loitering right outside the detention centre, a bunch of hustlers seemed to be expecting them. Semir recognized one of them. He was a fellow Eritrean man who was also on the boat, but as a smuggler. The others looked West African, and one probably North African, Semir said. He and his friends went up to the Eritrean man first. But because one of Semir’s friends was Nigerian, the Eritrean smuggler directed him to go talk to the West African smuggler instead. There is a strict, if seldom acknowledged, ethnic protocol to human trafficking. Then they discussed next steps.

‘Where do you need to go?’ The Eritrean man asked in Tigrinya.

‘Germany’, Semir replied.

‘Do you have relatives in Italy?’

‘Yes, my aunt in Bologna.’

The Eritrean smuggler pulled out his cell phone and had Semir dial his aunt in Bologna. Semir told her that he was OK and that he had landed in Italy,

then the smuggler took the phone back. He told Semir's aunt that he could put Semir on a bus to Bologna, and that he would arrive the next day at the central bus station. All she had to do was wire 200 euros for the bus ticket and the phone call. She promised the smuggler that she would go to Western Union first thing in the morning. As soon as the money transfer went through, he kept his word and put Semir on a fifteen-hour bus from Sicily to northern Italy.

I met Semir during the short week he spent in my hometown, Bologna, on his way to Germany. There was a funeral that Sunday for an elderly Eritrean Christian woman who had worked for many years as a domestic worker around town. Many of us in the Eritrean community of my childhood knew her and went to pay our respects at the home of one of her daughters – a basement studio apartment on the outskirts of town, in a decrepit building where many migrants rented single rooms that looked like cells with shared bathrooms in the hallways.

'Ben arrivato', I told Semir as we were introduced. He was wearing a blue tracksuit and a white t-shirt like the majority of migrant men who arrive in Italy by sea. I always wondered if the clothes were standard issue at the hubs, or just cheap, comfortable and easy to find.

'Welcome', I repeated in English when I realized he did not understand my Italian. His aunt stayed close by his side the whole afternoon, as we sat drinking Ethiopian coffee from a clay pot and eating popcorn, as one does, even at a funeral. It was his aunt who told me Semir's story. Sitting next to him, she would sometimes ask him to clarify a certain point in Tigrinya, then she would turn back to me and continue the story in Italian. I understand very basic Tigrinya but I cannot speak it, and she wanted me to know his story in more detail than I could grasp.

'How did Semir get out of the migration hub?' I asked her. She repeated the question to him, then translated back how the police officer had approached him and his friends. She said that Semir said that he could not understand what the officer was telling them until he said 'not locked' in English. And since his English was also quite tentative, he had looked to his Eritrean friend for confirmation. The friend repeated back in Tigrinya that the police officer did in fact just say that the door was unlocked. The Nigerian friend who was with them and spoke English nodded that he heard it too. After lights out, the three of them opened the door that nobody was guarding and walked right out. Semir kept shrugging as his aunt talked. 'Did they take your fingerprints?' I asked Semir directly half in Italian and half in English, holding one palm up, and pointing to each fingertip with the index finger of my other hand. 'No', Semir shook his head. 'They don't fingerprint most of them', his aunt added.

A few days after the funeral, Semir continued his northbound journey to Germany. He had an appointment time and place set with the smuggler who had called his aunt from his cell phone outside the Sicilian hub. His aunt accompanied him to the meeting place. There, waiting inside a car, he found the cell phone man and another smuggler, as well as a couple of other migrants. Like the others, Semir had prepaid his trip all the way to the final destination before even boarding the boat in Libya (that is, before knowing if he would survive the sea). He was part of a cohort headed to Germany. Taking advantage of the lack of checkpoints between EU member states, smugglers and migrants crossed the border into Austria and then Germany by car. Once he arrived in Bonn, Semir surrendered himself to local authorities and applied for asylum.

Semir's fingerprints yielded no results in the EURODAC database, and he was well schooled (both by smugglers and by his aunt) to deny under all circumstances having visited any other EU country prior to arrival. Unable to prove otherwise, German authorities had no choice but to take charge of Semir's asylum petition, assuming Germany – which has no borders with non-European countries – to be his first port of entry into the EU, in accordance with the fantastic geography enacted by the Dublin Regulation.

I retell Semir's story with permission because it is representative of so many others I witnessed or heard in the migrant community of my childhood home. But Semir's voyage – one of the success stories – is not the central topic of this chapter. Europe is my focus – that 'messy' (Loftsdóttir et al. 2018) and ideological 'master symbol' (Goddard et al. 1994), whose paradoxes of liberalism, Occidentalism and modernity are built on the construction of whiteness (Mahmud 2014).

Italy's systematic failure to fingerprint and detain refugees like Semir was common knowledge in the Eritrean community of my upbringing. As Semir's aunt stated, Italian officers were known for leaving doors unlocked, for forgetting to enter fingerprints into databases and for their overall unbelievable incompetence in enforcing EU regulations. But it was not just immigrant communities who partook of this knowledge. Italy's incompetence in matters of migration was arguably a 'public secret' – that is, a commonly known truth that goes unspoken (Taussig 1999). Playing on national self-stereotypes of both cunningness and inefficiency, incompetence was an example of what Michael Herzfeld (2005) has called 'cultural intimacy'. Turning a blind eye became a familiar coping strategy among Italians vexed by migratory flows that they were unprepared and unwilling to handle.

In the summer of 2015, during the Syrian refugee crisis, it became apparent that incompetence as a strategy to handle immigration was, in fact, a public secret in Italy. In the aftermath of the war in Syria, thousands of refugees arrived at the doorstep of Europe from the east, through Greece and

Hungary. Unlike African migrants who have died along the Central Mediterranean Route for decades and with comparatively little outrage, the plight of Syrians captured European hearts. Much of the world watched daily images of their drownings, protests and despair. An especially poignant scene took place at the Budapest train station. Over three thousand refugees had found themselves stranded in Hungary, after the country closed its border with Austria to enforce the Dublin Regulation. Images of Syrian families sleeping on the train station floors or desperately clambering onto overcrowded trains hoping to go to Austria or Germany circulated in news media across the world (*Al Jazeera* 2015).

Watching the Budapest crisis from Italy that late summer, I was struck by the tone of everyday conversations. Journalists and ordinary people seemed perplexed not so much by the plight of Syrian refugees (an unfortunately habitual sight in border nations) but rather by Hungary's self-defeating response to it. The Eastern European state closed its own border and kept refugees *inside* to enforce EU rules, seemingly against its own best interests. A worker in an Italian immigration services cooperative that I visited told me, 'It's such a strange thing. Don't they [Hungarians] realize they can let them go?' When Hungary did in fact open the border in September and allowed Syrians to cross into Austria, the general attitude I heard among my interlocutors in Italy was one of amused sympathy.

Hungary's belated decision to open the border, however, was not an act of defiance or incompetence. It came as a result of diplomatic efforts among various EU member states to accept quotas of Syrian refugees – a humanitarian measure rarely if ever applied to refugees coming from the south. Germany, one of the most faithful proponents of Dublin, invoked the discretionary clause built into the treaty that allows a non-border state to take charge of a refugee's petition voluntarily. In late summer 2015, Germany thus suspended the Dublin accord and accepted a large share of Syrian refugees, who travelled to Germany from Hungary and through Austria on foot, in convoys and by train, no visas necessary. The refugees were escorted by NGOs and volunteer groups, and they arrived in Germany famously carrying signs with photos of Chancellor Angela Merkel, who turned this outcome into a political victory and even gained the nickname of 'Mama Merkel' (*Guardian* 2015).

The irony of Germany's complete policy reversal in the case of Syrians, but not in the case of Eritreans and other sub-Saharan African refugees who land in Italy through the Central Mediterranean Route, was not lost on Italian audiences and politicians (Buscemi 2015). In the Eritrean community, I heard more than once a cynical reading of Germany's actions as favouring the 'good' refugees – highly educated, skilled, middle-class Syrians – over the darker, poorer, uneducated ones who hail from Africa. As we saw again

in 2022 with Ukrainian refugees, EU nations are undoubtedly able and willing to provide safe pathways for refugees to travel legally across European soil, and to distribute them across the EU, when they wish to do so. But Syrians and Ukrainians have been exceptions, rather than the rule. Instead of ushering in a new era of common asylum policies, the suspension of Dublin in those selected cases was merely temporary. As of 2023, when a new pact to revise certain aspects of Dublin and to introduce quotas has recently been approved by EU member states, the principle of responsibility assigned to the first country of entry still stands (Council of the EU 2023).

The reactions of ordinary Italians to the Budapest crisis of 2015 illustrate both the shared common sense of using incompetence as resistance against EU policies ('don't they realize they can let them go?') and also the racial hierarchies that underpin migration discourses more broadly. Around the same time that Germany suspended the Dublin Regulation to accept Syrian refugees, the EU came after Italy for not keeping *other* refugees within its borders. Too many were showing up inexplicably in non-border nations, just as Semir did, though their fingerprints were not in EURODAC, and geography suggested they must have travelled through Italy. The EU started asking questions. Could the country of *la dolce vita* really be that incompetent? By December 2015, the EU was no longer buying it. After months of threatening memos and unsuccessful talks, and shortly after the Budapest crisis, the EU Commission initiated formal inquiry proceedings against Italy. The public secret of incompetence was spoken out loud, as the EU accused Italy of willfully violating the Dublin Regulation.

The inquiry, however, was never completed. Faced with the prospect of severe sanctions, Italy's bureaucracy of migration showed miraculous improvements. By December 2016, barely a year after the inquiry began, Italy's fingerprinting numbers increased so drastically that the EU dismissed its proceedings altogether (Custodero 2016). Now in full compliance with the Dublin Regulation, and despite protests of refugee rights advocacy groups, Italy started diligently and competently fingerprinting and detaining everybody.

CONCLUSION: RESISTANCE, SOLIDARITY AND COMPLICITY

Io non c'ero e se c'ero dormivo.

(I wasn't there, and if I was there I was asleep).

—Italian saying

Both in English and in Italian, the word *competence* has a double meaning. It refers to having the ability or skills to do something well and, also, to the

legal or administrative authority to do so, as in jurisdictional competence. By contrast, the lack of competence, or *incompetence*, refers to one's inadequacy in fulfilling tasks or to the lack of authority or qualifications to do so. In matters of migration, Italy performs incompetence in both senses: by being bad at the job and, also, by claiming that it is not its job to do.

In this chapter, I have explored Italy's systematic incompetence in migration matters as the not-so-secret strategy of a weak state whose interests do not align with EU regulations. I call it a strategy, rather than a tactic, because its primary and immediate effects harmed the most vulnerable people: refugees. By using incompetence as a form of national protest against seemingly unfair EU regulations, Italy positioned itself as the 'underdog' of Europe. A country that lacks the diplomatic power to push back, Italy pushed back instead through the weak weapon of sabotage – that is, a refusal to do its job. Incompetence has therefore been a strategic resistance of sorts. But when a liberal democratic country abdicates its custodial responsibility and releases refugees to the mercy of human traffickers on its own soil, one must ask, what kind of resistance is this?

To be clear, the refusal to comply with the Dublin accord brought together all sides of the Italian political spectrum. For the centrist Right and neofascist groups, the critique of Dublin is rooted in familiar xenophobic tropes depicting migrants and refugees alike as undocumented invaders who should either 'stay in their own homes' or go elsewhere in Europe (Holmes 2000). On the Left, a humanistic critique of incarceration and criminalization, coupled with a recognition that Italy cannot even provide for its own citizens (Muehlebach 2012), supports migrants' and refugees' freedom of movement to their desired European destinations. In an imperfect world, therefore, leaving the doors unlocked seemed like a morally and politically acceptable compromise.

But once the public secret of incompetence was exposed publicly, and the EU began formal inquiry proceedings, that compromise was no longer tenable. As soon as Europe cracked down on Italy, Italy cracked down on refugees – fingerprinted them, detained them and confined them to its seemingly never-ending and highly inefficient bureaucratic process of asylum seeking, which rarely works out in favour of the applicant. While Italy's numbers looked much better to the EU, the situation on the ground became, if possible, even worse. Since 2016, refugees whose asylum petitions are routinely denied, or those who cannot bear the living conditions of detention centres for months or years while waiting for their petitions to be adjudicated, have found ways to escape, undocumented, living stuck in a 'documentation regime' that leaves most feeling as though there is no future for them (Tuckett 2018). That is, they have ended up back at square one. Only this time they have been subjected to long periods of detention,

trauma and family separation, before winding up in the hands of traffickers or local Italian organized crime. Some stay in Italy, but many more cross the border into the rest of Europe, where they burn their fingerprints to avoid being *Dublined* back. The lucky ones make it to the promised land of welfare-based asylum systems, just as they did before, where they gain documented status by pretending they arrived there by magical apparition. The rest join the wide swaths of surplus labour working in the illegal economies that sustain Europe's wealth (Krause 2018). As Vanessa Grotti and Marc Brightman write in this very volume, the 'social death' that refugees experience is slow and drawn out; it may start in the homelands they are forced to escape, but it is not completed until they narrowly survive drowning in the Mediterranean only to be sunk in the abyss of Europe's racial regime of belonging.

To say that the system is broken would be to offer an alibi to the European countries that have established and then reinstated the Dublin Regulation three times in as many decades, all the while making selective exceptions to its core tenets for white or light-skinned refugees. Besides, the European migration system is not in fact broken, as demonstrated by the extraordinary promptness and humanity with which it welcomed Ukrainian refugees in 2022. It is, however, a racial system that exempts white bodies from being subjected to it.⁴ Written in the very text of the Dublin Regulation is the ability to suspend it. In other words, violating the Dublin Treaty is allowed by the treaty itself. That prerogative to break or suspend the law, however, belongs only to non-border EU states of Northern Europe. Refugees do not have the legal option to break the law, and neither do the border nations of Southern and Eastern Europe, which cannot, legally, refuse to comply. Italy may therefore perform incompetence but, as I have argued elsewhere, the EU also performs liberal humanism as an alibi (Mahmud 2016, 2018). It masks as modernist biopolitics, regulations and efficiency what are in fact racist necropolitics (Agamben 1998; Mbembe 2003).

Some might say that we are already living in a version of Hell where the migration police are German and the bulk of European migration is run by Italians. Italy's handling of migration from the Mediterranean has certainly become a litmus test of the country's modernity and belonging in the EU. But different and competing national stereotypes have played out through these political dramas. On the one hand, enduring Orientalist tropes about Italy's backwardness made Northern Europe buy its performance of incompetence for longer than reasonable (until, eventually, it stopped being plausible altogether). On the other hand, Italians' own self-stereotypes as *brava gente* (good people) have provided a justification for the nefarious consequences that the country's strategy of incompetence has had on the lives of Black and brown refugees. That self-stereotype of Italians as good people who do not mean to do evil dates back to the Second World War. It has served to elide,

at least in national memory, the genocidal racial crimes of Italian fascism and its colonial enterprise against Jewish citizens and Black colonial subjects (Ben-Ghiat and Fuller 2005; Del Boca 2003). It is hard not to hear echoes of that unfortunately common ‘Hitler-made-us-do-it’ approach to historiography in present-day political discourses that blame the EU for Italy’s (in)action, and that absolve the good people of Italy of the ongoing genocide of Black and brown people at its shores (Merrill 2018).

But while Italian state authorities, institutions and politicians blame the EU for the refugee crisis, deploying incompetence as both resistance against Europe and alibi for failing refugees, ordinary citizens have shown countless examples of effective and unambiguous solidarity. From ship captains disobeying orders and rescuing refugees at sea to volunteers driving migrants safely across Italy to the next border, cases abound of NGOs and regular people breaking the law and taking on the serious criminal risks that come with the moral stance of solidarity. When Black lives are made illegal by a system that offers no legal pathway to Europe, no viable pathway to asylum in the first country of entry and no realistic hope for future integration, perhaps the only morally tenable solution is to do exactly what the EU does for white and light-skinned refugees: break the law. That is, to become complicit – sharing risks and vulnerabilities – with those we purport to aid.

From this Hell of migration, it is hard to envision what state-sponsored complicity with refugees could look like. For a long time, the question has been whether it is better (kinder, more just) for Italian state officials to leave the door unlocked and release refugees to human traffickers, or to enforce the law and confine them to a harsh and dysfunctional system with little hope of ever ‘making it’. But this is a false choice rooted in an inhumane and self-interested European view of Black and brown lives as disposable. To be sure, there are better options, and the acts of defiance demonstrated by resisters both in Italy and elsewhere are lessons in imagination about what alternative, feasible and just solutions could look like. Elizabeth Krause’s chapter in this volume builds a critique of racist responses to migration in Italy on Gramsci’s notion that ‘since all men are “political beings”, all are also “legislators”’ (Gramsci 1971: 265). Like Gramsci, Krause recognizes that not all humans are in the same position of power to establish and enforce new norms. Against the coercive force of the state (in this case both the EU and the Italian state), the role of protest is to increase the odds that alternative and counter-hegemonic norms may one day become social rules.

In the mode of protest, many NGOs have called for ‘humanitarian corridors’ – legal pathways to fly refugees safely and directly from their country of origin to a host country in Europe, visa in hand, bypassing the graveyard that is the Mediterranean. If nothing else, Italy as a sovereign nation could allow migrants to fly into its airports, rather than chancing their lives

at sea, just as Germany allowed Syrians to enter the country by train, and also as Italy and the rest of Western Europe did for Ukrainians. The Italian navy could go back to rescuing refugees in international waters, as they did for an entire year under the Mare Nostrum operation until funding ran out (Albahari 2015). Rather than feigning incompetence and releasing refugees to the ruthless business of human trafficking, Italian officials could charter buses from detention centres all the way to the borders with France, Switzerland and Austria. Or perhaps, if we could let ourselves dream as big as some anarchist movements in Italy do, complicity could mean dismantling Fortress Europe altogether (Brexit reminded us that it is in fact possible to leave) and replacing it with a borderless Mediterranean region instead (Ben-Yehoyada 2017; Mahmud 2018). Complicity is the solidarity we need when human beings are made illegal. And if it sounds far-fetched to imagine that state institutions could ever defy the law in such a way, that the Italian police could break the law in such a way, that European nations could break their own laws in such a way, then just remember what they did when refugees were white.

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NOTES

1. Germany borders Switzerland, which is not a member of the EU. However, Switzerland is a signatory of the Dublin Regulation, and I therefore do not consider the German–Swiss border to be an external European border for the purpose of this discussion.
2. Before 1990, Italy limited the attribution of refugee status to European citizens. Although it had signed the UN Convention of 1951 regarding international refugees, Italy had not signed the Convention's Protocol in 1967, which extended the coverage of refugee status to non-Europeans (Papademetriou and Hamilton 1996: 48).
3. All names and identifying information have been changed.
4. Although Islamophobia may certainly be a contributing factor to Europe's

discriminatory application of asylum policies, my argument is that this is primarily a racial (and, specifically, anti-Black) system of values. Suffice it to remember that many Eritrean and other sub-Saharan refugees are Christian, whereas the majority of Syrian refugees in the 2015 case I discussed above were Muslim.

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