



EUROPEAN ADMINISTRATIVE GOVERNANCE

Migrant Smuggling and the Criminalisation of Migration in the EU

Policies and Practices from Italy

Federico Alagna



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European Administrative Governance

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To my parents

FOREWORD

Migrant smuggling lies at the top of the EU policy debates. Hardly a day goes by without politicians making reference to the smuggling business model, the transnational criminal groups that profit from it or the violence they deploy. Detailed accounts of exploitation and abuse perpetrated by alleged smugglers are outlined in countless reports and discussed *ad nauseam* at high-level meetings, often accompanied by calls to fight irregular migration and to double down on the efforts to keep people in place.

Sensationalistic stories of African, Arab and Asian smugglers taking over the migration pathway with their evil trade also dominate the media landscape. Accounts of primitive tribes, savage criminal networks and obscure ethnic mafias operating the smuggling market without restraint across North Africa and beyond drive most journalistic coverage on migration in Europe, in the process generating public support for border enforcement and migration control and overall generalised hatred towards people on the move.

Against this landscape, it may come as a surprise that the empirical research related to migrant smuggling and its actors is still scant. The graphic, racialised and racist depictions of smuggling, we have grown accustomed to, are most often the consequence of the vitriol present in the political debate. They are neither the reflection of the mounting body of evidence concerning the facilitation of irregular migration into the EU nor of the pressing legal issues arising from its criminalisation.

Over the last decade, there has been a series of efforts to empirically inform the EU smuggling debate. Initially, this work focused on challenging the state-centric claims surrounding smugglers and tried to situate

people's individual and collective efforts to reach destinations abroad as responses to the lack of equally accessible pathways to mobility. To this day, authors continue to delve into the interactions that emerge between people on the move and those behind their journeys and repeatedly raise concerns over the criminalisation of solidarity, as humanitarian efforts across the Mediterranean continue to be systematically labelled as smuggling.

One of the main contributions of this body of research is the way it has increasingly forced us to look *beyond* the smuggler, the smuggling business model and the taken-for-granted migration routes. More and more researchers are drawing us into lesser examined places—distant border crossings, smaller ports along remote coastal towns, onboard of boats and 'rescue' ships—where the actual decisions leading to smuggling indictments are made: away from the capitals and their policy debates; the spaces where the global demand to charge and convict people for migrant smuggling materialises.

It is precisely in the context of the growing demand to prosecute smuggling that Federico Alagna's work on smuggling arrives. His work moves us beyond the focus on smugglers alone to examine the implications of the highly discretionary and life-altering decisions made against people on the move charged with smuggling in legal jurisdictions in Italy. Through case-law data analysis and interviews, Alagna brings us into the prosecutorial space, which remains vastly unseen in the smuggling literature, to shed light on smuggling's manufacturing. In the pages that follow, through detailed sociolegal analysis, come to light the violations of international agreements, the consistent practice of indicting and apprehending young men for their role as captains only to be eventually freed to completely uncertain futures; the obtention of false statements and accusations in exchange for the hope of international protection—one that hardly ever materialises—all part of the EU's efforts to dismantle smuggling. And it becomes apparent how and why all this reflects on the definition of an even harsher policy framework across the European Union.

Amid the hyper-policing of people on the move, the expansion of the global counter-smuggling regime and its devastating human rights consequences, Alagna's book becomes an essential, imperative read.

El Paso, TX, USA
2024

Gabriella Sanchez

PREFACE

Europe did not cause this calamity. [...] We are going after the smugglers, who are the real culprits — criminals, in fact — and we have already sent an important message about our readiness to act.

The tragic shipwreck a few weeks ago, in which many people lost their lives, was yet another call for action. We need to crack down on criminal networks of smugglers and traffickers. They are exploiting human despair, and we have to break their reckless business model.

The two quotes that open this book are very similar. In fact, they were uttered by two EU policy-makers in very similar situations, namely in the aftermath of two massive shipwrecks in the Mediterranean Sea in which hundreds of people were killed. However, these two statements were made eight years apart: the first quote was taken from a parliamentary speech by Donald Tusk, then president of the European Council, on 29 April 2015, whereas the second one was pronounced by Ursula von der Leyen, President of the European Commission, on 16 July 2023, on the occasion of the signing of a Memorandum of Understanding between the EU and Tunisia.

A lot of time passed, and much happened, between these two speeches: new elections took place and new policy-makers took up their positions, new indignant speeches were made and new policy proposals were issued, and above all more people moved across the Mediterranean and more shipwrecks took place. Indeed, more than 25,000 people presumably lost their lives in the Mediterranean Sea between 2015 and 2023, according to

the International Organization for Migration. In spite of all that was *new*, however, the two quotes plainly demonstrate the fact that little seems to have really changed.

In fact, since 2013, migrant smuggling has constantly topped the political agenda and a number of proposals, policies and operations have been developed in this regard. However, this approach has failed to dismantle any criminal network (allegedly) involved in smuggling, whereas people have continued to use unauthorised and dangerous migration routes, risking (and often losing) their lives.

The idea behind this book first emerged as a way to understand and explain this inherent and only ostensible contradiction. The extreme dynamism of the policy field in contrast to the policy inertia and outcome continuity that it has displayed strongly reminded me of a famous quote from the Sicilian novel *The Leopard* by Giuseppe Tomasi di Lampedusa: ‘If we want everything to stay as it is, everything has to change’.

Migrant Smuggling and the Criminalisation of Migration in the EU, therefore, represents an attempt to make sense of this subtle complexity, which is not only intrinsic to the migration policy field but also further enhanced by the peculiarity of the phenomenon that it aims to target—namely migrant smuggling—and by the political connotations associated with it. The political dimension of the concept of smuggling—aside from any empirical observation or legal definition—is indeed crucial to this story, and in both the EU and the Global North more broadly the fight against it has often become a fight against cross-border mobility and even against international protection. All of these aspects, which are extensively considered in this book, heavily inspired my interest as a scholar and my commitment as an activist. The academic relevance of this understudied phenomenon has indeed been paralleled by the civic and political commitment to cast light on the unclear political dynamics that produce dire consequences for the lives of thousands of people, in the context of an extremely salient phenomenon.

This twofold approach is reflected in the bottom-up method used in this research, which starts by considering the implementation of anti-smuggling policies on the ground and only subsequently moves on to focus on policy-making dynamics *stricto sensu*. While there are important analytical grounds that justify such an approach and which will be duly discussed, this choice is also civically and politically motivated. Specifically, it emphasises the fact that the most notable (and worrying) aspects of migrant smuggling and migration policies are the effects that they

generate on people on the move and those who help them. Any attempt at understanding how these policies are designed and work that intends to be both societally and academically meaningful must start from this premise.

This awareness entails some further reflections in terms of positionality, given that I am a white, European man researching a policy field that produces its most significant and dire consequences on racialised non-Europeans. I have tried to constantly bear these aspects in mind throughout the various phases that led to the production of this book, from data collection and interviews to the process of analysis and the writing of each individual chapter.

Overall, I believe that all of these reflections and elements could be encapsulated in the desire that this book will be of interest to both academia and wider society alike. Indeed, even though the primary intention of the work is to contribute to the scholarly debate on this topic—given that it is the product of extensive academic research—I cannot pretend that there is not a further ambition in terms of impact that it might have. It is my hope, therefore, that not only fellow researchers and students, but also people who are to a greater or lesser extent directly concerned with the design, implementation and effects of migrant smuggling and migration policy, might deem the analysis and the findings of this book interesting, relevant and meaningful to their activities and, above all, to their lives.

Florence/Messina, Italy

Federico Alagna

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This research was jointly funded by the Department of Political and Social Sciences at the University of Bologna and the Nijmegen School of Management at Radboud University, through a PhD scholarship from October 2016 to September 2019. The author also benefitted from a *Marco Polo Scholarship* for the external mobility of PhD researchers, granted by the University of Bologna, from February to July 2019. The final work for the preparation of this book, which took place from September 2023 to January 2024, was funded through a research fellowship from the Faculty of Political and Social Sciences at the *Scuola Normale Superiore*.

The author has no competing interests to declare that are relevant to the content of this book. Informed consent has been obtained by the individuals that were interviewed in the context of this study. Interviews were conducted and processed in accordance with the legal and ethical standards of scholarly research applicable in Italy and the Netherlands.

Some of the data that support the findings of this study are available on public domain resources. Access to the data that are not publicly available can be requested from the author. However, such requests may be refused due to privacy, confidentiality or ethical restrictions.

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This book would not exist without the support and contribution of a number of people. Given that this is a reworked version of my PhD dissertation, I cannot but start by thanking my two supervisors and two co-supervisors, who oversaw my research from 2016 to 2020. I first met Daniela Piana in 2011, and it must be said that from the very start she was more convinced than I was about the possibility of my starting a PhD; she did not stop trying to convince me and eventually, after a number of years, I ended up agreeing with her. When my PhD adventure began, she continued to support and guide me in Bologna and helped me to realise that what I was writing actually made sense, even when I had serious doubts in this regard. I subsequently met Huib Ernste, Martin van der Velde and Joris Schapendonk in Nijmegen, and they all provided an invaluable contribution to my research, first and foremost by way of broadening the horizons of my approach beyond the boundaries of political science. I owe them a great deal in terms of what would become my bottom-up approach as well as the attention that I pay to what happens on the ground and to certain actors that are often neglected in the analysis of policy-making. I am deeply grateful to Daniela, Huib, Martin and Joris for their patience and constant presence throughout those years, something that I also truly appreciate from a personal point of view.

The comments and suggestions provided by my doctoral defence committee have also been very important in helping me to refine my arguments over the following years. I am very thankful to all of the committee members, and to Sergio Carrera and Tineke Strik in particular, as they also

acted as external reviewers for my thesis, providing extensive, accurate and valuable comments prior to my defence.

Quite a number of years have passed since my doctoral defence, during which I have had the opportunity to continue my work as a researcher. At the *Scuola Normale Superiore*, I have had the enormous privilege to further expand my approach by delving into the world of social movement studies—which has had a decisive impact on the reworking of my dissertation. My interaction with Donatella della Porta and my daily work with Chiara Milan have been key in this respect, and I wish to truly thank them both.

During the many years spent working on what would eventually become this book, I have had the pleasure and privilege of meeting a number of very important people. I would like to thank all the colleagues, friends and administrative staff at the Department of Political and Social Sciences in Bologna, the Department of Geography, Planning and Environment in Nijmegen and the Faculty of Political and Social Sciences at the SNS in Florence. I have appreciated not only the very interesting exchanges I have had with them and the support they have offered me, but most importantly the very enjoyable time we have spent together. Not only have they been extremely important and inspiring colleagues, but they have also been very important people to me. There have also been many of them, which is the reason why I would prefer not to mention any of them individually—also because I am sure that I would forget someone and, since *scripta manent*, I would rather avoid such a *faux pas*. The same goes for all of those colleagues based at other institutions who have provided important inputs in the context of various exchanges at conferences, in the form of private communication or as journal reviewers: no names need to be mentioned, but I would like to express my immense gratitude.

Thank you to Gabriella Sanchez, for not only writing a generous foreword to this book but also for the great exchanges we have had and for her inspiring work, which has been a key point of reference for me since I first approached the topic of migrant smuggling a few years ago.

Much of the data used in this research was made available by the many people, institutions and organisations that helped me in data collection, and who also trusted me enough to share their points of view, expertise and understanding of specific issues. Part of this trust was based on the assurance of anonymity that they were given, especially in the case of the interviewees. This means that I cannot therefore name any of them, but I would like to express my deep gratitude to all of them.

I would like to thank Alessio Ghirlanda for his linguistic advice and Emmet Marron for his careful proofreading, which I hope has helped me to improve the overall fluency of the text.

Grazie, of course, also to my family—with a special thanks to you, Serena—and my friends, from Messina, Bologna, Nijmegen, Florence and anywhere else in the world. They have supported and helped me along this path as much as in all the others that I have walked along beside them in my life. It is a gratitude that relates to much more than the support provided during the simple writing of this book; however, given the fact that it is always best to make such things clear, I will take the opportunity here to express my sincere thanks.

Some last words of gratitude must also go to all of those people and would-be friends that I met in 2014, when they finally disembarked in Messina having passed through the Sahara, Libya and the Mediterranean Sea. My commitment as a migration activist and my work as a migration scholar have been inspired by the privilege that I had at a certain point of my life of meeting them: people who, in spite of everything stacked against them (including many things that are discussed in this book), were able to make it. Even more so, it has also been inspired by the dreadful and out-raging thoughts of all those who did not.

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- Alagna, F. (2024). From smuggled migrants to ‘alleged smugglers’: Empirical evidence and policy perspectives on the criminalization of people on the move in Italy. *International Migration*, 62(2), 215–231. <https://doi.org/10.1111/imig.13242> [© 2024 International Organization for Migration]
- Alagna, F. (2024). The continuation of criminalization by other means: The role of judicial agency in the Italian policing of humanitarian assistance at sea. *Mediterranean Politics*, 29(2), 235–259. <https://doi.org/10.1080/13629395.2022.2135072> [© 2022 Informa UK Limited, trading as Taylor & Francis Group]

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ABOUT THE AUTHOR

Federico Alagna is a Postdoctoral Research Fellow in Political Science and Political Sociology in the Faculty of Political and Social Sciences at the *Scuola Normale Superiore* and Adjunct Professor of Political Science at the University of Bologna. He obtained his PhD in 2020 from the University of Bologna and Radboud University. Federico's research focuses on the politics of migration in the EU and Italy, with specific reference to the migrant smuggling policy regime, the role of civil society actors in the production of migration policies from below, the criminalisation of people on the move and solidarity initiatives. He has contributed to a number of edited books and has published in peer-reviewed scholarly journals such as the *European Journal on Criminal Policy and Research*, *Geopolitics*, *Journal of European Integration*, *International Migration*, *Mediterranean Politics* and *The Annals of the American Academy of Political Science*. Federico has delivered lectures and seminars in several universities and research institutions, including the European University Institute, FLACSO Ecuador, Humboldt University, Lisbon University Institute, New York University, the University of Tours and Utrecht University. He is a political activist in the fields of migration and municipalism. He has published several non-academic contributions on such issues in Italian and European news outlets, as well as being invited to numerous international meetings and conferences on these topics. Federico has also previously served as Deputy-Mayor for Culture and Public Education of the City of Messina, Sicily.

ABBREVIATIONS

AFSJ	Area of Freedom, Security and Justice
ALDE	Alliance of Liberals and Democrats for Europe
ANCI	National Association of the Italian Municipalities (<i>Associazione Nazionale Comuni Italiani</i>)
BUDG	European Parliament Committee on Budgets
CJEU	Court of Justice of the European Union
CoR	Committee of the Regions
CSDP	Common Security and Defence Policy
CSO	Civil society organisation
DDA	District Anti-mafia Prosecutor's Offices (<i>Direzione Distrettuale Antimafia</i>)
DNAA	National Anti-mafia and Anti-terrorism Prosecutor's Office (<i>Direzione Nazionale Antimafia e Antiterrorismo</i>)
ECR	European Conservatives and Reformists
EFDD	Europe of Freedom and Direct Democracy
ENF	Europe of Nations and Freedom Group
EPP	European People's Party
EPRS	European Parliament Research Service
EU	European Union
FdI	Fratelli d'Italia (<i>Italian party, affiliated to ECR</i>)
FI	Forza Italia (<i>Italian party, affiliated to EPP</i>)
FRA	European Union Agency for Fundamental Rights
(Greens/)/EFA	(Greens/)/European Free Alliance
GUE-NGL	European United Left/Nordic Green Left
JHA	Justice and Home Affairs
ID	Identity and Democracy
IOM	International Organization for Migrations

LeU	Liberi e Uguali (<i>Italian party, affiliated to S&D and to GUE-NGL</i>)
LIBE	European Parliament Committee on Civil Liberties, Justice and Home Affairs
MEP	Member of the European Parliament
MLG	Multi-level governance
MOAS	Migrant Offshore Aid Station
MP	Member of Parliament
MRCC	Maritime Rescue Coordination Centre
MS	Member State
MSF	Médecins Sans Frontières
MSH	Mediterranea Saving Humans
M5S	Movimento 5 Stelle (<i>Italian party, affiliated to EFDD</i>)
NGO	Non-governmental organisation
NI	Non-attached members (<i>European Parliament</i>)
PD	Partito Democratico (<i>Italian party, affiliated to S&D</i>)
PES	Party of European Socialists
POS	Place of Safety
REFIT	Regulatory Fitness and Performance Programme
SAR	Search and Rescue
S&D	Progressive Alliance of Socialists and Democrats
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TUI	Consolidated Immigration Act (<i>Testo Unico sull'immigrazione</i>)
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nations Office on Drugs and Crime

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