

GLOBAL MIGRATION
RESEARCH PAPER
N°12 | 2015

Once within the Border: Taking Care of How We Care

Italy's protection system for unaccompanied and separated foreign minors

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The Global Migration Research Paper Series is published by the Global Migration Centre (GMC).

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ABSTRACT

Legal protection for minors regardless their status and nationality is available in international, European and national law. However, in the case of unaccompanied and separated children (UASC) the available legal provisions do not effectively translate into accessible protection and care. The first chapter analyses the institutionalization of the UASC category itself and the potential conflicting representations attached to it. Chapter II provides an overview of the international, European and Italian legal frameworks. Chapter III interrogates the characteristics and weaknesses of the Italian reception and protection system for UASC. Drawing from the findings, the final chapter attempts to interpret the incoherence between rhetoric and practice. Although Italy adheres to universal standards of child protection, the inability to develop holistic interpretations of principles such as the best interest of the child and the right to participation inhibit adequate practices of implementation. Generating meaningful and coherent policies for UASC requires the simultaneous reconceptualization of childhood and migration.

Key Words: Child mobility, migration, temporal dimension of mobility, childhood, child rights, agency, participation, the rhetoric of protection

ACKNOWLEDGEMENTS

I would like to express my deepest sense of gratitude to my supervisor Dr. Alessandro Monsutti who offered precious advice and encouragement throughout the course of the thesis. I am also very thankful to Professor Vincent Chetail for the assistance.

Special thanks to Amr, Evazali and Seyd who decided to share with us their stories and their perspectives. I am very thankful to Roberto Bertolino, Marco Cappuccino, Monia Giovannetti, Serena Matarese, Stefania Maselli, Micheal Montgomery, Stefano Scarpelli, Francesco Vacchiano, Nazzarena Zorzella who with their time and precious insights made this thesis possible. My gratitude also to Professor Alessia di Pascale who first stimulated my interest in the topic. I take this opportunity to express a profound gratitude also to Daniel Norfolk for his continuous support.

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INTRODUCTION

Review of the literature on child mobility

In the last two decades international migration research has increased considerably, reflecting the variety of personal circumstances and social arrangements which play a role in the complex patterns of international and internal migration.¹ However, this research has not been accompanied by a commensurate rise in attention to the migration of children, who constitute a third of all migrants from developing countries (UNFPA 2005).² Especially, data on minors migrating unaccompanied by parents and/or any relatives responsible by law or custom of taking care of them are collected in the various national contexts through different measures and on the basis of different definitions, plus they do not account for the percentage of migrant children unrecorded and undocumented. On a broader scale, data are incomplete, inconsistent and they disclose serious gaps in our knowledge of certain groups of children that fall outside available and suggestive categorizations linked to neediness and victimhood. The majority of information on the phenomenon of child mobility has been made public by advocacy organizations, which emphasize the vulnerability of those minors, mainly reducing the phenomenon to issues of concern such as minors seeking asylum, labour exploitation, abuse and trafficking. From such discourses, child mobility becomes easily conceptualized by states as a migratory flow to limit and control, more or less implicitly, under the banner of 'child protection'.³ In this mutually reinforcing circle, stories of children are rendered vulnerable. As a result of various dynamics, embodied by state immigration policies and disincentives to promote a constructive approach to foreigners, child migrants are silenced and invisibilized.⁴

The field of study, which challenges hegemonic constructions of migrant children, is under-researched. The perspectives of children and their own experience of migration are not well documented and their "lives are silenced through adultist discourses about migration decision-making and experience" (White et al 2013, 1-7).⁵ Few are the contributions of literature that shift attention away from dominant discourses of migrant children as 'victims'-passive, needy and different. The most innovative trend for research on child migration that

¹ E. M. Gozdziaik and M. O. Ensor, "The Way Forward: Conclusions and Recommendations," in E.M. Gozdziaik, M.O. Ensor, (eds) *Children and Migration, At the Crossroads of Resiliency and Vulnerability*, Palgrave Macmillan, 2010, 274.

² UNFPA (United Nations Population Fund), *The Case for Investing in Young People as Part of a National Poverty Reduction Strategy*, New York 2005, available at http://www.unfpa.org/webdav/site/global/shared/documents/publications/2005/case_youngpeople_eng.pdf (last visited 16 June 2014).

³ J. O'Connell Davidson, "Moving Children? Child Trafficking, Child Migration, and Child Rights," *Critical Social Policy*, July 21, 2011.

⁴ G. Del Grande, *Mamadou Va a morire. La Strage Dei Clandestini Nel Mediterraneo.*, Collana iSaggi, 2007.

⁵ A. White et al., "Children's Roles in Transnational Migration," in N. Tyrrell, A. White, C. Ni Laoire (ed.) *Transnational Migration and Childhood*, Taylor & Francis, 2013, 1-7.

challenges the adult-centric tendencies of migration research and policy, seeks to recognize the value of culture-specific discourses of childhoods and emphasize children's agency and subjectivity. Contributions from sociological, anthropological, ethno psychological and human rights approaches have addressed childhood as a social construct. They stress the evolving capacities of children, and their right to development and participation.⁶ Emerging studies on child migration are trying to give space to the voices of migrant children and youth by using methodological approaches such as ethnographic observation and interviews with young people, as well as employing children-centered participative approaches. This represents a growing body of scholarship that contributes to documenting and investigating the gap between states' commitments to child rights (either in discourses and legislation) and the daily experiences of migrant children in the contemporary world. Nevertheless, it still remains detached from the work of child well-being advocates and it still struggles to be implemented in daily practices by practitioners.

In addition, recent literature on child mobility has explored the tension inherent in the discourses of migrant children as either "victim" or "threat" (Petti 2004).⁷ The ambivalent category of minors who migrate unaccompanied by parents and/or any relatives responsible by law or custom of taking care of them results in ambiguous responses given to them in terms of protection once in the host country. Being minors and migrants at the same time, public narratives and interest remain anchored to the two stereotypical images of vulnerability and threat. As Marisa Ensor and Elżbieta Goździak (2010, 1-11) suggest:

all child migrants, are often represented as passive victims of exploitations, reflecting dominant notions of trauma and victimhood. Street youth, on the other hand, are frequently portrayed as miscreants or petty criminals who lacks proper socialization and are in need of adult supervision.

⁶ P. Cook, Blanchet-Cohen, Natasha, and Hart, Stuart, "Children as Partners: Child Participation Promoting Social Change. Prepared for CIDA, Child Protection Unit", The International Institute for Child Rights and Development (IICRD), 2004; Ibid.; G. Lansdown, "Evolving Capacities and Participation. Prepared for The Canadian International Development Agency (CIDA) Child Protection Unit" (IICRD International Institute for Child Rights and Development, n.d.); M. Gecele (ed.), *Fra Saperi Ed Esperienza. Interrogare Identità, Appartenenze E Confini*, Il leone verde, Turin, 2002; N. Tyrrell, A. White, C. Ni Laoire (eds.), *Transnational Migration and Childhood.*, Taylor & Francis, 2013; M. Woodhead, "Early Childhood Development: A Question of Rights," *International Journal of Early Childhood*, September 2005; Lansdown, "Evolving Capacities and Participation. Prepared for The Canadian International Development Agency (CIDA) Child Protection Unit"; S. Bissell, J. Boyden, P. Cook, & W. Myers. "Rethinking Child Protection from a Rights Perspective: Some Observations for Discussion." IICRD International Institute for Child Rights and Development. http://www.iicrd.org/resources/research_reports/ICPRC1. (Last visited: 11 June 2014).

⁷ G. Petti, *Il Male Minore. La Tutela Dei Minori Stranieri Come Esclusione*, Ombre corte/culture, Verona, 2004; N. Mai, "Tampering with the Sex of 'Angels': Migrant Male Minors and Young Adults Selling Sex in the EU," in N. Tyrrell, A. White, C. Ni Laoire (eds), *Transnational Migration and Childhood* (2013), 79–93; G. Donà and A. Veale, "Divergent Discourses, Children and Forced Migration," in *Transnational Migration and Childhood*, 2013, 115–29.

They also point out that the increase of the complexity, speed and intensity of today's domestic and international migration patterns and flows push a number of researchers to "pay attention to the ways in which discourses about children incorporate issues of power and politics".⁸

The most recent and upstream scholarship on child migration indeed has started to connect the dots between the child, the state, and global economic and political forces. As for the Italian case, Gabriella Petti's *Il male minore* (2004) represents one of the few and strongest critiques of how the bureaucratic machine of child protection available to unaccompanied and asylum seeker children is *de facto* a device to monitor, control and instruct producing social exclusion.⁹ My research was stimulated by the arguments concerning foreign minors at the crossroads between opposite narratives – vulnerability and threat- and political agendas. However, during the process of the present study it has been realized that some aspects of the bureaucratic machine described by Petti have changed in the last few years. For the specific case of the care and protection system available in Italy to foreign minors migrating unaccompanied or separated from their primary caregivers an updated analysis is necessary and a further investigation can be useful to examine how actually the 'threat' element attached to UASC manifests itself. Very often, is not made explicit in public national discourses but can be found in underlying and inconsistent aspects of policies and practices. The rhetoric of control or the explicit criminalization of migrants rarely addresses children directly. Rather it addresses adult migrants more generally. However, a deeper analysis reveals that the 'threat' and 'control' elements have not completely disappeared when dealing with unaccompanied and separated foreign minors.

Research question, aim and scope

Most of the academic research and advocacy on behalf of migrant children have shown major interest in the situations of refugee children, child asylum seekers, child soldiers, and trafficked children or separately on street children who can become 'risky' for society and public order. The present research instead will focus on independently mobile children, specifically the unaccompanied and separated foreign children (hereafter UASC) coming to Italy. Precisely, it will refer to UASC as defined by the Italian law: people under 18 years of age without Italian citizenship or without citizenship of another country of the European Union that, by failing to submit an application for asylum, are located in Italy without assistance and

⁸ M.O. Ensor and E. Gozdzik, "Introduction: Migrant Children at the Crossroads," in *Children and Migration, At the Crossroads of Resiliency and Vulnerability*, Palgrave Macmillan, 2010, 1–11.

⁹ Petti, *Il Male Minore*.

representation by parents or other adults legally responsible for them according to the Italian law.¹⁰

UASC's stories, patterns of mobility, aspirations and motivations are extremely varied and their profiles very difficult to be defined. The diverse phenomenology includes, most of the time, minors entering Italy through irregular channels. Once within the border, they may or may not enter the official protection system by announcing their presence to the authorities, seeking the support of the services, or being found and identified by the police. The UASC category can include those who proactively make the decision to initiate their migration, as well as those whose decisions can be strongly influenced by their families, relatives or others people's decisions and by their home community's environment. We will see how in fact the distinction among the determinants of migration is very often hard to define.¹¹

Throughout the present work when referring to UASC we will refer to unaccompanied and separated children not seeking asylum while when we want to include asylum seekers in our discussion we will refer to them as 'unaccompanied asylum-seeking minors'. This research project began questioning, in general terms, how the often contradictory but dominant representations about children from one side and about migrants from the other side, are combined and result in the protection system conceived for UASC. Finding themselves at the crossroads of conflicting priorities, what is the result in terms of protection provided? In other words, which kind of protection emerges when it is supposed to be provided to children who are also illegal migrants? In piecing the initial research question together several nested puzzles have emerged. What are the underlying assumptions of childhood, migration and protection informing law and practices concerning UASC? How do foreign minors respond to these representations bestowed upon them? In the protection conceived for UASC, how can we account for vulnerability, agency, and resilience without rendering them simplistic stereotypes?

The aim of this work is to critically interrogate our knowledge that influences the range of practices and discourses in order to rethink our intervention strategies for UASC. By thinking of child migrants as 'agents' and actors, without denying their vulnerabilities we critically question what and how we know about the determinants of child migration. The complexity of cultural universes, migratory practices, aspirations, motivations, and socio-

¹⁰ *Regulation on the Tasks and Functions of the Committee of Foreign Minors*, D.P.C.M. No. 535, December 9, 1999.

¹¹ M.O. Ensor and E.M. Gozdziaik (eds.), *Children and Migration At the Crossroads of Resiliency and Vulnerability*, Palgrave Macmillan, 2010, 45.

economic and political factors can hardly be translated into the categories of our epistemological discourse.¹² For an adequate appreciation of the complexities of child migration, it is necessary to include child's views and perceptions and adopt a holistic framework which accounts for the effects of across-borders forces impacting on children's lives and desires.

The UASC phenomenon in Italy

The heterogeneity of the phenomenon of child mobility and also of the varied circumstances in which UASC can migrate poses a contextual dilemma – where to begin and where to look? Being interested in how representations attached to a category affect the way we perceive, perform and conceptualize protection of migrant children, we decided to focus on a specific country of transit and/or arrival, without selecting a specific country of origin of UASC arriving in Europe and specifically in Italy. Certainly a promising avenue for further research could be focusing on one precise country of origin to investigate in much greater detail capabilities, aspirations, opportunities differentials which intersect in a particular area and produce or influence youth mobility.

We chose to focus on Italy because it represents a crucial point of arrival and transit of the children mobility that Europe is increasingly experiencing in the last two decades. It is a paradigmatic case because Italy, historically a country of emigration, in the turn of ten years had to re-conceptualize itself as a country of arrival or transit of people movements coming from the East (from Eastern Europe to Afghanistan and Bangladesh) and the South (the Maghreb area, and increasingly Sub-Saharan countries). From one side this means that Italy had 'little time' to adjust itself as a country of immigration, understand and 'keep the pace' with the rapid changes in migration flows and provide quick and adequate response. At the same time we do not believe this can be a valid justification for the weaknesses and the attitudes the country presents. It is curious that, despite its population having experienced similar needs, and desires to emigrate (and still its younger generations do), Italy appears reluctant to generate views on migration that break with stereotypes and outmoded conceptualizations. In his book, *Il carro dalle molte ruote, Melilla* (2001) tells the stories of young Sardinian shepherds, leaving their land since the beginning of the 20th century and again in a more massive way, between the 60s-70s towards the North of Italy and Europe. Melilla reminds us that they were experiencing the same dilemmas as some of the UASC coming in Italy today: a confluence of hopes and needs of which work was only one

¹² *Fra Saperi Ed Esperienza*, 21.

dimension within the dominant idea of migrating to obey to a family livelihood strategy.¹³ Multidimensional identities and a variety of different stories of migrants instead are easily flattened down to categories and representations stemming from them. The difficulty in perceiving the differences as unifying, rather than incompatible entities, still persists.¹⁴ It will be investigated how representations of victimhood, threat, control, mistrust, reinforce the opposition between 'they' and 'us' and produce certain distances that maybe are not that deep, dangerous or risky.¹⁵

The phenomenon of UASC obliges us to question the transformations our society is undergoing. The arrival of a growing number of immigrants in a social and economic landscape already crossed by many contradictions and anxieties has represented a new priority in recent years. Migration flows Italy is currently experiencing are extremely heterogeneous in their origin and, despite the call for emergency and the fears attached to it, the encouragement to open spaces for a mutual interaction and reciprocal understanding has proven to be urgent in order to draw the most appropriate intervention strategies informed by a human-rights based approach.¹⁶ Our work wants to avoid objectifying communities of migrants divided by tight and misrepresenting borders of cultural enclaves. We are not interested in saying 'how the others are', but what happens and what we can understand about them and us from the encounter in the country of arrival (or transit).

Because of the heterogeneity of the Italian panorama in terms of care facilities, and the variety of typologies of projects implemented at the local level we acknowledge that is unrealistic to attempt an imperative and unique interpretation on the Italian child protection system for UASC.¹⁷ However our analysis will start from the awareness of such heterogeneity in order to understand what it actually reveals. The aim is to uncover the general attitudes and narratives hidden behind a fragmented legal framework and the schizophrenic implementation of child's rights when it comes to face the phenomenon of UASC.

Theoretical foundations

¹³ S. Melilla, *Il Carro Dalle Molte Ruote*, Terrenuove (Anna Rotondo and Marco Mazzetti, 2001).

¹⁴ *Fra Saperi Ed Esperienza*, 132.

¹⁵ P. Clemente, "Gli Antropologi a Confronto Con I Problemi Dell'immigrazione: Incontri, Dialoghi, Racconti," in M. Gecele (ed.), *Fra Saperi Ed Esperienza. Interrogare Identità, Appartenenza E Confini*, Il leone verde, Turin, 2002, 133.

¹⁶ R. Beneduce, "Prefazione," in M. Gecele (ed.), *Fra Saperi Ed Esperienza. Interrogare Identità, Appartenenza E Confini*, Il leone verde, Turin, 2002, 5–9.

¹⁷ It was not in the intention of this work nor considered feasible, to map and investigate the work of all the public reception centres in every region, and all the existing projects promoted by actors of the private sector for UASC or so-called vulnerable children

First, this work aims to contribute to the growing body of scholarly work which critically deconstructs dominant discourses on childhood and proposes alternative approaches in how to conceive child protection, starting from a rights-based perspective and embracing a multi-disciplinary view (Bissel et al. 2004).¹⁸ To incorporate theoretical and empirical bases for protective measures, it is indeed necessary to create a bridge between social science and anthropological theories, international rights perspectives and empirical evidence. We draw from this literature to enhance our understanding of the multifaceted experiences of migrant children challenging the child rescue model emerging from humanitarian, security and economic concern.¹⁹

Taking the line of argumentation one step beyond the current literature, we will argue that the valuable emphasis on agency and subjectivity must be considered in relation with the structural elements and the narratives migrant children are exposed to and with which they negotiate their agency. Practices and choices of migrants are embedded in the micro-level interactions of local communities and at the same time influenced by diverse global political-economic transformations. The paper aims at highlighting the importance of context-specific intervention, which takes in high consideration the views of the children, their voices but also their own representations/constructions and their interactions with the multi-sited context- global and local- in which they live. In order to better investigate aspirations and expectations, UASC voices must be understood in the context of discourses and narratives to which they have been exposed.²⁰

In addition, as pertains to methods of investigating migration, the work draws from a new theoretical framework proposed by Hein de Haas (2011). To read today's patterns of migration he synthesizes many existing theoretical and empirical insights and departs from the push-pull logic rooted in many migration studies.²¹ According to him:

social theory formation is precisely about striking a delicate balance between the desire to acknowledge the intricate complexities and the richness of social life on the one hand and the scientific need to discern underlying regularities, patterns and trends on the other.²²

¹⁸ Bissell et al., "Rethinking Child Protection from a Rights Perspective: Some Observations for Discussion", IICRD International Institute for Child Rights and Development, 2004

¹⁹ Ibid., 21.

²⁰ *Children and Migration At the Crossroads of Resiliency and Vulnerability*, 30.

²¹ De Haas, "The Determinants of International Migration Conceptualizing Policy, Origin and Destination Effects," *International Migration Institute Working Papers Series*, April 2011, 7; Hein de Haas, Conference in Milan, Migration and development as a neoliberal discourse, April 7, 2014.

²² De Haas, "The Determinants of International Migration," 15.

In his argument virtually all migration propensities and actual manifestations of migration are a function of capabilities and aspirations to migrate. In Haas' model aspirations to migrate are a function of spatial opportunity differentials and people's life aspirations.²³ While recognizing agency - as the power of social actors to affect processes of structural change in migration's aspirations, he also integrates it with culture influences. He uses the notion of "opportunity" instead of income or wage differentials in order to integrate economic and non-economic theories on migration. This approach obliges us to study how social, economic and political conditions mutually interact to affect migration processes simultaneously. Moreover, in Haas' model, the concept of "capability" embeds the constraints dimension of migratory processes, overcoming the sharp distinction between voluntary and forced migration and linking micro and macro-level factors. Macro-factors shape opportunity structures and condition (enabling or constraining) people's migration decisions as far as their own capabilities allow. In a few words:

People will only migrate if they perceive better opportunities elsewhere and have the capabilities to move. Although this assertion implies choice and agency, it also shows that this agency is constrained by (historically determined) conditions, which create concrete opportunity structures.²⁴

For our purpose it is useful to keep in mind Haas's theoretical framework in order to avoid oversimplification in analyzing the determinants of child migration, in which local and global factors simultaneously play a role together with aspiration and capabilities. "Like their adult counterparts, children migrate for a variety of reasons that often defy typologies and discrete categorizations" (Haas 2011).²⁵

Why is it important to distinguish between migrant children and adult migrants?

This work is grounded on the idea that 'minor' and 'foreigner' are not neutral categories but are social constructs, which are often flattened down to simplistic representations. At the outset, the ambivalence of the category itself –UASC- attracts my attention. Being minors (unaccompanied or separated, by law entitled of some sort of protection) and migrants

²³Ibid. 17; Hein de Haas, *Migration and Development as a Neoliberal Discourse*, Conference at the University of Milan, April 07, 2014.

²⁴ De Haas, "The Determinants of International Migration," 16.

²⁵ *Children and Migration At the Crossroads of Resiliency and Vulnerability*, 274.

simultaneously, they represent identities situated at an interstitial point.²⁶ In the case of Italy, notorious for its restrictive migration policy, it is interesting to investigate how UASC protection is performed/ensured in a context of conflicting political agendas concerning childhood and migration separately. In themselves, both minors and foreigners are identities 'placed in between': between infancy and adulthood, here and there, local and global dynamics, absence and presence, visibility and invisibility. The fact of being 'in between' is still often considered to be a void to be filled. Sayad (1991) explains that "l'immigré est considéré, au fond, comme un enfant qu'il est justiciable de l'action éducative du foyer. Tout immigré qui ne répond pas à cette définition se désigne par avance comme un 'mauvais résident'".²⁷

Children as well, in the Western hegemonic representation, are dependent subjects waiting to become 'complete' individuals, adults. On the contrary, we will argue that the complexities and multifaceted characteristics of subjects 'placed in between' should not be seen as a deficiency but as a potential. Drawing from Sayad's explanation of migration as *fait social total*, with a mirror function, which unmasks the inconsistencies of both the origin and host societies, we propose the same interpretation for 'infancy and youth'.²⁸ Youth conceptualization and treatment are the mirror of the society of adults. Both migration and youth as 'comprehensive social fact' reveals the contradictions and paradoxes of today's global processes, regional *disequilibria*.²⁹ They render patent what is latent in the construction and operation of the social order, they reveal what a society might have the interest to ignore and leave in a state of pretentious innocence or social ignorance, to shed light or enlarge what normally is hidden or remained in the shadow.³⁰ Similarly minors 'disturb' because they oblige the state to unmask itself, the way in which it thinks of itself. As with migration, youth sheds light on our understanding of specific characteristics of the

²⁶Vacchiano refers to the unaccompanied minors as soggetti interstiziali: F. Vacchiano, "Minori Che Migrano Soli. Strategie Di Movimento E Progetti Di Confinamento," in Saquella and Volpicelli (eds.) *Migrazione E Sviluppo: Una Nuova Relazione?*, Nuova Cultura, Roma, 2012, 99–123.

²⁷ A. Sayad, *L'immigration Ou Les Paradoxes de L'alterité. Préface de Pierre Bourdieu*, DE BOECK Université / Editions universitaires, 1991, 122.

²⁸ Ibid., 15. It is very enlightening to recalling this excerpt

L'immigration est un fait social total[...]et à ce titre, c'est tout l'itinéraire de l'immigré qui est, peut-on dire, un itinéraire épistémologique[...]Certes, l'immigration est, un premier lieu, un déplacement de personnes dans l'espace et, d'abord, dans l'espace physique.[...]Mais l'espace des déplacements n'est pas seulement un espace physique, il est aussi un espace qualifié sous des multiples rapports, socialement, économiquement, politiquement, culturellement.[...] Fait social total, cela est vrai: parler de l'immigration, c'est parler de la société en son entier, en parler dans sa dimension diachronique [...]et aussi dans son extension synchronique, c'est-à-dire du point de vue des structures présentes de la société et de leur fonctionnement.[...]Certes, l'immigré n'existe pour la société qui le nomme comme tel, qu'à partir du moment où il en franchit les frontières et en foule le territoire; l'immigré 'naît' de ce jour à la société qui le désigne de la sorte.

²⁹ "Centro Frantz Fanon," *Associazione Fanon.it*, accessed June 10, 2014, <http://www.associazionefanon.it>; J.L. Comaroff, "Millennial Capitalism: First Thoughts on a Second Coming" *Public Culture* 12, no. 1, 2000.

³⁰ Sayad, *L'immigration Ou Les Paradoxes de L'alterité. Préface de Pierre Bourdieu*, 10.

political and social system and the organization of its bureaucratic apparatus of social services.

Furthermore, unaccompanied and separated foreign minors represent a 'relevant target' on which to focus our attention because the phenomena are not expressed in loud public language.³¹ It is to say they are almost invisible in general public discourses. This tendency drives us to reflect further on the denial of participation imposed on youth today: the risk of children being simply seen and not 'heard', spectators or (frustrated) consumers and not really actors of today's world. As Vacchiano suggests, youth experience 'the great betrayal', a 'double betrayal', which entails the exclusion from the 'stage of public participation'. They might experience marginalization in the origin countries, and once in the country of arrival or transit, they experience similar or other 'disguised' forms of marginalization and exclusion where, paradoxically, they are claimed to be protected because they are 'minors'. From their side a claim of existence and presence stands out. In the light of the principles of international law and new European guidelines on the topic, there could not be a change in terms of appropriateness and efficacy of our response to UASC, unless a critical analysis of the representations with which we look at UASC is taken. The relevance of a work focusing on unaccompanied and separated foreign minors relies in the opportunity it provides to meditate on and re-appraise the dominant conceptualizations of migration and childhood, departing from an adult-centric and state-centric approach.

Methodology

The argument I develop in this work is based on a research project I conducted between 2013 and 2014. The first phase of desk research concerned a literature review of reports issued by governmental agencies, NGOs, IOs denouncing states' human rights violations of UASC internationally. This prompted my interest in investigating deeper the concept of child protection, starting from an analysis of international, European and Italian legal materials, and continuing my investigation drawing from anthropological and sociological works on migration, childhood and child mobility. I wanted to have a closer understanding of what the various aspects of the child protection which the Convention of the Rights of the Child refers to can be interpreted. The research on the ground unfolded between February 2014 and April 2014. It was undertaken in various cities across Italy, with supplementary interviews conducted in Lisbon, and Ottawa. The adopted methodological approach is based on a triangulation between the narratives and perceptions emerging from semi-structured

³¹ F. Vacchiano and M. Jiménez, "Between Agency and Repression. Moroccan Children on the Edge," *Children Geographies*, Mediterranean Studies, 10, no. 4, 2012, 457–71.

interviews and the literature. I choose as key informants people from different disciplines with expertise in the UACS field: law experts, researchers, anthropologists, clinical and ethno-psychologist, government officials, child's rights advisor, and practitioners in daily contact with foreign minors.³² Having more disciplines and voices interacting is a way out of the dilemma between 'saying and not saying'. By putting more views in comparison allows getting closer to the complexity and multiplicity of the phenomenon. I aimed at gauging their opinions about how the phenomenon is perceived in Italy, the quality of the responses that it receives, the narratives which inform such responses at the local and national level, and their views about how young migrants' patterns of mobility react to such responses. Their views provide the research with a critical lens through which interrogating the laws, the categories and practices in question. Interviewees from multidisciplinary fields helped to guide an interpretation of the child's rights enshrined in human rights international law. Being aware of the necessity to triangulate experts' perceptions on the matter, by approaching directly some children migrants and listening to their voices, I asked to placed members of relevant organizations and reception centres the possibility to meet and directly speak with some young migrants. First I encountered some reluctance and finally I managed to conducted interviews with three cultural mediators at the centre *CivicoZero* in Rome, an Egyptian and two Afghans.³³ Indeed being already in Italy for more than 4-5 years now, and being adults, they were considered by the staff -mostly for protective concerns -less vulnerable. The target beneficiaries of the project *CivicoZero*, activated by Save the Children in 2011 are intentionally those who are not reached by the official eye, either since their arrival or after their disappearance from the formal reception centres. The project has a low-threshold drop-in centre for minors and young people, not necessarily foreigners. The Centre runs outreach activities through cultural mediators in strategic points such as the train station. Beyond having the possibility to 'drop in' and rest, have a shower, wash clothes, and eat (as Cappuccino says: the first step to gain their *passive trust*)³⁴ children receive information about the possibility of accessing the city-wide network of specific services, recreational activities, workshops which leads to training, networking and participation possibilities for the youth involved, both within the Centre and across the city. The Centre also provides legal consultation, health advice and assistance in school and work placement. The rationale behind the project is that at first there is not a direct 'intervention' on the individual (unless an active trust is explicitly shown and help is immediately very clearly requested) but the first intervention is made on the surrounding environment with the intention to make them realize

³² See Annex 1 for details about interviewees

³³ Although my target since the beginning has not regarded specifically asylum seeker children, I could not deny the opportunity offered to me to have a discussion also with two Afghans -ex unaccompanied asylum seeking minors-.

³⁴ *Interview with Marco Cappuccino (conducted by the author)*. Marco Cappuccino is project manager of the Project *CivicoZero*, activated in Rome by Save the Children. (Rome, February 26, 2014).

that someone available is always there for them if they want, the presence of places where enjoying their rights is possible and alternatives are achievable.³⁵ The young migrants interviewed gave precious insights into the UASC's perspective because they themselves arrived in Italy when still minors unaccompanied and through illegal networks and because they have daily contacts with compatriots that are experiencing similar stories. They challenged hegemonic constructs about childhood and simplistic interpretation of children mobility and help us to consider into context which meaning concepts such as vulnerability, agency and resilience could take. In order to prevent initial suspicion and mistrust I visited the centre several times, I introduced my self and I made the objectives of my research known and clearer to them. Once there for the second time, I had also the chance to have informal conversation with children migrants. Talking with the cultural mediators informally in an open conversation without the presence of a recording device helped them to feel more comfortable and talk more about themselves. One of the difficulties I encountered has been translating in written words my live experience of dialogue with the informants and most of all my initial interaction with young migrants. At the same time the space and time between the moments of interviews and writing opened up avenues for exploring new meanings and an opportunity for creating a space of reflection. All interviews have been conducted originally in Italian and translated into English by the author.

1. CATEGORY AND REPRESENTATIONS

1.1. The institutionalization and definitions of the UASC under international, European and Italian law

At the International level the legal framework of reference for UASC is the UN Convention of the Rights of the Child (CRC).³⁶ Article 1 of the CRC defines a child as "every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier". This means that any instruments governing children in the territory of the State cannot define a child in any way that deviates from the norms determining the age of majority in that State. The CRC entered into force in Italy in 1991 through the Law No. 176. Aligned with the international framework, the Italian law determines the age of majority at 18.³⁷ On the basis of these instruments, in this research I will use the terms 'child' and 'minor' indiscriminately to refer to any individual of 18 years or younger.

³⁵ *Ibid.*

³⁶ UN Convention of the Rights of the Child (CRC), 1577 U.N.T.S. 3, 20 Nov. 1989 (entry into force: 2 Sep. 1990).

³⁷ IP-related Laws: enacted by the Legislature, *Recognition of the Legal Age of Majority for Citizens Having Reached 18 Years Old and Amendment of Other Provisions Relating to the Capacity to Act and the Right to Vote*, Law No. 39, March 8, 1975.

At the international level, the need to protect a minor temporarily or permanently deprived of his or her family environment had been recognized since 1990 by art. 20 (1) of the, CRC which reads: "A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State".³⁸ The article does not explicitly refer to migrant children. In 2005 the UN Committee on the Rights of the Child distinguished between unaccompanied and separated minors, providing with a more specific definition in its General comment No 6 on the treatment of unaccompanied and separated children, (hereafter General Comment No. 6).³⁹

Unaccompanied children are children, as defined in article 1 of the Convention [of the rights of the child] who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so. Separated children are children, as defined in article 1 of the Convention, who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.

With the notion "country of origin" the General Comment refers to "the country of nationality or, in the case of a stateless child, the country of habitual residence".

Since the late '90s, when the waves of children migrants coming particularly from Eastern Europe became more visible and produced a particular state of alarm, a series of tools and institutions have been deployed, both at European and national level, in order to 'manage' the phenomenon. During this time the category of UASC first appeared with the aim to clearly recognize the entities under consideration. An attempt to provide a more precise definition of children migrating alone was given by the 1997 European Council Resolution on Unaccompanied Minors who are Nationals of Third Countries⁴⁰. The text defines the unaccompanied minors as:

³⁸ Art. 20 (2). "States Parties shall in accordance with their national laws ensure alternative care for such a child. Art. 20(3)Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background"

³⁹ Committee on the Rights of the Child, *Treatment of Unaccompanied and Separated Children Outside Their Country of Origin*, General Comment No. 6, UN Doc. CRC/GC/2005/6, 1 Sep. 2005.

⁴⁰ European Council, *Resolution on Unaccompanied Minors Who Are Nationals of Third-Countries*. 97/C 221/03, 97/C 221/03, 26 June 1997.

third-country nationals below the age of 18, who arrive on the territory of the Member states unaccompanied by an adult responsible for them whether by law or custom, and for as long as they are not effectively in the care of such a person.

Similar is the definition introduced by Italian law in 1999 when the Committee for Foreign Minors (CFM) was created, with the only difference that the Italian categorization does not accommodate minor asylum-seekers. The official definition is given in the Regulation on the tasks and functions of the Committee for Foreign Minors, according to which:

the unaccompanied foreign minor in the territory of the Italian state is the minor without Italian citizenship or without citizenship of another country of the European Union that, by failing to submit an application for asylum, is located in Italy without assistance and representation by parents or other adults legally responsible for him according to the Italian laws.⁴¹

1.2. Beyond the category: knowledge as a process of representation

In the first place, the proposed inquiry is designed to depart from a strictly legal perspective to provide a critical analysis of the categories that inform the current legal framework and guide policies. By studying the representations that certain categories might suggest it is possible to investigate the foundations on which “knowledge is built, subjectivity is constructed and society is managed” (White et al. 2013).⁴² Our knowledge, concepts, and models, implicit in many of our conversations, attitudes and assumptions are indicative of specific power relations as well as relations of sense and meanings to which we are subjected or that we contribute to create or reiterate. Knowledge is not there, just to be looked upon by an outsider observer. Knowledge is itself interpretation, design, dialogue, and must resort to multiple forms of negotiation rather than be produced by simple geometries of the intellect.⁴³ The inquiry started by seeking to investigate the phenomenon by observing the categories in themselves with which the phenomenon is observed and approached. Ernesto De Martino, Italian anthropologist, ethnographer and philosopher, points out that the knowledge process cannot happen without our own categories and conceptual models.⁴⁴

⁴¹The official definition is given in Regulation on the tasks and functions of the Committee for Foreign Minors according to which ‘il minore straniero non accompagnato presente nel territorio dello Stato è quel minore non avente cittadinanza italiana o di altro Paese dell’Unione Europea e che, non avendo presentato domanda di asilo, si trova in Italia privo di assistenza e rappresentanza da parte dei genitori o di altri adulti per lui legalmente responsabili in base alle leggi vigenti nell’ordinamento italiano’. *Regulation on the Tasks and Functions of the Committee of Foreign Minors*. D.P.C.M. 9 Dec.1999, No. 535

⁴² White et al., *Transnational Migration and Childhood*, 117.

⁴³ Clemente, “Gli Antropologi a Confronto Con I Problemi Dell’immigrazione,” 127.

⁴⁴Ernesto de Martino, Critico Costruttivo,” *La Rivista Culturale.com*, 23 April 2012, <http://larivistaculturale.com/2012/04/23/il-punto-di-vista-critico/>.

The critical dimension of our knowledge somehow should be regained, by observing not only the object of observation but also the categories through which we observe and our ability to question them. It is crucial to keep alive the search on ourselves and on our ways of knowing.⁴⁵ As Sayad suggests, it is in the knowledge produced and reproduced in discourses, policies and practices about migration that the nature of the host society reveals itself, allowing a better understanding of who we are.⁴⁶ Understanding, analyzing and questioning the categories through which we observe a phenomenon, through which we know, provides us with the awareness that those categories are historically determined and that we can observe and know through different lenses. As Bertolino suggested, it is important to adopt an approach, which attempts to conceptualize the question of the relationship between cultural practices as resulting from processes of meaning-making and relations of power.⁴⁷ Being aware that all research has to be acknowledged as a process of representation (James 2007)⁴⁸ and realizing that we can be subjected to the distortions of representations when approaching something new allows that the encounter with the others' way of producing knowledge can occur in a positive and productive exchange. Finally, while categories, and representations that categories themselves carry with them, have the ambition to divide, comprehend and fit reality into 'boxes', they however overlook fundamental nuances and smooth over identities that are not fixed, but naturally and spontaneously dynamic (Collins et al 2013, 369-76).⁴⁹ What is more, when categories and labels are taken for granted the risk is that one soon forgets the conventional character of the normative or policy processes of their production and reproduction. As a consequence artificial identities become 'naturalized'. The images and identities delivered are impoverished and incomplete. For example, the research on migration often reiterates the division of different categories expected to mirror different processes and degrees of choice (documented versus undocumented, labor migrant versus asylum seeker, and trafficked victim versus immigration offender) inadequately reflecting the fluid and multifaceted character of human mobilities.⁵⁰ The uses of the category cannot have a comprehensive descriptive role because it necessarily neglects that the vital dimension of the subject lies in its constant 'becoming' and 'flux'. Reading the categorization process with Vacchiano, the

⁴⁵Clemente, "Gli Antropologi a Confronto Con I Problemi Dell'immigrazione," 133.

⁴⁶A. Sayad, *L'immigration Ou Les Paradoxes de L'alterité. Préface de Pierre Bourdieu*; A. Sayad, *La Double Absence: Des Illusions de L'émigré Aux Souffrances de L'immigré*, Ed. du Seuil, Collection Liber, Paris, 1999.

⁴⁷Talking about the ethno-psychology approach: '*cerca di concettualizzare la questione del rapporto tra culture e pratiche culturali come rapporti di senso in rapporto, ai rapporti di forza, -perché la differenza culturale si gioca dentro a dei rapporti di forza*'. Roberto Bertolino, *Interview conducted with the author, March 4, 2014*.

⁴⁸A. James, "Giving Voice to Children's Voices: Practices and Problems, Pitfalls and Potentials," *American Anthropologist* 109, no. 2, 2007, 268.

⁴⁹R. Collins, J. Esson, C. O'Neill Gutierrez, and A. Adekunle, "Youth In Motion: Spatializing Youth Movement(s) in the Social Sciences", *Children's Geographies* 11, no. 3, 2013, 369-76.

⁵⁰*Children and Migration At the Crossroads of Resiliency and Vulnerability*.

process of cataloging is useful in the moment in which it offers a photograph of a critical crystallization, more than a naturalistic description of the phenomenon observed.⁵¹ Following this reasoning there is never a satisfactory category. We need them, but we do not believe completely in them. We need to go beyond the categories, understand which representations can be attached to their legal meaning, for example, and investigate how this affects our behavior towards the identities ‘hidden behind the category’.

1.2.1. The UASC category and its conflicting representations

In the proposed inquiry we investigate the complexities entailed in the category of unaccompanied and separated foreign minors. The UASC label in itself is designed to guide administrative and legal procedures. However, it carries within itself conflicting and ambivalent representations. The ways in which the category of UASC is often thought oversimplify a complex picture. The presence of three different sub-categories, ‘unaccompanied/separated’, ‘minor’ and ‘migrant’, within one unique label, the UASC, arguably suggests different representations and conflicting political agendas. What does the legal category of ‘minor’ suggest? And what about the ‘separated’ and ‘unaccompanied’ labels? Which images does the label ‘migrant’ evoke?

Vacchiano says that as the category of refugee is often superimposed by the concepts of trauma and suffering, similarly the experiences of UASC are superimposed by the idea of vulnerability.⁵² In its General Comment 6, the Committee on the Rights of the Child considers vulnerability as the susceptibility to exploitation and abuse and the pressure to get involved in illegal activities, among other factors.⁵³ In the international framework the UASC are part of the subjects considered vulnerable because they are at risk of being trafficked or exploited. Therefore they are included in those particular groups that would deserve particular attention by the state. In the last ten years, advocacy organizations have brought the situation of UASC to the international spotlight, mainly focusing on images of victimhood and vulnerability underlying the violations of their rights. Migrant children attract attention when they are presented as ‘victims’ of traffickers, smugglers, of labour exploiters or even families’ economic aspirations; and far-reaching human rights violations perpetrated

⁵¹*Mobilities / Immobilities A Dialogue in Two Parts on Desire of Migration and Border Devices.*, Presentations by: Valerio Simoni (CRIA-IUL), José Mapril (CRIA-UNL), Francesco Vacchiano (ICS-UL) Discussants: Liliana Suárez Navaz (Universidad Autónoma de Madrid); Cristiana Bastos (ICS-UL Lisbon). Organized by CRIA (Centro Em Rede de Investigação Em Antropologia) at the Instituto Superior de Ciências Do Trabalho E de Empresa (ISCTE-IUL) in Lisbon, 21 March 2014.

⁵²“La categoria di minore straniero non accompagnato presenta... è sovradeterminata da, mentre la categoria del rifugiato è sovradeterminata dal concetto di trauma, della sofferenza, che poi devi certificare, l’esperienza traumatica, che se poi la sai certificare sul corpo ancora meglio, no? L’esperienza dei migranti, minori è sovradeterminata da questa definizione di vulnerabilità”. Francesco Vacchiano, *Interview conducted with the author, March 20, 2014.*

⁵³Committee on the Rights of the Child, CRC/GC/2005/6.

by states' laws or practice, for example by detaining UASC suspected to be adult or by arbitrarily return them where their lives are exposed at risk.⁵⁴ Looking specifically at the three different sub-categories within the UASC label, first of all it is worth noting that in Western societies the category of 'minor' suggest ideas of vulnerability, dependence and protection.⁵⁵ According to Petti (2004), today we live in a context of victimization, exhibition of the pain and disoriented youth, in a social market which borders the minor in a state of dependence.⁵⁶

Secondly, the terms 'unaccompanied' and 'separated' tend to evoke the ideas of children migrating completely 'alone'. The qualification as 'un-accompanied' adds another layer of vulnerability already conceived to be proper to the young age. The term suggest 'lacking of something', that must be 'filled up' somehow. Thirdly, the term migrant evokes something completely different. The foreigner as construct, culturally and bureaucratically built, product of what Sayad called *pensée d'État*, "becomes a metaphor which produces meaning, because it serves to legitimize the reconstruction and expansion of a security state with has protective functions' and' the stranger forced into this asymmetrical position becomes a ghost, a non-person. That is, an individual to whom one cannot recognize the legal status of an individual, a person, basically, infantilized".⁵⁷ When the determinants of the 'mobilities' are more difficult to define, migrants are seen as the untrustworthy 'others'.⁵⁸ Especially if the migrant has an illegal status and has not crossed the borders as a legal guest worker, thereby breaching the ramparts of Fortress Europe is seen as "miscreant" or even "criminal" (Carr 2012).⁵⁹ To the sub-categories of the unaccompanied child and the migrant can be attached, therefore, two very different sets of images: innocence, passivity,

⁵⁴ Human Rights Watch, *Turned Away, Summary Returns of Unaccompanied Migrant Children and Adult Asylum Seekers from Italy to Greece*, 2013, <http://www.hrw.org/news/2013/01/22/italy-summary-returns-greece-violate-rights> (last visited 16 June 2014); Human Rights Watch, *In the Migration Trap: Unaccompanied Migrant Children in Europe*, 2010, <http://www.hrw.org> (last visited 16 June 2014); Save the Children, Italia Onlus, *I Minori Stranieri Non Accompagnati in Italia. Accoglienza E Prospettive Di Integrazione*, 2009, www.savethechildren.it (last visited 16 June 2014); IOM, *Il Progetto Praesidium in Sicilia*, accessed June 14, 2014, http://www.italy.iom.int/index.php?option=com_content&task=view&id=16&Itemid=61 (last visited 16 June 2014); United Nations Educational, Scientific and Cultural Organization (UNESCO), J. Kanics, D. Senovilla Hernández and K. Touzenis (eds) *Migrating Alone: Unaccompanied and Separated Children's Migration to Europe*, 2010; P. Borghi and C. Santarossa, *Protecting Children on the Move. Addressing Protection Needs through Reception, Counselling and Referral, and Enhancing Cooperation in Greece, Italy and France.*, UNHCR Offices in Italy, France and Greece; Save the Children Italy; France Terre d'Asile; PRAKSIS, July 2012; G. Del Grande, *Mamadou va a Morire. La Strage Dei Clandestini Nel Mediterraneo.*, Collana iSaggi, 2007.

⁵⁵ O'Connell Davidson, "Moving Children? Child Trafficking, Child Migration, and Child Rights," 462.

⁵⁶ S. Taliani, "Figure E Forme Dell'infanzia. Strategie Di Ascolto Nella Cura Di Bambini Immigrati," in *Fra Saperi Ed Esperienza. Interrogare Identità, Appartenenza E Confini*, 75-77, 29-30.

⁵⁷ "[...]diventa una metafora produttiva di senso, poiché serve a legittimare la ricostruzione e l'ampliamento di uno stato securitario con funzioni di protezione' and 'Lo straniero costretto in questa posizione asimmetrica diventa un fantasma, una non-persona. Cioè un individuo al quale non può riconoscersi la qualità giuridica di persona fisica, un soggetto in buona sostanza infantilizzato", Petti, *Il Male Minore*.

⁵⁸ M. Eastmond and H. Ascher, "In the Best Interest of the Child? The Politics of Vulnerability and Negotiations for Asylum in Sweden," in N.Tyrrell, A. White, C. Ni Laoire, *Transnational Migration and Childhood*, 2013, 27-37.

⁵⁹ M. Carr, *Fortress Europe, Dispatches from a Gated Continent*, Hurst & Company, London, 2012.

dependence from one side, cunning and danger from the other side. In both cases the approach is to provide them with 'adult-framed' tools of protection, or adult supervision and control, because they seem to 'lack' something (either the capacity to look after themselves or the willingness to respect the rules of the host society). "We (adult nationals) have a duty to protect children as real or potential victims, but we supposedly need to be protected from 'immigrants' who really or potentially make us victims" (Davidson 2011).⁶⁰

The images attached to the irregular migrants today, the criminalization of the undesirable *clandestino* as a threat from which one should be protected (Khosravi 2011)⁶¹, clash with the images attached to the vulnerable children migrating alone, that we are called to protect because they end up on our territory without parents and/or relatives legally responsible for them. A contextual situation is emptied of reality and is given a clarity that is not that of an explanation but that of a statement of fact. First, it will be interesting to analyze the implications in terms of policies and practices towards UASC resulting from the clash between these conflicting representations. And, second, analyze the implications (in terms of mutual interaction and responses provided) of such representations that construct fixed and immobile identities and deprive them of their historical context.

1.3. Italy and the UASC

1.3.1. The politics of representations and the invisibility of the phenomenon 'UASC' in the public opinion

If it is true that discourses about migrants from one side and minors from the other are polarized, and that there is a discrepancy between these two sets of images and representations, in the specific case of Italy, at first glance the representations and rhetoric that prevails is that attached to minors and their protection, regardless their status. The tension emerging from being at the interstice between the interests of the state to control migration and its duty of protecting minors are not immediately evident. In fact through a more subtle analysis, the legal framework applied, and the tension between policy and practice, a fragmented and schizophrenic system emerges.

First of all, it is worth noting that, compared to the increased attention devoted to refugee children by certain international NGOs⁶², in Italy the phenomenon of UASC, who

⁶⁰ O'Connell Davidson, "Moving Children? Child Trafficking, Child Migration, and Child Rights," 463.

⁶¹ S. Khosravi, *"Illegal" Travel. An Auto-Ethnography of Borders*, Global Ethics Series, Palgrave Macmillan, 2010, 4.

⁶² Human Rights Watch, *Turned Away, Summary Returns of Unaccompanied Migrant Children and Adult Asylum Seekers from Italy to Greece*; Human Rights Watch, *In the Migration Trap: Unaccompanied Migrant Children in Europe*; IOM, *Il Progetto Praesidium in Sicilia*.

mostly regards illegal migrant children that travel ‘independently’ not seeking asylum, still remains less studied and certainly is much less debated in the media and at a more general public level.⁶³ While general discourses about migration have been one of the major themes discussed in the national press and instrumentalized in public debate (mostly in time of elections)⁶⁴, the UASC phenomenon in specific is rarely addressed at the national level.

Serena Matarese wonders why the phenomenon of UAM is so little debated in the public domain, in the media the phenomenon does not exist and people most of the time do not know anything about them. Zorzella and Vacchiano confirm that the topic is kept exclusively for the experts in the field.⁶⁵ Although the phenomenon tends to disappear as a problem in the media, when addressed at the central and local policy levels, it paradoxically evokes conflicting positions. Rather than being an underestimated phenomenon and despite its officially recorded low numbers (comparing to the percentage of the migrant population in Italy), it constitutes a complex phenomenon that raises controversial opinions among the practitioners in the field, lawyers and politicians. First the phenomenon raises questions and concerns, because receiving foreign minors separated from their families, which are at the same time irregular migrants, means dealing not only with the first reception management but also framing, designing and realizing an adequate protection system which could offer present and future opportunities to these minors into host societies, without forgetting that when reached the age of 18 the question of integrating foreigner workers will become more urgent and critical. An investigation into how the topic is seen and managed shows that concerns tend to fluctuate basically between the humanitarian, philanthropic interest in promoting protection of vulnerable people, and the interest of protecting the protection system itself, preserving the dwindling resources of the territory from would-be usurpers

⁶³ Save the Children, Italia Onlus, *I Minori Stranieri Non Accompagnati in Italia. Accoglienza E Prospettive Di Integrazione*; Elzbieta M. Gozdzak and Marisa O. Ensor, “The Way Forward: Conclusions and Recommendations,” in *Children and Migration, At the Crossroads of Resiliency and Vulnerability*, 2010, 278.

⁶⁴ De Haas, “The Inconvenient Realities of African Migration to Europe,” *Third World Quarterly* 29, no. 7, 2008, 1305–22, available at www.tandf.co.uk/journals/titles/01436597.asp (last visited 16 June 2014); Monia Giovannetti, *Interview conducted with the author*, February 27, 2014.

⁶⁵ *Interview with Matarese Serena*, She works at Italialavoro, technical agency of the Ministry of Labour and Social Policies in Rome. She is specialized in integration policies and unaccompanied and separated foreign minors. She collaborates also with the General Directorate for Immigration and Integration Policies Unit IV - “Unaccompanied Minors and Integration Policies”. (Rome, Ministry of Labour and Social Policies, March 10, 2014); *Interview with Nazzarena Zorzella*, Italian lawyer specialized in the field of migration, in charge of the scientific review “Diritto Immigrazione E Cittadinanza” at the Associazione Studi Giuridici sull’Immigrazione (A.S.G.I.) whose role is precisely to study the Italian legislation on immigration (Bologna, March 14, 2014); *Interview with Francesco Vacchiano*, He is a clinical psychologist holding a PhD in Anthropology. Since 1997 he has been member of the Frantz Fanon Centre in Turin (a non-profit non-governmental organization which provides migrants, including minors, with counselling service, psychotherapy and psycho-social support). Currently he is research fellow at the ICS-UL (Instituto de Ciências Sociais - Universidade de Lisboa) and member of the IMEDS (Instituto Universitario de Investigación Sobre Migraciones, Etnicidad Y Desarrollo Social) of the Universidad Autónoma de Madrid. His interests focus on the anthropology and ethnopsychology of migration, medical anthropology, borders and boundaries, institutions and politics of citizenship. He works as consultant in several projects of social and community intervention in Italy, Spain, Morocco, Tunisia and Portugal (Lisbon, 20 March 2014).

(faked minors or minors not showing a serious engagement' in making efforts to be integrated). Especially when the infantile aura is lost at the encounter with tough teenagers irregularly crossing the borders, whose attitudes might appear contradictory and fraudulent, the association with the irregular adult migrants if not immediate, is more likely to be made.

1.3.2. Features of the UASC phenomenon in Italy

Before analyzing the legal framework available to UASC at the international, European and Italian level, it is useful at this point to give a brief picture of the phenomenon at stake in the Italian context. For the Italian case, Giovannetti highlights that there is a lack of reliable, certain and exhaustive data about unaccompanied and separated foreign minors on the Italian territory. Data are collected by different authorities and referred to the ex Committee for Foreign Minors (hereafter ex CFM or GD).⁶⁶ However given a lack of a traceability and frequent mobility of minors, it might happen that the same minor is traced twice under different names.⁶⁷ As we will see, fragmented and inaccurate data allows for fragmented and discretionary responses.⁶⁸ Official statistics released by the GD show a decline in the number of asylum seekers, unaccompanied and separated minors arriving in Italy since 2009. Formally, the latest figures collected by the GD account for 7750 UASC in children (whose 3000 officially taken care by the city of Rome).⁶⁹ Opinions of the experts interviewed however are conflicting. Serena Matarese who works at the Ministry of Labour and Social Policies says that approximately the figures have stabilized in the last years. On the contrary Marco Cappuccino, who manages the project *CivicoZero* in Rome aiming at taking care of those minors not identified by the institutional care system, says that there has been an increase (although not alarming) in the number of minors arriving in Italy and the very recently released ANCI Report confirms this growing presence.

Undoubtedly, today's official figures gathered by the GD are unlikely to represent the reality of the phenomenon.⁷⁰ At their arrival, a large number of minors do not announce their

⁶⁶ As it will be explained in chapter 3, since 2011, the functions of the Committee for Foreign Minor have passed to the General Directorate for Immigration and Integration Policies Unit IV - "Unaccompanied Minors and Integration Policies" of the Ministry of Labour and Social Policies (GD)

⁶⁷ Interview with Marco Cappuccino, February 2014, Rome.

⁶⁸ ANCI and Cittalia, *Protection of Unaccompanied Foreign Minors. The Italian Experience.*, Programma Nazionale di Protezione Minori Stranieri Non Accompagnati, 2010.

⁶⁹ "Dati dei Minori Stranieri." *Ministero Del Lavoro E Delle Politiche Sociali*. Available at: http://www.lavoro.gov.it/AreaSociale/Immigrazione/minori_stranieri/Pages/20140315_Dati-dei-minori-stranieri-non-accompagnati.aspx. (Last visited: 11 June 2014); Cittalia Fondazione ANCI Ricerche, *I Minori Stranieri Non Accompagnati in Italia*, IV Rapporto ANCI Cittalia, 2011; Cittalia, Fondazione Anci Ricerche, *I Minori Stranieri Non Accompagnati in Italia*, V Rapporto Anci Cittalia, 2014.

⁷⁰ PUCAFREU and D. Senovilla Hernandez, *Unaccompanied Children Lacking Protection in Europe*, PUCAFREU PROJECT Promoting Unaccompanied Children's Access to Fundamental Rights in the European Union, Final Comparative Report,

presence to authorities, others escape from centers of first reception, disappearing from the formal and official track,⁷¹ and maintaining a hidden and disparaged status.⁷² Cappuccino confirms that the number of the ‘untracked children’, who are not only those called ‘on the move’ (for whom, since their arrival, Italy represents only a country of transit) varies widely and are difficult to know.⁷³ The PUCAFREU study conducted in Italy specifically on foreign children who fall outside the protection system states that in 2011 a quarter of the 7750 minors identified by the DG resulted “disappeared”.⁷⁴ From recent data collected in the study *Protecting Children on the move* we only know that about 50 % of the Afghan children entering the Italian protection system upon arrival disappear after registration.⁷⁵ Throughout the analysis of the gaps in the Italian system of care and protection for UASC (see chapter 3) some of the reasons of these disappearances will be suggested. Although the statistics are fragmented and inaccurate, what is evident from the available data is that the majority of unaccompanied minors arriving on the Italian territory are males aged between 16 and 17 years old.⁷⁶ All the experts interviewed agree on the fact that the phenomenon has changed greatly throughout the last 20 years. While in the 1990s the child migrants from Albania and Morocco constituted the majority, today the flows are more variegated, accounting for minors arriving from the North Africa, the Sub-Saharan region (mainly Mali, Somalia, Ethiopia, Eritrea), Afghanistan and Bangladesh.⁷⁷ UASC travel and arrive in Italy through various ways and routes, including the mediation of smugglers and the company of acquaintance, or moving in a highly independent way reaching Italy sometimes by longer routes.⁷⁸ Rome is one of the main hubs for migrants arriving from Mali and Senegal, given the high presence of communities of their conationals in the city. Afghan, Eritrean and Somali children are considered ‘children on the move’, it is to say, Italy represents their country of transit to reach other destinations.⁷⁹ Afghans also for example, in the majority of the cases, pass through Rome, even though their destination might be Austria, the UK, or Scandinavian countries. The transit in Rome is obligatory because it is where there are their guarantors who approve

2013; Borghi and Santarossa, *Protecting Children on the Move, Addressing Protection Needs through Reception, Counseling and Referral, and Enhancing Cooperation in Greece, Italy and France*.

⁷¹ Interview with Marco Cappuccino, February 2014, Rome.

⁷² *Children and Migration At the Crossroads of Resiliency and Vulnerability*, 40.

⁷³ Marco Cappuccino, Interview, February 26, 2014.

⁷⁴ PUCAFREU and Senovilla Hernandez, *Unaccompanied Children Lacking Protection in Europe*, 5.

⁷⁵ Borghi and Santarossa, *Protecting Children on the Move, Addressing Protection Needs through Reception, Counseling and Referral, and Enhancing Cooperation in Greece, Italy and France*.

⁷⁶ Cittalia Fondazione ANCI Ricerche, *I Minori Stranieri Non Accompagnati in Italia*.

⁷⁷ PUCAFREU and Senovilla Hernandez, *Unaccompanied Children Lacking Protection in Europe*.

⁷⁸ F. Vacchiano, “Bash N’ataq L-Walidin (‘To Save My Parents’): Personal and Social Challenges of Moroccan Unaccompanied Children in Italy” in United Nations Educational, Scientific and Cultural Organization (UNESCO), J. Kanics, D. Senovilla Hernández and K. Touzenis (eds) *Migrating Alone: Unaccompanied and Separated Children’s Migration to Europe*, 2010, 118; PUCAFREU and Senovilla Hernandez, *Unaccompanied Children Lacking Protection in Europe*.

⁷⁹ Cappuccino, Interview.

the next payment by the migrant to the smuggler for the trip to be continued.⁸⁰ Upon arrival, minors generally try to reach their compatriots or contact a referred adult (that might be a relative) in order to get information, help, or to find a mean of income. Others might realize that those networks are not actually helping them and decide to follow more autonomous paths.⁸¹ The variety of the motivations of the mobilities of all of them, and especially of Tunisian, Egyptian, Moroccan children, is very often flattened down to ideas about a 'family mandate', child exploitation and human trafficking. However, the research suggests that the picture is much more complex. As suggested by Haas's framework, the determinants of migration cannot be limited to structural forces, nor personal decisions. In the next chapter we analyze the legal framework at the international, European and Italian level available to UASC, in order to have the basis to precede our analysis of the Italian protection system and its weaknesses.

2. UASC AND THE LEGAL FRAMEWORK

In order to investigate the experience of migrant children and the responses provided to them by Italy, it is useful to understand first which rights they are entitled to as child migrants under international, European and Italian law.

2.1. Relevant international law to child migrants

As migrants and as children, which sort of protection do unaccompanied and separated minors not seeking asylum have under international law?⁸² Through the lens of the human rights paradigm, child migrants are right bearers on their own, although the intermediation of the state, as primary guarantor of human rights, to implement those rights is always unavoidable and the risk is having the universal rights to which children are entitled limited and politically disputed in practice.⁸³ As migrants, UASC have rights under the International Covenant on Civil and Political Rights (ICCPR)⁸⁴ and the International Covenant on

⁸⁰ Ibid.

⁸¹ Vacchiano, "Bash N'ataq L-Walidin ('To Save My Parents'): Personal and Social Challenges of Moroccan Unaccompanied Children in Italy," 118.

⁸² The framework concerning asylum seeker refugees, internally displaced people children will not be taken into consideration because it does not fall in the scope of our research. As for asylum seekers, There is a growing number of international human rights instruments established to protect the status and the treatment of people falling in these categories, including the 1951 Convention relating to the Status of Refugees and its Protocols, the 2009 UNHCR Guidelines on Child asylum which outline the principles to be followed when carrying out refugee status determination. C. Mescalchin, *I Minori Stranieri Non Accompagnati E Richiedenti Asilo*, Università Ca' Foscari Venezia, Laurea Magistrale in Lavoro, Cittadinanza sociale e Interculturalità, 2011; Borghi and Santarossa, *Protecting Children on the Move, Addressing Protection Needs through Reception, Counseling and Referral, and Enhancing Cooperation in Greece, Italy and France*.

⁸³ O'Connell Davidson, "Moving Children? Child Trafficking, Child Migration, and Child Rights," 471.

⁸⁴ Relevant to our topic are the Arts 12-13 of the ICCPR: freedom of movement according to the law and prohibition of expulsion if not defined by law. International Covenant on Civil and Political Rights (ICCPR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, (entry into force: 23 March 1976).

Economic, Social and Cultural Rights (ICESCR)⁸⁵ which enshrine broader standards universally applicable.⁸⁶ As important instrument of soft law, the *Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live* also recognizes that the protection of human rights and fundamental freedoms should be ensured for individuals who are not nationals of the country in which they live. With the condition, however, that the Declaration is in accordance with the domestic law.⁸⁷

The provisions related to minors enshrined in these international instruments are stated in general terms.⁸⁸ For our precise focus on UASC, the *lex specialis* is the Convention of the Rights of the Child. The CRC is the most important instrument setting international standards of protection and care for children in all circumstances. Its rights apply to all children irrespective of their residence status according to the principle of non-discrimination underpinning the CRC.⁸⁹ The *General comment No 6* makes explicit that “State obligations under the Convention apply to each child within the State’s territory and to all children subject to its jurisdiction (art. 2). These State obligations cannot be arbitrarily and unilaterally

⁸⁵ Relevant is Art. 10(3) of the ICESCR, particularly states that ‘special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law’. Art 7 of ICESCR, (concerning the right of everyone to the enjoyment of just and favourable conditions of work) Art. 12 (1) *The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*; Art. 13 (1) *The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.* International Covenant on Economic, Social and Cultural Rights (ICESCR), .G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, (entry into force Mar. 23, 1976).

⁸⁶ R. Farrugia and K. Touzenis, “The International Protection of Unaccompanied and Separated Migrant and Asylum-Seeking Children in Europe,” in *Migrating Alone: Unaccompanied and Separated Children’s Migration to Europe*, UNESCO Social and Human Sciences (Jyothi Kanics, Daniel Senovilla Hernández and Kristina Touzenis, 2010), 21.

⁸⁷ Such as the right to life and security of person; the right to leave the country (art.5); the right to safe and healthy working conditions, to fair wages and equal remuneration for work of equal value without distinction of any kind (art.8). Art. 8 (1)(c) states that: “The right to health protection, medical care, social security, social services, education, rest and leisure, provided that they fulfil the requirements under the relevant regulations for participation and that undue strain is not placed on the resources of the State”, United Nations General Assembly, *The Declaration on the Human Rights of Individuals who are not Nationals of the Country in which they Live*, UN Doc. A/RES/40/144, 13 Dec. 1985

⁸⁸ The provisions are also subordinated to the discretion of the national state in appreciating the quantity of resources could be allocated to guarantee those rights to non-nationals. For example, Art. 2(1)(3) ICESCR states that Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures; and ‘Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals’.

⁸⁹ Therefore, the enjoyment of rights stipulated in the Convention is not limited to children who are citizens of a State party and must therefore, if not explicitly stated otherwise in the Convention, also be available to all children - including asylum-seeking, refugee and migrant children - irrespective of their nationality, immigration status or statelessness. UN Convention of the Rights of the Child (CRC), 1577 U.N.T.S. 3, 20 Nov. 1989 (entry into force: 2 Sep. 1990), Art. 2

curtailed either by excluding zones or areas from a State's territory or by defining particular zones or areas as not, or only partly, under the jurisdiction of the State".⁹⁰ This means that the rights envisaged in the CRC pertain to all children, including children who migrate alone, unaccompanied, separated, with families, and also who might migrate illegally. In application of article 4 of the CRC,⁹¹ the General Comment No. 6 specifies that assigning resources to unaccompanied and separated children, whose vulnerability is explicitly recognized in article 20 of the CRC, is a priority. State also are expected to accept and facilitate assistance offered within their respective mandates by UNICEF, UNHCR and other agencies (Art. 22 (2) of the Convention) in order to meet the needs of UASC.⁹² Although the most radical critics contest the universality of the CRC, seeing it as an ideological construct serving Western hegemonic agenda,⁹³ it is important to recognize that in fact it has been ratified by all UN member states but two (US and Somalia), becoming one of the most ratified UN Conventions.⁹⁴ What is more, drawing from Woodhead's analysis of the interpretation of child's rights through a 'negotiation' between universalistic theories and the plurality of pathways through childhood, I argue that CRC's fundamental principles can be put into practice universally "in ways that are appropriate to the particular circumstances of different societies, communities and children" (Woodhead 2005).⁹⁵ Indeed, the CRC is a good starting point because it seeks to cover in a comprehensive way the most important of children's survival, physical growth and psychosocial development needs while recognizing their means of social expression and participation.⁹⁶ Adopting a multidisciplinary approach, which includes an anthropological dimension, is useful to bring the context into light when interpreting its principles, necessarily framed in general terms. Although the General Comment No. 6 recognizes that UASC are a particular vulnerable group of children, it is clear from the overall analysis of the CRC that vulnerability is not the only aspect to be taken into consideration. Children should also be considered proactive in dealing with the difficulties they might face, and in expressing their capacities, their potential, their creative and critical thinking as signs of their resilience. The UN Committee identifies as indivisible and interdependent human rights, which constitute the cornerstone of the CRC, the right to non discrimination, the best interest of the child principle, the right to be heard and having her/his

⁹⁰ Committee on the Rights of the Child, CRC/GC/2005/6..

⁹¹ Art. 4: "States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation"; UN Convention of the Rights of the Child (CRC), 1577 U.N.T.S. 3, 20 Nov. 1989 (entry into force: 2 Sep. 1990)

⁹² Committee on the Rights of the Child, CRC/GC/2005/6.

⁹³M. O. Ensor, "Understanding Migrant Children: Conceptualizations, Approaches, and Issues," in *Children and Migration, At the Crossroads of Resiliency and Vulnerability*, Palgrave Macmillan, 2010, 26.

⁹⁴M. Woodhead, "Early Childhood Development: A Question of Rights," 2.

⁹⁵Ibidem

⁹⁶ Bissell et al., "Rethinking Child Protection from a Rights Perspective: Some Observations for Discussion.," 17.

own views taken into consideration and the right of the child to survival and development.⁹⁷ Although it has been already pointed out the lack of a common definition of protection, and the opacity of the criteria it must meet in ways that make sense for a wide variety of situations⁹⁸, we argue that if we consider CRC's rights jointly a holistic view of protection emerges and can be applied to every child, including UASC without neglecting the specificity of each case.

2.1.1. How can the right to participation be balanced with the best interest of the child principle?

Before becoming a crucial part of the CRC's rationale in 1989, the origins of the principle of the best interest of the child date back to the late nineteenth century when the phenomenon of child exploitation, abuse and negligence in Europe became more visible to the general public and with the creation of the new specialty of pediatrics and an increased interest in what 'acceptable and good' parenting meant. Since its origin, the best interest principle seemed to suggest a protectionist and paternalistic approach towards children considered to be victims of adults' questionable practices. Policy makers and caretakers tend to reinforce the idea that adults must decide and determine what is in the best interest of the child without properly being informed and inspired by the children's views themselves. While the best-interest principle has become a "widely used ethical, legal and social basis for policy and decision making involving children" (Gozdziak 2010)⁹⁹, the child's right to participation is not equally promoted. The promotion of child's participation is in fact a crucial aspect of the concept of protection itself. General Comment No. 6 and General comment 12 guides our interpretation of the right of the child to express his or her views freely, presuming a right to participation and containing also the right to be adequately informed (including the provision of the means that ensure effective communication, such as interpreters and cultural mediators in case of language barriers). In order for the right to be fully implemented opportunities and spaces for minors to express their views must be created.¹⁰⁰

⁹⁷ Arts. 2, 3 ("the best interests of the child is a primary consideration in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies"), Art. 12 ("States parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child the views of the child being given due weight in accordance with the age and maturity of the child") and Art. 6. Committee on the Rights of the Child, CRC/GC/2005/6, 6.

⁹⁸ Bissell et al., "Rethinking Child Protection from a Rights Perspective: Some Observations for Discussion.," 6.

⁹⁹ E. M. Gozdzia, "In the Best Interest of the Child: Perceptions, Responses, and Challenges in Providing Assistance to Trafficked Children in the United States," in *Children and Migration, At the Crossroads of Resiliency and Vulnerability*, Palgrave Macmillan, 2010, 174.

¹⁰⁰ Committee for the Rights of the Child, *The Right of the Child to Be Heard*, General Comment No. 12, UN Doc. CRC/C/GC/12, 20 July 2009.

Participatory research and methods in development programming and humanitarian assistance has gained gradual acceptance since the late 1970s. More recently (1990s-2000s) a child-centered participatory research agenda has been supported and promoted. The agenda is linked to a modern human rights perspective based on the reflexive methodological principle that knowledge is generated from those being researched rather than just from the perspective of the researchers. We found particularly enlightening O’Kane’s definition of participation:

an ongoing process of children’s active involvement in decision-making (at different levels) in matters that concern them. It requires information sharing and dialogue between children and adults, which is based on mutual respect and power sharing [...] genuine participation gives children the power to shape both the process and the outcome (O’Kane 2004).¹⁰¹

Similarly in its report *The State of the World’s children 2003, Child Participation*, UNICEF defines participation as “the process of sharing decisions which affect one’s life and the life of community in which one lives. It is the means by which democracy is built and it is a standard against which democracies should be measured”.¹⁰² Interesting points of these definitions of participation are the concept of mutual respect and the idea that by children’s involvement in their protection there is a mutual benefits for the child and the (host) society itself.

The guardian or adviser, who should be appointed on an individual basis according to articles 18(2) and 20(1) “until the child has either reached the age of majority or has permanently left the territory and/or jurisdiction of the State”, to secure proper representation of an unaccompanied or separated child’s best interest, could act as a link between the child’s views and existing specialist agencies/individuals who provide the care. They must be adequately prepared in the field of childcare and sensitive to the multiple issues related to child mobilities. Furthermore, article 12 states that the views of the child should be given due weight in accordance with the age and maturity of the child. Age cannot be the only proxy for gauging the extent of the participation granted to the child. How might the concept of maturity be interpreted?¹⁰³ The underlying idea that should inspire the approach to UASC should be

¹⁰¹ C., O’Kane, *Children and young people as citizens: partners for social change, draft report for Save the Children Alliance, South and Central Africa, 2004*, quoted in Ensor, “Understanding Migrant Children: Conceptualizations, Approaches, and Issues,” 23.

¹⁰² UNICEF (Children Rights and Emergency Relief Organization) *The State of the World’s Children 2003, Child Participation*, available at <http://www.unicef.org/sowc03/contents/pdf/SOWC03-eng.pdf>, (last visited: 16 June 2014).

¹⁰³ In the General Comment No. 6 we read: “To allow for a well-informed expression of such views and wishes, it is

that, as Grison suggests, a child's capacity to exercise responsible decision-making in matters affecting them are less influenced by age and more than by the emotional, social, economic and cultural environments in which they live.¹⁰⁴ The interpretation of the right to development enshrined in article 6 raises a similar problem of "how far children can or should be active in shaping the course of their development, expressing their views on their best interests and about roles of adults with responsibilities for guiding children's effective participation" (Woodhead 2005).¹⁰⁵

Instead of considering development and maturity in a normative, stage-based and age-based model, the most promising way forward seems to be offered by a combination of social constructivist and socio-cultural perspectives. This approach allows to emphasize the ways context shapes child's development and recognizes minor as social actors, whose development is facilitated through social relationships, and active participation under the guidance of sensitive and listening adults. The best interest of the child and the children's participatory rights can seem to be in conflict. Protective measures and policy concerning children's safety and welfare which rely normally upon the best interest principle and the recognition of minors as agents by considered them subjects of law who can express their own point of views, are actually the two sides of the same coin. Scholars have raised concerns about the apparent disjuncture that arises when the participatory rights of children tend to be de-emphasized in favour of the 'best interests'; when the agency of the former is subsumed within the vulnerability associated with the latter. I will argue the contrary, that to achieve full meaning and practical and efficient implementation, those principles can and must coexist and be interpreted together with the right to development and the others rights enshrined in the CRC.¹⁰⁶ The apparent tension between the promotion of children's views and priorities and what is deemed to be in the best interest of the child by an adult can be overcome if the determination of what is in the best interests of the child is based on clear and comprehensive assessments of the child's identity¹⁰⁷ and the relation between the

imperative that such children are provided with all relevant information concerning, for example, their entitlements, services available including means of communication, the asylum process, family tracing and the situation in their country of origin (arts. 13, 17 and 22 (2)). In guardianship, care and accommodation arrangements, and legal representation, children's views should also be taken into account. Such information must be provided in a manner that is appropriate to the maturity and level of understanding of each child. As participation is dependent on reliable communication, where necessary, interpreters should be made available at all stages of the procedure". Committee on the Rights of the Child, *CRC/GC/2005/6*. For additional the interpretation good reference: Gerison Lansdown, *Promoting Children's Participation in Democratic Decision-Making*, UNICEF Innocent Research Centre (Florence, 2001), 2.

¹⁰⁴ Committee for the Rights of the Child, *General Comment No. 12 CRC/C/GC/12*.

¹⁰⁵ M. Woodhead, "Early Childhood Development: A Question of Rights."

¹⁰⁶ *Inter alia* Art. 13, rights to freedom of expression and information, Art. 14 freedom of thought, conscience and religion, Art. 15 freedom of association and peaceful assembly, Art. 31.2 participate fully in cultural and artistic life. UN Convention of the Rights of the Child (CRC), 1577 U.N.T.S. 3, 20 Nov. 1989 (entry into force: 2 Sep. 1990).

¹⁰⁷ Including her or his nationality, upbringing, ethnic, cultural and linguistic background, particular vulnerabilities and protection needs Committee on the Rights of the Child, *CRC/GC/2005/6*, 9.

subject, his/her views and her/his performative roles. At the same time, children should be protected from those experiences and supported in taking those decisions, which they have not yet acquired the capacity to take responsibility for¹⁰⁸, however wider dynamics of global and local processes should always be highly considered in making decisions on behalf of a child.

Montgomery underlined the difference between realistic participation and 'giving voice' as merely a tokenistic exercise. Children's views must be considered in the social ecology surrounding them, in which the child used to live and lives, constituted by the family, the community environment, the social, political and economic contexts. Children's self-perceptions will hardly be transparent. As in most circumstances, they will likely filter through the most familiar idiomatic frame while being refracted by a lens that perceives (and misperceives) dominant representations of appropriate roles – in this case, receiving-community narratives of the child.¹⁰⁹ As argued further in chapter IV, establishing mutual trust and a genuine relationship can be the first step to better understand children's needs and determining the best interest, differentiating between statements and behaviors resulting from children's internalization of popular discourse and those actually reflecting their own views, priorities and spontaneous needs. Taking migrant children's participation seriously entails more than encouraging them to be involved and express their views; it also requires a thorough understanding of the power relations between children and adults, migrants and non-migrants, as well as sensitivity to issues of voice and representation.¹¹⁰ Creating a partnership between children and policy makers or service providers, in a mutual recognition of each other's agency, capacity and social assets, has proven to be an efficient tool to ensure the preservation children's rights while involving children themselves in their own protection.¹¹¹ Finally Woodhead suggests that "implementing the Convention doesn't just alter the status of children. It also alters the status of adults. Respecting the rights of young children changes the way we think about ourselves" (Woodhead 2005).¹¹²

2.2. Relevant EU Law

¹⁰⁸ Lansdown, "Evolving Capacities and Participation. Prepared for The Canadian International Development Agency (CIDA) Child Protection Unit."

¹⁰⁹ *Interview with Montgomery Micheal (conducted by the author)*. Micheal Montgomery is an international development consultant and Advisor on Children's Rights. Since 2008 he has been senior associate and special advisor on children's rights and protection at the International Institute for child rights in development. He has been principal advisor on children's right at CIDA (Canadian International Development Agency) and in 2000 co-founder of The Child Protection Alliance. (Ottawa, March 31, 2013).

¹¹⁰ Ensor, "Understanding Migrant Children: Conceptualizations, Approaches, and Issues," 25.

¹¹¹ *Children and Migration p. 277; Children as Partners: Child Participation Promoting Social Change; Evolving Capacities and Participation*, Rethinking Child Protection from a rights perspective

¹¹² M. Woodhead, "Early Childhood Development: A Question of Rights."

Over the last two decades the flows of UASC to Europe have attracted increasing attention from scholars¹¹³ and practitioners¹¹⁴ concerned with perceived violations of their rights perpetrated by national governments. Still obstacles persist in fully recognizing that children have rights regardless of their legal status, citizenship or background in compliance with international human rights law.¹¹⁵ Specifically the phenomenon of UASC in Europe regards children migrating from non-EU countries (including Morocco, Tunisia, Mali, Egypt, Afghanistan, Syria, Somalia, Tunisia, Bangladesh, Iran, and Iraq) alone, with fellow minors or in the company of adults other than parents or relatives by law or custom legally responsible for them. The motivations and the circumstances for entering the EU are extremely various and mix one to another, ranging from fleeing persecution and seeking protection, to economic and aspirational reasons. The figures of the phenomenon are not precisely quantifiable— given the presence of those who fall outside the scrutiny of formal institutions, such as children in transit who may bypass identification and registration processes.¹¹⁶ Also EU countries have different criteria to collect statistics impeding a comprehensive database for the entire EU situation.¹¹⁷ The topic has raised controversial positions especially in countries of first arrival or transit (in the trajectories towards Europe) such as Greece, Italy, Spain, and France.¹¹⁸ Specifically for minors not seeking asylum the legislative provisions appear much more ambiguous. The most common weaknesses that have been pointed out about the responses provided by EU Member states (MS) to the phenomenon at stake concern the entry procedure, including border controls (apprehension by national authorities

¹¹³A. Whitehead and I. Hashim, *Children and Migration: Background Paper for DFID Migration Team*, Department for International Development (London, 2005); *Unaccompanied Children. What Happens Once They Are Back Home?*, Project Report, Master of Advanced Studies in Children's Rights; University of Fribourg in Cooperation with International Reference Centre for the Rights of Children Deprived of Their Family, 2008.

¹¹⁴European Migration Network, *Synthesis Report: Policies on Reception, Return and Integration Arrangement For, and Numbers Of, Unaccompanied Minors – an EU Comparative Studies*, 2010, available at: http://extranjeros.empleo.gob.es/es/redeuropeamigracion/Estudios_monograficos/EMN_Synthesis_2008_II_La_Politica_de_Acogida_EN.pdf (last visited: 16 June 2014); Human Rights Watch, *In the Migration Trap: Unaccompanied Migrant Children in Europe*; Human Rights Watch, *Treatment of Unaccompanied Migrant Children, Pre-Sessional Review of Spain.*, 2008, available at: <http://www2.ohchr.org/english/bodies/hrc/docs/ngos/HRWSpain93.pdf> (last visited: 16 June 2014); Human Rights Watch, *Turned Away, Summary Returns of Unaccompanied Migrant Children and Adult Asylum Seekers from Italy to Greece*; Cittalia, *Fondazione Anci Ricerche, I Minori Stranieri Non Accompagnati in Italia*, 2014.

¹¹⁵ T. Hammarberg, "Unaccompanied and Separated Migrant Children in Europe: Legal Perspectives and Policy Challenges," in J. Kanics, D. Senovilla Hernández and K. Touzenis (eds) *Migrating Alone: Unaccompanied and Separated Children's Migration to Europe*, UNESCO (United Nations Educational Scientific and Cultural Organization) Social and Human Sciences, 2010, 172.

¹¹⁶PUCAFREU and Senovilla Hernandez, *Unaccompanied Children Lacking Protection in Europe*, 17; Borghi and Santarossa, *Protecting Children on the Move, Addressing Protection Needs through Reception, Counseling and Referral, and Enhancing Cooperation in Greece, Italy and France*.

¹¹⁷ UE, *Action Plan on Unaccompanied Minors (2010 – 2014)*, Communication from the Commission to the European Parliament and the Council, May 6, 2010. It highlights the lack of comprehensive, reliable, comparable data of unaccompanied minors in Europe owing to the incompatible methods of registration among European countries. In some, the statistics concerning UASC regards only minors applying for asylum in others the statistics regards unaccompanied minors who do not apply for asylum.

¹¹⁸ Borghi and Santarossa, *Protecting Children on the Move, Addressing Protection Needs through Reception, Counseling and Referral, and Enhancing Cooperation in Greece, Italy and France*.

and refusals of entry, inadequate training of border guards and police authorities for dealing with minors); reception arrangement, (lack of coordination between the different competent authorities in identifying, assessing the age and responding to the needs of the minor, timely appointment of a guardian, adequate accommodation, disappearances from care facilities, family tracing, family reunification) and integration measures (access to healthcare, education, psychological assessment, regularization of the status when turning eighteen years old, requirements to access welfare system and job market).¹¹⁹ In a number of EU MS the practices applied can be considered to be against the principles, premises and contents of the CRC, excluding for example unaccompanied children irregularly crossing borders to the enjoyment of fundamental rights.¹²⁰ In certain countries migrant children continued being detained when presumed to be adults, within the framework of article 17 of the 'Return directive' or simply because of the lack of an available care establishment.¹²¹ Sometimes the right to a family unification (recognized in a number of international and European instruments) is abused in order to support the implementation of a policy of forced returns to their country of origin (often without evaluating potential risk or taking seriously into account the child's views and evaluating the specific context of origin and his/her story).¹²²

2.2.1. Compliance with the CRC and the margin of appreciation of the Member States

The phenomenon of migration in Europe still remains difficult to be managed in a coherent and homogeneous way across EU MS. The focus of the debate on migration tends to be more on border security rather than promoting a broader understanding of migration as a multifaceted and more complex phenomenon. The Treaty of Lisbon for example has conferred to the European institutions new competences with regard to migration specifically for a shared management of borders controls.¹²³

¹¹⁹ Hammarberg, "Unaccompanied and Separated Migrant Children in Europe: Legal Perspectives and Policy Challenges," 177; *Migrating Alone: Unaccompanied and Separated Children's Migration to Europe*; M. Jimenez Alvarez, *Buscarse La Vida. Analisis Transnacional de Los Procesos Migratorios de Los Menores Marroqies No Acompañados En Andalusia*, Fundaciion Santa Maria, Madrid, 2004.

¹²⁰ European Parliament, *Report on the Situation of Unaccompanied Minors in EU*, August 26, 2013, <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2013-0251&language=EN>.

¹²¹ Directive 2008/115/EC of the European Parliament and the Council of 16 December 2008 on common standards and procedures for returning illegal immigrants, OJ L 348, 24 Dec. 2008, 172.; European Migration Network, *Synthesis Report: Policies on Reception, Return and Integration Arrangement For, and Numbers Of, Unaccompanied Minors – an EU Comparative Studies*. (The twenty-two EMN National Contact Points who participated in this report were from Austria, Belgium, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Netherlands, Malta, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, and the United Kingdom)

¹²² H. Torsten and U. Naue, "Immigration and Family Reunification: The International Legal Framework," *DNA and Immigration. Social, Political and Ethical Implications of DNA Analysis for Family Reunification*, September 2010, Available at: <http://www.immigene.eu/information/immigration-and-family-reunification-the-international-legal-framework/> (last visited: 16 June 2014); Hammarberg, "Unaccompanied and Separated Migrant Children in Europe: Legal Perspectives and Policy Challenges," 172–173; PUCAFREU and Senovilla Hernandez, *Unaccompanied Children Lacking Protection in Europe*, 17.

¹²³ Mescalchin, "I Minori Stranieri Non Accompagnati E Richiedenti Asilo"; Directive 2008/115/EC of the European Parliament and the Council of 16 December 2008 on common standards and procedures for returning illegal immigrants, OJ L 348, 24

As for the rights of the child, the EU and its MS are required to respect those rights enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and the Charter of Fundamental Rights of the European Union.¹²⁴ Specifically on the phenomenon of unaccompanied and separated minors not seeking asylum the relevant EU *acquis* is constituted by regulations and directives which include provisions for unaccompanied minors ‘on account of their particular vulnerability’ recognizing the non-discrimination principle set in the CRC and the best interest of the child as fundamental principle which should be a primary consideration for MS when dealing with minors in all circumstances. Art. 10 of the so-called ‘Return Directive’ for example sets common standards and procedures in MS for returning illegally staying third-country nationals.¹²⁵ Considering minors and unaccompanied minors among the vulnerable subjects, the directive obliges the MS, before issuing a return decision, to grant the minor assistance by appropriate bodies other than the authorities enforcing return and to ensure that the minor will be returned to a member of his/her family, by a nominated guardian and adequate reception facilities in the country of return. Detention of minors is envisaged as a measure of last resort and for the shortest appropriate period of time. Minors are required, as far as possible, to be provided with accommodation in institutions, personnel and facilities, which take into account the needs of persons of their age. However, the modalities, procedures and motives of return and detention are maintained at the discretion of each MS once they transpose the directive into national legislation.

Among the instruments of soft law specific on unaccompanied minors stand the 1997 European Council Resolution on Unaccompanied Minors and the Schengen Borders Code (Annex VII, art. 6)¹²⁶ The European Council Resolution besides providing a more precise definition of children migrating alone, for the first time set forth the right of unaccompanied and separated children to be hosted and assisted by the receiving country and have access as quickly as possible to some minimum guarantees, such as identification, legal

Dec. 2008;); *Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community*. OJ C 306, 2007/C 306/01, 13 Dec. 2007. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2007.306.01.0001.01.ENG (last visited: 16 June 2014).

¹²⁴ For example, the right to education and the prohibition of child labour are laid down respectively in artt. 24, 14 and 32 of the EU Charter. Charter of Fundamental Rights of the European Union, [2000] OJ C 364/1, 18 Dec. 2000 (entry into force: 1 Dec. 2009); Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)*, 1950, (entry into Force: 3 Sep. 1953) Available at: <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=005&CL=ENG> (last visited: 16 June 2014).

¹²⁵ Directive 2008/115/EC of the European Parliament and the Council of 16 December 2008 on common standards and procedures for returning illegal immigrants, OJ L 348, 24 Dec. 2008.

¹²⁶ European Council, *Resolution on Unaccompanied Minors Who Are Nationals of Third-Countries*. 97/C 221/03; *European Parliament and of the Council Establishing a Community Code on the Rules Governing the Movement of Persons across Borders*, Annex VII, Art. 6 of the Regulation (EC) No 562/2006, 2006.

representation, adequate care and family tracing in order to consider the possibility of family reunification, return and reintegration. However, in case the return is not a feasible option (when considered in conflict with the best interest of the child), the states should in principle make possible for the minor to remain in their territory (Art. 5 (2)). In its preamble the Resolution agrees to cooperate and protect the rights and obligations enshrined in the CRC. Annex VII, art. 6 of the *Schengen Borders Code* specifically regards unaccompanied minors and requires that the border guards besides paying always particular attention to minors, ensure, by means of thorough checks on travel and other supporting documents, that the minors do not leave the territory against the wishes of the person having parental care over them. It is clear that the focus of such provisions is combating child trafficking and exploitation, focusing the European attention mainly on just one of the potential aspects of a much more multifaceted and complex phenomenon of unaccompanied and separated minors. This approach encourages cooperation with third-countries to have more information on migration routes, criminal networks and combat irregular migration and criminal activities.

Although important safeguards for unaccompanied minors are provided in these migration and human rights instruments, their level of generality leaves a margin of appreciation to MS when it comes to implementation, it is to say a range of discretion that allows them to interpret the law and implement it nationally in various ways. Research indeed has shown that the European picture is extremely varied.¹²⁷ Criteria for the compilation of data and production of statistics, the models of reception (housing and education in mainstream centres versus their placement in specialized facilities) the routes available to be granted a regular status, and the implementation of durable solutions, vary from country to country.

2.2.2. A step towards harmonization? Action Plan on Unaccompanied Minors for the year 2010-2014

As a consequence of an increase in the phenomenon of UASC in the last decade, the recently adopted policy document *Action Plan on Unaccompanied Minors for the year 2010-2014*, and the publication of the European Migration Network (EMN) *EU Comparative Study on Unaccompanied Minors* show the most recent commitment at the European level.¹²⁸ These instruments aim to better define the problem and harmonize EU policies for the

¹²⁷ Among others, J. Kanics and D. Senovilla Hernández, "Protected or Merely Tolerated? Models of Reception and Regularization of Unaccompanied and Separated Children in Europe," in J. Kanics, D. Senovilla Hernández and K. Touzenis (eds) *Migrating Alone: Unaccompanied and Separated Children's Migration to Europe*, UNESCO (United Nations Educational Scientific and Cultural Organization) Social and Human Sciences, 2010, 4.

¹²⁸ The Action Plan has been issued in 2010 by the European Commission to the European; European Migration Network, *Synthesis Report: Policies on Reception, Return and Integration Arrangement For, and Numbers Of, Unaccompanied Minors – an EU Comparative Studies*. 2010

protection of child migrants, placing the standards established by the CRC at the core of any actions concerning UASC. The comparative study produced by the EMN made a step forward in collating the available statistics and giving an overall picture which highlights the main and common gaps in the policies applied to unaccompanied minors in the EU. The report refers to the alarming number of disappearances from care facilities occurred in a number of MS. It highlights the need to increase protection and surveillance at the accommodation centres in order to prevent such disappearances. However it does not address explicitly the need to re-think and question the way child protection is actually performed with regards to foreign minors within Europe. On the other hand, the *Action Plan*, being an instrument of soft law, serves more as a guideline for EU MS' practical actions. It combines measures on prevention and protection; it addresses in particular the issues of promoting cooperation with third countries and identifying durable solutions in the best interest of the child.¹²⁹ The three main strands for action envisaged in the document—prevention of unsafe migration and trafficking; regional protection programmes with reception and procedural guarantees in the EU, and identification of durable solutions—seem to comply with the CRC's principles. It strongly reinforces the concept that in all actions taken by public authorities related to children the best interest of the child must be the primary consideration.¹³⁰ About the reception measures and procedural guarantees, an important, although general reference is made to the need to ensure a smooth transition period for those children who—due to turning 18 and becoming adults—may be in danger of losing protection and support. It encourages Member States not only to introduce review mechanisms to monitor the quality of guardianship and to counter disappearances from the centres of reception, but also to find durable solutions. In general terms, return and reintegration in the country of origin; granting international protection status or other legal status allowing minors to successfully integrate in the MS of residence, and resettlement are the three options envisaged by the Action Plan as durable solutions. The option of assisted return and reintegration in the country of origin is encouraged especially for those minors who do not require international protection. It is specified that it should be conducted in the context of *post-return projects* planned in collaboration with the countries of origin. However the Action Plan states that the analysis of solutions should not be limited to the option of return. Durable solutions, other than the return of the child to the country of origin, should be

¹²⁹ These priorities have been also addressed in the Council Conclusions on Unaccompanied Minors, adopted by the Council of the EU on 3rd June 2010. The Action Plan's definition of unaccompanied minor derives from Art. 2(f)) of the Council directive 2001/55/EC: "third-country nationals or stateless persons below the age of eighteen, who arrive on the territory of the Member States unaccompanied by an adult responsible for them whether by law or custom, and for as long as they are not effectively taken into the care of such a person, or minors who are left unaccompanied after they have entered the territory of the Member States". This definition is similar to the definition of the European Council Resolution 97/C 221/03 of 26 June 1997, mentioned in chapter 1

¹³⁰ UE, *Action Plan on Unaccompanied Minors (2010 – 2014)*.

sought, giving extreme relevance to a deep analysis of the context and the child's views and aspirations. From this point, we deduct that the option of return should not be in opposition to the child's views, but it should be conducted only on a voluntary basis. However this is not made explicit in the Action Plan where in fact it is simply suggested that "voluntary departure must be prioritized" (Action Plan 2010).¹³¹ In the Action Plan it is pointed out that EU legislation and policies do not address the situation of minors who cannot be returned, leaving the granting of residence permits for compassionate, humanitarian or other reasons to national legislation. In cases where return is not possible or integration in the country of residence is considered in the best interests of the child, a legal status should be granted to unaccompanied minors entitling them to at least the same rights and protection as beforehand, and suitable accommodation should be found. The minors should be supported in their path toward successful integration in the host society. On this point, however, the Action Plan does not go any further in giving details. It seems to suggest that, beyond deserving a timely decision regarding their immigration status, children should be ensured future stability, safety and development, having secured their future welfare, in line with CRC's principles and its General Comment No. 6.¹³² From these points, it appears that the Action Plan acknowledges that the issue of UASC is complex and multidimensional and that "there are clear boundaries to the MS's freedom of action when dealing with unaccompanied minors" (Action Plan 2010).¹³³ However its provisions remain necessarily expressed in general terms and therefore semantically flexible. Each State again maintains a certain degree of discretion in interpreting and implementing the guidelines of the Action Plan. Furthermore, the declared aim of the third strand for action is to address the root causes of migration and to create an environment allowing children to grow up in their countries of origin with good prospects of personal development and decent standards of living.¹³⁴ The rationale that informs this approach is that boosting development and creating disincentives in countries of origin are enough to stop migration. Prevention of unsafe migration and trafficking plays a big role in the European approach to the phenomenon of UASC. It relies on the promotion of collaboration with third countries in order to increase their protection capacities, through awareness-raising activities, training about the risks associated with irregular migration to EU and trafficking, and promotion of education facilities within development cooperation programmes. Currently a few scholars are questioning the efficacy of the approach which consists mainly in closing borders or financing development programmes in the countries of origin, to actually prevent migration. During the interviews

¹³¹ *Ibid.*, 9–12.

¹³² Kanics and Senovilla Hernández, "Protected or Merely Tolerated? Models of Reception and Regularization of Unaccompanied and Separated Children in Europe," 4.

¹³³ UE, *Action Plan on Unaccompanied Minors (2010–2014)*, 1.

¹³⁴ *Ibid.*, 6.

conducted, Zorzella, Giovannetti, Vacchiano and Bertolino pointed out the failure of such tight and/or limited policies. They highlight instead the need to rethink our understanding of the magnitude, the nature, and the causes of this type of migration to Europe.¹³⁵ Simplistic solutions stem from limited knowledge about contexts and aspirations involved in minors' mobility. Very often it is assumed that migration (of not asylum seekers) is mainly driven by misery and poverty and that implementing bilateral agreements with third countries and promoting development in the country of origin is the medicine to 'cure' the 'problem' of migration. De Haas suggests that the nexus of development and migration should be taken with caution – accounting for a broader understanding of the motives for migration. "In migration studies, more generally, we must look at migration as a constituent part, an integral part of broader processes of change and development, rather than some sort of problem that needs solving" (De Haas 2014).¹³⁶ Haas admits the difficulty in finding a balance between an extremely optimistic and an extremely pessimist approach towards development programs as solution for migration.¹³⁷ Vacchiano also points out that development programs in countries of origin for youth considered 'at risk' might result in the reproduction of further forms of marginalization. He tries to find a compromise, however. Without glorifying the current approaches, he avoids the extreme skepticism that completely nullifies the utility of collaboration with third countries and the development of certain alternatives for young people also at home. If well structured and tailored according to each specific context some programs can be done for youth in their country of origin. In his words, they should include social entertainment; recovery plans for scholarization (programmes to tackle the high number of drop-outs and the reintegration in a higher quality education), vocational training, psychosocial support and promotion of building relations with families. Vacchiano does not have the illusion that these paths might stop migration. He believes that migration flows have a strong independence from forms of control but he expresses the consciousness that these options could potentially provide at least some alternatives to a migration attempted, in many cases, "at any costs" (Vacchiano 2014).¹³⁸

¹³⁵ De Haas, "The Myth of Invasion", 2008; De Haas"; De Haas, *Migration and Development as a Neoliberal Discourse*. Vacchiano for example gave the example of how collaboration between Spain and Morocco ends up in repression and fails in preventing children from migrating reference also to his article. Vacchiano and Jiménez, "Between Agency and Repression. Moroccan Children on the Edge."

¹³⁶ "What is the effect of development on migration? [...] you can't really understand or conceptualize the effect of migration on development without having a conceptualization of what actually drives migration. [...] So there's no deterministic relationship between migration and development. It depends on conditions in the receiving and origin countries". De Haas, *Migration and Development as a Neoliberal Discourse*. Conference at the University of Milano, April 2014.

¹³⁷ "I found myself torn in half because the earlier discourse on the brain drain had been far too negative, and I also saw positive aspects to migration, but I now found myself on the skeptical side, the optimism was overrated. I have sort of stayed in the middle and sometimes taken the optimistic direction, so this where I'm coming from". De Haas, *Migration and Development as a Neoliberal Discourse*.

¹³⁸ *Interview with Vacchiano Francesco, March 2014, Lisbon.*

2.3. The Italian legislation relevant to UASC

In countries like Italy, where the national legal framework appears to prioritize child protection by treating child migrants as children before migrants, it is instructive to interrogate how protection is conceived and performed. The residue of illegal migration clings to the UASC category and inevitably inflects articulations and infects interpretations that pattern response.

2.3.1. Italy and migration policy

Until the 1980s Italy remained what it had historically been: a country of emigration, with some 26 million nationals departing for America, Australia, and other European countries between. This in part explains the ratifications of several international instruments regulating migrant workers (both ILO Conventions Nos. 97 and 143) and their willingness to protect Italian citizens abroad and not explicitly foreigner in the Italian territory.¹³⁹ On the contrary Italy has not ratified the most recent International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.¹⁴⁰ Within the context of the narratives of 'Fortress Europe' and the episodes of deaths in the Mediterranean Sea for the negligence of control in assisting migrants on the boats¹⁴¹, the position of Italy towards migration is notorious. At the national level the public discourses that gain much attention and gather consent attach more broadly to irregular migration and public order. As the research conducted by Faedda on the Italian political discourse (conveyed through legislative acts, statistics, newspaper, websites, videos and posters) suggests, immigration is often criminalized and foreign-ness becomes synonymous with criminality. She argues that:

Today, immigration law could be seen as a sort of ritualized form of exorcism in a country that is clearly obsessed with foreigners. The myth of the immigrants invasion has become increasingly widespread, acquiring a collective credibility based on feelings of insecurity and fears. (Faedda 2013, 114)¹⁴²

¹³⁹ E. MacDonald and R. Cholewinski, *The Migration Workers Convention in Europe. Obstacles to the Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families: EU/EEA Perspectives*, UNESCO Migration Studies, France, 2007, 32, Available at: <http://unesdoc.unesco.org/images/0015/001525/152537e.pdf> (last visited: 16 June 2014).

¹⁴⁰ Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, 2220 UNTS 3/ UN Doc. A/RES/45/158, 18 Dec. 1990 (entry into force: 1 July 2003)

¹⁴¹ C. Heller and L. Pezzani, *Liquid Traces: investigating deaths of migrants at the EU's Maritime Frontier*; and C. Heller and L. Pezzani, *Left-to-Die Boat, Forensic Oceanography: the deadly drift of a migrants' boat in the central Mediterranean*, 2011

¹⁴² B. Faedda, "We Are Not Racists, but We Do Not Want Immigrants': How Italy Uses Immigration Law to Marginalize Immigrants and Create a (new) National Identity," in P. Kretsedemas, J. Capetillo-Ponce and G. Jacobs (eds) *Migrant Marginality, Transnational Perspective*, Routledge, New York, 2013, 114.

As De Beauvoir suggests a myth always implies a subject who projects his hopes and his fears toward a sky of transcendence, in this sense towards someone who represent 'the Other'.¹⁴³ Zorzella confirms in other words:

I do not think there is a real problem, but there are 'ideas' of problems because they are instrumental to politics. The fear of invasion is absolutely unfounded and mythical.[...] This impedes the creation of a culture of welcoming openness and curiositas.[...] because there is a closure of Western societies, where everyone defends his/her own tiny tile. Let alone that if (s)he is a stranger is the scapegoat par excellence.¹⁴⁴

The Italian migration policy is based on the quota-system (Quota Agreement). With the Law Turco-Napolitano in 1998, the *Decreto flussi* (Flows Decree) has been approved with annual regularity starting from 2001. It establishes how many migrants can enter the territory each year. The Consolidated Immigration Act and Law Bossi-Fini make the legislation even more restrictive, envisaging numerical restrictions on the entry of workers from countries that do not cooperate adequately in the fight against illegal immigration or in the readmission of their nationals who have received a return provision.¹⁴⁵ According to Hass (2008) countries which present restrictive migration policies such as Italy and Spain not only aim at preventing irregular migration but also at controlling it at their convenience.¹⁴⁶ Zorzella confirms it for the Italian case. She explains that restrictive migration policies rely on the anachronistic planning of the flows, but at the same time allows for having a number of illegal migrants that can be exploited in the labour black market. One can legally enter Italy as a third-country national only if the Flows Decree has been issued at the beginning of the year and if one is included in the established quotas. The administrative procedure for being part of the quotas and thus for entering Italy legally can takes up to two years, which means that the migratory project must be planned much in advance and this procedure does not account for short-term decisions of migration. The job offer and the work visa must be ready well before the arrival. There is no possibility to enter with the aim of looking for jobs. However what often happens is that many non-nationals enter with a tourist visa and remain in Italy illegally to look for work. The regularization of their status is very difficult and they might be employed irregularly

¹⁴³S. De Beauvoir, *The Second Sex*, Random House, Vintage Book Edition (New York, 1989).

¹⁴⁴ "Secondo me non c'è un vero problema ma sono idee di problemi perché sono strumentali alla politica, quello sì. Che poi non crea cultura anche dell'accoglienza, e della curiosità, la famosa curiosità di cui parlavamo prima per cui poi anche il singolo guarda male lo straniero, ma non solo perché è straniero, perché guarda male anche il vicino italiano, [...], perché c'è una chiusura delle società occidentali, dove ognuno difende la propria mattonella, non c'è più neanche l'orto, figuriamoci poi se è straniero è proprio il capro espiatorio per eccellenza". *Interview with Zorzella Nazzarena (conducted by the author), March 2014, Bologna.*

¹⁴⁵ Law No. 189 of 30 July 2002 ('Bossi-Fini law') amends the 1998 immigration law and introduces new clauses.

¹⁴⁶De Haas, *The myth of invasion*, 2008

as *clandestini*, unable to claim their rights. “This is the immigration control. The flow decree, the rigid flows planning is the iceberg of the control the Italian government wants to exercise” Zorzella says. Rather than controlling flows, the quota system aims at controlling the needs of the labour market. The advantages offered by employing cheap and ‘flexible’ workers in the labour market increasingly drive irregular migration.¹⁴⁷

2.3.2. Institutions and legal framework available to UASC in Italy

The official number of unaccompanied minors accounts for about 7750 children representing the 0.6 % of the total number of immigrants in Italy.¹⁴⁸ These figures have been registered by the Committee for Foreign Minors an interministerial body set forth in 1998 with art. 33 of the Italian Consolidated Immigration Act, in order to monitor the condition of stay of the foreign children temporarily present on the Italian territory, in particular unaccompanied foreign children who are not seeking asylum.¹⁴⁹ The Committee has been charged with coordinating the activities of the municipal administrations, directly responsible for the reception of UASC.¹⁵⁰ Stefano Scarpelli, explains that the creation of the Committee aimed first of all at setting the rules and procedures for the entry and residence of foreign minors over the age of six years, coming into Italy through solidarity programs for temporary shelter and custody promoted by organizations, associations or Italian families.¹⁵¹

The tasks of the Committee have been established in 1999 by a decree of the Prime Minister, the *Regolamento concernente i compiti del Comitato per i Minori Stranieri*.¹⁵² It is in charge *inter alia* of data collection, undertaking family tracing of the unaccompanied and separated minor, assessing the conditions in the country of origin for the possibility of a

¹⁴⁷ MacDonald and Cholewinski, *The Migration Workers Convention in Europe. Obstacles to the Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families: EU/EEA Perspectives*, 32.

¹⁴⁸ Interview with Zorzella Nazzarena, March 2014, Bologna; Cittalia, Fondazione Anci Ricerche, *I Minori Stranieri Non Accompagnati in Italia*, 2014.

¹⁴⁹ The CMS was composed by the representatives of the Ministry of Foreign Affairs, Ministry of Interior and Justice, the Department for Social Affairs of the Presidency of the Council of Ministers, as well as two representatives of the National Association of Italian Municipalities (ANCI), a representative of the Union of Italian Provinces (UPI) and two representatives of the most relevant organizations in the field of minors and family issues- UNHCR representatives were chosen to fulfill this role.

¹⁵⁰ *Consolidated Immigration Act (Testo Unico Delle Disposizioni Concernenti La Disciplina Dell’immigrazione E Norme Sulla Condizione Dello Straniero)*, Gazzetta Ufficiale, Legislative Decree 25 July 1998, No. 286 (Turco-Napolitano Law), (July 1998) Art. 33(1)(2bis)(3). Specifically on the Committee for foreign minors’s body

¹⁵¹ Interview with Stefano Scarpelli (conducted by the author). Stefano Scarpelli is the ex vice-president of the committee for foreign minors, and now officer at the General Directorate for Immigration and Integration Policies Unit IV - “Unaccompanied Minors and Integration Policies” at the Ministry of Labour and Public Policies in Rome. (Rome, Ministry of Labour and Social Policies, March 10, 2014).

¹⁵² Prime Minister, *Regulation Concerning the Functions of the Committee of the Foreign Minors, According to Article 33 (2)(2-Bis) of Legislative Decree 25 July 1998, No. 286 (Regolamento Concernente I Compiti Del Comitato per I Minori Stranieri, a Norma Dell’articolo 33, Commi 2 E 2-Bis, Del Decreto Legislativo 25 Luglio 1998, N. 286)*, Regulation/D.P.C.M. 535/1999, December 9, 1999.

voluntary return and monitoring the conditions of reception in Italy.¹⁵³ At the end of 2011, for bureaucratic and economic exigencies the Committee's functions passed to the DG.¹⁵⁴ Although, through this passage, the staff and their competences have not actually changed substantially, the joint nature of the Committee in exercising its decision-making functions (enshrined in article 33 of the Consolidated Act) has been lost. The interministerial aspect of the body has been compensated by the idea of creating a Negotiating Table discussing the issues related to UASC. However, thus far it has consisted of a series of meetings with the process of its institutionalization yet to begin.¹⁵⁵ According to my informants currently working at the DG, this change could now represent a good opportunity to address some gaps and clarify the nature of the body itself which, since its very first creation, has been unclear. Article 33 of the Italian Consolidated Immigration Act and the d.p.c.m. 535 did not clarify the actual nature of the body. The Committee was a hybrid body, with a technical composition but a political nature. It performed administrative tasks and at the same time the interministerial meetings, occurring once a month, allowed for the negotiation of political decisions, such as the allocation of funds. A similar lack of clarity pertains today to the DG which has a technical nature but is inserted into the Ministry of Labour and Social policies. However the idea of a Negotiating Table which compensates for the lost interministerial aspect, have opened several questions pertaining the future features that the body could have. In the words of the interviewed DG's officials, it is still to be decided whether the Negotiating Table will be an opportunity to discuss technical coordination in a process of multi-level governance or alternatively to discuss political issues such as the allocation of resources or the overall management of UASC protection. Both roles seem to be relevant and important to be implemented by promoting a multi-level governance which involve different actors in one sole, coordinated process. But for the moment the issue has not been thoroughly tackled.

2.3.3. Children first. No expulsion. No detention

In Italy the legal framework for the protection of foreign minors is represented first by article 10 of the Constitution which states that Italian legislation conforms to the "generally recognized rules of international law", meaning general principles and international customary law. Paragraph 2, specifically ensures that the legal status of foreigners is

¹⁵³ According to Serena Matarese, Italy has a peculiar positive practice which distinguishes the Italian context from other European cases, where the repatriation of the minor is not done necessarily on a voluntarily basis. In Italy the family tracing is undertaken and the option of the return of the minor is taken into consideration only when the desire of returning is explicitly expressed by the minor her/hself.

¹⁵⁴ *Decreto "Salva Vita" ("Safe-Life" Decree), Spending Review under Monti's Government, Law No. 214/2011, December 2011.*

¹⁵⁵ *Interview with Serena Matarese (conducted by the author) March 2013, Rome; Interview with Scarpelli Stefano, March 2014, Rome.*

regulated by law in conformity with international norms and treaties. In this case, international treaties ratified by Italy, such as the ICCPR and ICESCR on 15 September 1978 and the CRC on 5 September 1991 are relevant. Art 34 of the Constitution set forth the right to education to everybody, (first 10 years of education are mandatory and free for everybody). The relevant provisions of the *Consolidated Immigration Act* (especially art.32) and the *Regulation on the tasks and functions of the Comitato minori Stranieri* (D.p.c.m 535/99) are analyzed below. The Italian Consolidated Immigration Act guarantees all foreigners “located at the Italian borders or on Italian territory [...] the fundamental human rights provided for under national laws and applicable international conventions” (article 2.1). Article 19 prohibits the expulsion of minor (with the only exception of the case in which the minor follows the “expelled” parent and under previous authorization of the Juvenile Court)¹⁵⁶. This means that, by law, no foreign minors in Italy can be forcibly expelled, even if their migrant status is found to be irregular. Nor can they “be detained for reasons of their irregular entry or presence on Italian territory”.¹⁵⁷ What is more, any unaccompanied child in Italy is entitled to obtain a residence permit on the basis of being under the age of 18 (*permesso di soggiorno per minore età*) or if placed in foster care with a family.¹⁵⁸ Before turning 18, a child can request the conversion of the residence permit to a permit for study or work under certain conditions that have been subjected to various changes in the last ten years– we will see in detail the legal history of the delicate passage at 18 years old for a young migrant (see chapter 3).¹⁵⁹ All foreign minors in Italy are granted the right to education, the right to health care and various protective measures with regards employment, including admission to employment only after the age of sixteen and after having fulfilled their educational obligations.¹⁶⁰

2.3.4. Applying the law for abandoned children to UASC

¹⁵⁶ *Consolidated Immigration Act (Testo Unico Delle Disposizioni Concernenti La Disciplina Dell’immigrazione E Norme Sulla Condizione Dello Straniero)* Art. 19 (2).

¹⁵⁷ *Legislative Decree 25/2008, as Modified by Legislative Decree 159/2008, “Attuazione Della Direttiva 2005/85/CE Recante Norme Minime per Le Procedure Applicate Negli Stati Membri Ai Fini Del Riconoscimento E Della Revoca Dello Status Di Rifugiato,”* 2008; *D.M. 323/99 Art. 1 (3)*, 1999; *Law 30/2000*, 2000; *Law 9/99*, 1999.

¹⁵⁸ *Regulation Regarding the Release of the Permit to Stay as Minor (permesso Di Soggiorno per Minore Età)*, D.P.R. 394/99, Art. 28, 1999; Ministry of Interior, *Circular Note on the Residence Permit as Minor*, April 9, 2001; Ministry of Interior, “Circular Note on the Residence Permit as Minor,” November 13, 2000.

¹⁵⁹ The conversion of the residence permit can be obtained upon positive opinion of the Committee; in case of children in foster care or under legal guardianship; or when the child has been in Italy for at least 3 years and has been involved in a social integration project for at least 2 years. See details in Chapter 3 *Conversion of the Permit to Stay as Minor*, Legislative Decree 286/98, Art. 32, 1998.

¹⁶⁰ “Legal Framework for Unaccompanied Minor. Direzione Generale per L’attuazione Dei Provvedimenti Giudiziari. Minori Non Accompagnati,” *Ministry of Justice Website*, Available at: http://www.giustizia.it/giustizia/it/mg_1_12_1.wp?previousPage=mg_14_7&contentId=SPS788737. (last access: 16 June 2016)

The absence of an adult who, by law or custom, is responsible for the care of UASC requires, from a legal standpoint, the host state to act as guardian, so (s)he is entitled to a form of protection and should be accepted in the reception system foreseen for those minors considered in state of vulnerability.

Guardianship for minors whose parents cannot exercise parental authority for any reason is regulated by the Italian Civil Code and Law 184/1983 and for each child a guardian should be appointed by the Juvenile Court or the Guardianship Judge. Law 184/1983, Art. 9, (*Diritto del minore ad una famiglia*) establishes that “any person who comes into contact with a child in state of abandonment may refer him or her to the public authority”. This means that the practice of applying the law which was created to protect children in situations of risk or abandonment has consolidated in the matters affecting UASC. Art. 403 of the Italian Civil Code is also applied: it establishes that “when a child is morally or materially abandoned”, or in a situation of danger to his/her physical and psychological wellbeing (possibly raised by negligent parents), all public officials and civil servants are required to refer the child immediately to the Juvenile Court and the public authorities will place her or him in a safe location until a long term solution is found.¹⁶¹ Beyond legally representing the child in all her/his interaction with public institutions, the guardian is in charge of ensuring the child’s protection and care. The guardian has to support the child in completing the request for a permit to stay, support her/his education and in all decisions concerning her/his life. If placed in a care facility until the guardian is appointed the child is formally in custody of the legal representative of the children’s home. Care facilities can vary enormously, but they should offer the child a “family atmosphere” and provide her/him with medical professionals, psychologists, cultural and linguistic mediators.

2.3.5. First screening, identification, registration and appointment of a guardian

Once intercepted by law enforcement authorities, the foreign minor undergoes a process of first screening, identification and registration. If they have no valid identification documents, or if there is no possibility to verify their identity and age through the diplomatic/consular representative of the country of origin, the age should be assessed. When there is a doubt about the claimed age, Italian law enforcement authorities will take the child to a hospital for medical age assessment. The child should be informed about the reasons of all the

¹⁶¹ “Quando il minore è moralmente o materialmente abbandonato (1) o è allevato in locali insalubri o pericolosi, oppure da persone per negligenza, immoralità, ignoranza o per altri motivi incapaci di provvedere all'educazione di lui, la pubblica autorità, a mezzo degli organi di protezione dell'infanzia, lo colloca in luogo sicuro, sino a quando si possa provvedere in modo definitivo alla sua protezione (2)” Art. 403 of the Italian Civil Code

procedures and all examinations should respect the dignity of the child.¹⁶² The benefit of the doubt in favour of a child being underage shall be applied and always a margin of error should be provided in an Age Assessment Report¹⁶³, (given the disputed validity of the procedures used normally for age assessment).¹⁶⁴ When the child is assessed to be over 18 an expulsion order which obliges the adult to leave the country is notified. However a legal representative should be available for her/him in order to support the person in lodging an appeal against the expulsion order and the age decision. When the child is over 14 years of age, (s)he is fingerprinted and the personal data included in the AFIS (Automated Fingerprint Identification System) and Eurodac database. If the child is found younger than 18, the referral to services, the placement in a residential care facility for minors follow and the appointment to the guardian should also follow promptly. Normally before a suitable accommodation is found (a residential care facility, like a children's home) UASC are placed in 'short term first reception centres'.¹⁶⁵ It is the social services department of the relevant municipality, contacted by the law enforcement authorities who might have identified the child, responsible for the child's placement in a centre tailored to her/his needs. Prompt notification should be made to the DG and the diplomatic representatives of her/his country of origin.¹⁶⁶

The Italian context embodies a case worthy of analysis because according to national law the protection of minors is declared to be the same for national and non nationals. Legislation provides that all unaccompanied migrant children under the care of the protection services are entitled to a residence permit for minors automatically once the child has been

¹⁶² European Convention on the Exercise of Children's Rights, E.T.S. No. 160, 1995 (entry into force: 1 July 2000) Arts. 3 and 11 .

¹⁶³ *Approvazione Delle Disposizioni Sul Processo Penale a Carico Di Imputati Minorenni*, Presidential Decree D.P.R. 448/1988, Art. 8, 1998; Ministry of Interior, Circular Note, July 9, 2007.

¹⁶⁴ Prof. Lodovico Benso, gave a presentation (*L'inadeguatezza dell'impiego dell'età ossea e puberale per stabilire l'età anagrafica*) during *Minori Stranieri Non Accompagnati: Tra Tutela E Accoglienza*, Conference at the University of Bergamo, June 14, 2013, 5; European Migration Network, *Synthesis Report: Policies on Reception, Return and Integration Arrangement For, and Numbers Of, Unaccompanied Minors – an EU Comparative Studies*; Kamena Dorling, "Happy Birthday? Disputing the Age of Children in the Immigration System," *Coram Children's Legal Centre*, 2013. Faedda, "We Are Not Racists, but We Do Not Want Immigrants': How Italy Uses Immigration Law to Marginalize Immigrants and Create a (new) National Identity," 122.

¹⁶⁵ *Interview with Monia Giovannetti (conducted by the author)*. Monia Giovannetti is a researcher at Cittalia- Research Institute of ANCI (National Association of Italian Municipalities) Which Is Dedicated to Studies and Research on the Topics of Most Interest to the Italian municipalities (welfare and Society, Social Inclusion, Participation and Management of Public Spaces and Urban Policy, Migration). Since 2008 Ms. Giovannetti Focused on Unaccompanied and Separated Foreign Minors in Italy. She has directly interviewed various state and non-state actors working with uasc and collected primary source information from minors themselves. Moreover, by coordinating the annual redaction of the ANCI Report on UASC, she is constantly exposed to the variety of the Italian local governments' positions on the matter. (Rome - ANCI headquarter, February 27, 2014).

¹⁶⁶ To asylum seeker children a different procedure applied in terms of referral to the Protection System for Asylum Seekers and Refugees System for the protection of asylum seekers (SPRAR) established by Law 189 of 2002 (Law 189/2002, "Modifica alla normativa in materia di immigrazione e di asilo", Art. 32.) and the Directive 7 December 2006 on asylum seeker children issue by Italian Minister of Interior Giuliano Amato.

identified and located in the institutional care system.¹⁶⁷ What will be interesting, in the following chapter, is to understand how, in fact, this protection is conceived and performed. An interpretation of the rationale shaping this type of protection will be proposed in the final chapter.

3. ONCE WITHIN THE BORDERS

Often the problem does not regard opening or closing the border, but what is done within the borders, because if you try to create a social disadvantage within the borders, it is obvious that those who enter the border will find that social disadvantage, that uncomfortable environment, an inhospitable society, a racist society, and they will find a lot of problems.¹⁶⁸

Evazali, a 28-year-old Afghan who arrived in Italy when he was a minor, perceptively captures the dilemma of formally having a legal system that ‘generously’ allows foreign minors to cross borders (by prohibiting their expulsion) but whose kind of protection available within the borders is not always concretely accessible. In his auto-ethnography, *Illegal Travel*, Khosravi talks about borders and borders transgressors, stating that “ours is a time of the triumph of borders, an epoch of borders fetishism” (Khosravi 2010, 76). Having experience crossing physical and national borders, he admits that the most difficult borders to cross once arrived in the country of ‘randomly chosen’ destination, were the invisible, elusive, but extremely powerful and deep rooted borders in the minds of the people. “The border expose me to a gaze that does not see me as an individual but reads me as a type. The visual field is not neutral” (Khosravi 2010, 76).¹⁶⁹ The border imposed by the others’ gaze, their representations, and their expectations, places a distance, objectifies and fixes, denying the complexity and multidimensional value of individuality. From the analysis of the main weaknesses of the Italian reception and protection system indeed it seems that there is an incongruous gap between the availability of protection by law and its real accessibility. There exists a disparity between the rhetoric and the practice of the expressed commitments to the rights of the child. From the literature about UASC in Italy and the information gathered through interviews, the main weaknesses of the system that have found all the informants in agreement (despite their different perceptions of the situation and their different

¹⁶⁷ Regulation Regarding the Release of the Permit to Stay as Minor (*permesso Di Soggiorno per Minore Età*).

¹⁶⁸ “A parte che spesso non è tanto aprire o chiudere il confine, ma all’interno del confine quello che stiamo facendo perché se cerchiamo di creare un disagio sociale all’interno del confine è ovvio che chi arriva dentro al confine si trova quello, trova disagio sociale, trova la società inospitale, una società razzista, e trova tanti problemi.” Interview with Evazali (conducted by the author) Afghan 28-Year-Old Cultural Mediator at CivicoZero, Save the Children, Rome, March 11, 2014.

¹⁶⁹ Khosravi, “*Illegal*” Travel. An Auto-Ethnography of Borders, 76.

backgrounds), concern the persistence of obstacles to an homogeneous implementation of the standards described in the previous chapter throughout the whole national territory.¹⁷⁰ The gaps also regard the way in which the UASC protection is coordinated (or not) from the central government and performed locally, and the concerns that the passage to the majority age have risen among the lawmakers.

The rhetoric of protection

When Bertolino talks about the protection system in Italy for UASC he refers to a “rhetoric of protection” in the sense that the system in place works sometimes with the logic of ‘defensive medicine’. Doctors are obliged to obtain informed consent in order to ensure that the patient is aware of the practices and the related risks. However some doctors who are also anthropologists say that today the ‘informed consent’ has become rather a defensive tool to avoid the capacity of the patient to claim and press charges if something ‘goes wrong’. According to Bertolino the child protection system works in a similar way. The aim is to be in the position of formally ‘taking care’ (referring the intercepted minor to the authorities or social services and place her/him in a safe place). Only then come questions of ‘when’, ‘where’ and most of all, ‘how’ to take care; these questions remain poorly articulated. The Italian protection system exhibits certain characteristics that support Bertolino’s assessment. These aspects will be interrogated below.

A Paternalistic approach?

All the interviewees have confirmed that the general Italian framework protects the child as such, on the basis of territoriality, especially if unaccompanied or separated, regardless their nationality. In the words of Stefania Maselli, the protection system for minors in Italy is one of the strongest in Europe.¹⁷¹ But a deeper analysis shows that the picture is much more complex.

According to Matarese, the protection of UASC in Italy has been conceived as the protection of a victim. Indeed, the first law that is applied to UASC is the one, which normally is applied to *abandoned children* (art. 403 Italian Civil Code).¹⁷² The state becomes the guarantor of children’s welfare when a child is found without a legal representative. The main explanation provided by the representatives of the government interviewed is that UASC are

¹⁷⁰ The most recent and main work is Petti, *Il Male Minore*.

¹⁷¹ *Interview with Stefania Maselli* (conducted by the author) Stefania Maselli works at the central service of the SPRAR centre; she is in charged of assisting and monitoring projects on asylum seeker children in some Italian regions which are included in the sprar network. The SPRAR Project (Protection System for Refugees and Asylum Seekers) is financed by the Ministry for the Interior through the National Fund for Asylum Policy and Services. (Rome, March 11, 2014).

¹⁷² *Interview with Serena Matarese, March 2013, Rome*.

taken in charge by the State because it aims at protecting them from exploitation. From one side, recognizing UASC as vulnerable subjects would mean granting them, at least by law, special safeguards, care and protection. From the other side, this approach reflects a representation of the child as a vulnerable object of welfare and paternal care¹⁷³, neglecting the multiple dimensions of her/his personality and story. Matarese and Zorzella agree that article 403 is not appropriate for the varied phenomenology of UASC. It risks applying to them 'dangerous' categories and images of neglected children, which stigmatize the families of origin, misrepresenting the realities of most situations. What it is important to acknowledge is that their profiles do not (always) correspond to the ones of "abandoned children".¹⁷⁴ The migration experience has shaped children's aspirations and objectives, and, as such, they have varying expectations. The nature of vulnerability itself is susceptible to change and dislocation.

3.1. The Italian protection machinery for UASC and the impasse of fragmentation and schizophrenia

The first problem that arises from the interviews concerns the fragmentation of structures and services, which could offer protection to such children along their route.¹⁷⁵ The issue has been raised also by the CRC Committee in its Concluding Observation to Italy (October 2011) confirming that the protection of UASC is left to the discretion of each local municipality without being addressed consistently and systematically at the national level. The treatments applied to the varied group of minors who migrate to Italy vary from municipality to municipality and follows a 'do it yourself' logic.¹⁷⁶

¹⁷³Eastmond and Ascher, "In the Best Interest of the Child? The Politics of Vulnerability and Negotiations for Asylum in Sweden," 34–37.

¹⁷⁴"Tutta la normativa di tutela,[...] normativa di minori in stato di abbandono, quindi casi specifici, e numericamente non fenomenici, quindi casi spiccioli, per il quale, che non ha nulla a che vedere con i minori stranieri non accompagnati [MSNA], a parte che psicologicamente le situazioni dei rapporti con le famiglie di origine, non sono equiparabili ai minori in stato di abbandono, perché hanno un rapporto molto più stretto e non c'è tutta la parte legata al reinserimento alla famiglia di origine, ..mentre per...la famiglia d'origine non è qui, quindi quel pacchetto di norme appoggia su una base da cui partire che è la Convenzione su i diritti dell'infanzia, ma non può sostenere una cosa che invece è un'altra, insomma quindi va bene partire da lì, però secondo me, ragionare in maniera sistemica, significherebbe anche prendere atto del fatto che stai parlando di una categoria di minori delle caratteristiche specifiche, delle esigenze specifiche, dei bisogni specifici al quale lo stato, e l'Europa mi viene da aggiungere, deve rispondere in maniera ad hoc, non li può trattare come migranti per certe cose, come minori in stato di abbandono per certe altre, quindi poi ricade sul comune perché? Su che principio se noi adottiamo un principio che è tutto un altro, cioè la responsabilità dei servizi sociali del comune che io penso che sia da preservare però non basandosi solo sulla normativa dei minori in stato di abbandono, quella normativa non è giusta".' *Interview with Serena Matarese, March 2013, Rome.*

¹⁷⁵M. Giovannetti, *Storie Minori. Percorsi Di Inclusione Ed Esclusione Dei Minori Stranieri Non Accompagnati*, Cesvot, Quaderno 36 (Florence, 2007), Available at: http://www.cesvot.it/repository/cont_schedemm/2403_documento.pdf (last visited: 16 June 2014); Cittalia, Fondazione Anci Ricerche, *I Minori Stranieri Non Accompagnati in Italia*, 2014; Cittalia, Fondazione Anci Ricerche, *I Minori Stranieri Non Accompagnati in Italia*, 2011.

¹⁷⁶Committee for the Rights of the Child. *Concluding Observations to Italy*. In its Consideration of Reports submitted by States Parties under Article 44 of the Convention, UN Doc. CRC/C/ITA/CO/3-4, 31 Oct. 2011.

Although at the national level there is a legal framework which should guarantee the protection of foreign minors, the legislation remains insufficiently clear with respect to the criteria by which it establishes the competence of a certain local authority to support the monetary costs of the reception. Paradoxically, according to the ordinary law, the cities of Lampedusa or Augusta, as places of first ‘tracing’, should take charge of the reception of all the young migrants landed there.¹⁷⁷ Reportedly some reception centres refuse to host children, others happen to be overcrowded and very poorly managed while children move within the territory looking for alternatives. For UASC uncertainties increase: responses and implementation of the law at the local level are discretionary, depending on the willingness to find and devote resources to cover the costs of the child’s maintenance. This disorganized behavior characterizes what I have called the ‘schizophrenic’ Italian approach to the phenomenon, which as we will see, implies a disordered way of thinking UASC and representing child mobility itself.

At the borders different approaches are taken and even if the minor is not immediately expelled, and (s)he manages to arrive in a first reception centre, (s)he never knows which procedure will be applied in order to identify and protect her/him. Fragmentation consists also in the lack of standardized procedures in the identification, registration and referral processes to services and residential care facilities (which would always require the presence of a cultural mediator to facilitate communication). By law it is not clear which authority is responsible for the referral of the intercepted UASC to the care facilities and for the choice of the reception centre itself (in certain location the responsibility is given to the social services department of the municipality where the child is found, while in others locations the central role is given to law enforcement authorities who identify the reception centre and inform the social services upon the child’s placement).¹⁷⁸ The tasks of the professionals appointed to care for UASC and officers in charge of regularizing their status at arrival are not well coordinated, sometimes they overlap and lack the expertise that guarantees children’s particular needs can be satisfied. Finally, the lack of a comprehensive and holistic approach valid for all the locations in order to conduct the age assessment impedes a multidisciplinary approach (considering medical, psychological and sociological aspects) from being consistently applied in compliance with international law¹⁷⁹.

¹⁷⁷ Interview with Scarpelli Stefano, March 2014, Rome.

¹⁷⁸ 403 Civil Code. Interview with Giovannetti Monia, February 2014, Rome; Giovannetti, *Storie Minori. Percorsi Di Inclusione Ed Esclusione Dei Minori Stranieri Non Accompagnati*.

¹⁷⁹ Committee for the Rights of the Child, *Concluding Observations to Italy*; Borghi and Santarossa, *Protecting Children on the Move, Addressing Protection Needs through Reception, Counseling and Referral, and Enhancing Cooperation in Greece, Italy and France*, 23–24.

3.1.1. Wherever there are available places

The lack of a central coordination and collaboration among various regions, provinces and municipalities in the provision of services of first (immediate) reception and second (longer term) reception for UASC on the Italian territory has various implications. First, a lack of clarity in the procedures (in terms of appointing the guardian, access to legal advisors and provision of the permit to stay as minor). Secondly, this fragmentation implies a delay in the provision of precise information to the child. Finally, extreme heterogeneity exists in terms of the quality of reception and protection services offered, with standards varying considerably depending on location and availability of funding. The way the child's time is managed varies greatly. Once arrived and traced, a child might wait for months before a guardian is appointed (often one guardian is appointed for 100-200 children)¹⁸⁰ and consequently the procedure of documentation, regularization, school enrollment or vocational training are delayed.¹⁸¹ Matarese actually says that not always and everywhere is a guardian appointed, but the procedure of reception and the 'taking in charge' of the minor by a facility, continue in the absence of a legal representative of the child's views. As Khosravi (2014) suggested, manipulating others' time, and keeping her/him in a state of uncertainty is a way to exercise power and control against another person, leaving her/him in a status of "waiting", "waste", stress and frustration. Their time of life is not valued with respect but transformed into 'dead time'- the suspended time of waiting.¹⁸²

In Italy the main model of reception is the placement of the unaccompanied child at reception centre, rather than shared flats or apartments¹⁸³ or the placement in foster families. The reception, care and protection facilities can fall under the umbrella of the municipality management or they can be created by private organizations, very often by faith-based associations.¹⁸⁴ The various reception centres and typologies of accommodation vary greatly in the number of minors they can at maximum host, in the quality of the reception, more or less individually tailored to each profile, and on the presence of professional staff more or less motivated and trained to respond to the characteristics and needs of each minor. There

¹⁸⁰ Interview with Marco Cappuccino, February 2014, Rome.

¹⁸¹ There is a lack of common procedures regarding the issuance of residence permits to unaccompanied children upon arrival and identification. "In some cases, the residence permit is issued only following the appointment of a guardian, several months after the child's arrival. Delays in issuing the residence permit seem to create a feeling of frustration and stress shared by most of the children interviewed", Borghi and Santarossa, *Protecting Children on the Move, Addressing Protection Needs through Reception, Counseling and Referral, and Enhancing Cooperation in Greece, Italy and France*, 25.

¹⁸² S. Khosravi, *Lecture at the Graduate Institute of International and Development Studies* (Geneva, April 26, 2014).

¹⁸³ Shared flats or apartments could be a possible option for children with a high degree of independence and maturity but again are more rare.

¹⁸⁴ Giovannetti, *Storie Minori. Percorsi Di Inclusione Ed Esclusione Dei Minori Stranieri Non Accompagnati*; Interview with Giovannetti Monia, February 2014, Rome; Petti, *Il Male Minore*.

are both specialized facilities for foreign minors and facilities together with national children considered in a state of vulnerability. Both typologies have their own advantages and disadvantages.¹⁸⁵ Evazali left Afghanistan when 9 and finally arrived in Italy when he was 17 years old. His perception of the reception centres available to UASC in general can be summarized in these powerful words:

you keep a group of people in a reception center highlighting to the society that those are a group of criminals or who knows what race they are [...] it becomes a sort of remark saying you are people of a certain category and you have to live only in reception centers ... and this is because... the fact is to discriminate among people by keeping them in reception centres...according to me, I don't know...I cannot give an answer to this...I cannot give any description.¹⁸⁶

The placement in family fosters which is much more rare in Italy, should, according to Zorzella, Vacchiano and Giovannetti, for example, be promoted further. However this represents an effective solution only if it foresees the involvement of the community to support the foster family in this process of integration.¹⁸⁷ The General Comment No 6 of the CRC states that a wide range of options for care and accommodation arrangements for UASC exist and are explicitly acknowledged in Art. 20 (3) of the CRC.¹⁸⁸ But it clarifies that when selecting from these options, the particular profiles and vulnerabilities of such a child should be taken into account.¹⁸⁹ In the Italian case, instead, although the variety of reception centres which could potentially host UASC, when a long-term accommodation must be found normally the choice does not depend on the assessment of the profile of the child which takes into account her/his needs. On the contrary, in most cases it is arbitrary and mainly

¹⁸⁵ *Interview with Roberto Bertolino (conducted by the author)*. Roberto Bertolino is an ethno-psychologist at the centre frantz fanon (a non-profit non-governmental organization which provides migrants, including minors, with counselling service, psychotherapy and psycho-social support) in Turin. (Turin, March 04, 2014); *Interview with Zorzella Nazzarena, March 2014, Bologna; Migrating Alone: Unaccompanied and Separated Children's Migration to Europe*.

According to Matarese, UASC are mainly placed in structures with other national minors in states of vulnerability and this is extremely relevant to understanding how the Italian approach is aligned with the principle of non-discrimination:

¹⁸⁶ "Tu tieni un gruppo di persone in un centro di accoglienza evidenziando alla società che questi sono o un gruppo di criminali, o un gruppo di chissà di quale razza sono e questo è... diventa come una sorta di evidenziazione del dire voi siete delle persone di una certa categoria e dovete vivere solo nei centri di accoglienza... per il fatto di discriminare le persone mettendoli nei centri di accoglienza...per me, non so darvi una spiegazione...non so dare una descrizione". *Interview with Evazali, March 2014, Rome*.

¹⁸⁷ *Interview with Giovannetti Monia, February 2014, Rome; Interview with Vacchiano Francesco, March 2014, Lisbon*.

¹⁸⁸ "[...] inter alia, foster placement, kafalah of Islamic law, adoption or, if necessary, placement in suitable institutions for the care of children". Committee on the Rights of the Child, *CRC/GC/2005/6*.

¹⁸⁹ "When selecting from these options, according to the mechanisms established under national law in order to ensure alternative care for such children, the particular vulnerabilities of such a child, not only having lost connection with his or her family environment, but further finding him or herself outside of his or her country of origin, as well as the child's age and gender, should be taken into account. In particular, due regard ought to be taken of the desirability of continuity in a child's upbringing and to the ethnic, religious, cultural and linguistic background as assessed in the identification, registration and documentation process". *Ibid.*, 13.

dependent on as simple calculation of vacancies, and on the propensity of the structure and/or municipality to host foreign minors. In the absence of an organic and clear framework of reference that guides the management of the minors' placement, a minor, just by chance, may happen to be hosted in a centre of quality, embracing innovative, sensitive and multidisciplinary means of protection and support, while another might end up in a poor-quality centre and easily being more tempted to opt for the 'protection' offered by the street. Stories recounted by the young migrants interviewed for this study reveal the remarkable contingencies steering each of their respective migratory projects. Plans and ideas about the migratory project might change from one moment to the other, just by chance. This is always the case when one talks about migration. However this fragmentation arguably increases the uncertainty. For example, Syed, 26-year-old Afghan, arrived in Italy at 16 years old hidden under a truck from Greece. Having experienced a positive welcoming by an Italian man who helped him to find proper accommodation, he decided to stay in Italy instead of joining a friend in the UK, as planned.

During the trip you can never know how long you will stay in a place and when you will leave again.[...] My experience with that man in Benevento made me think that Italy was a hospitable country. Now I changed my mind. I want to leave again because the political, economic and social situation in Italy made me change my mind.¹⁹⁰

Similarly Evazali explains that he spent more than one year in Lecce in a home for both national and non-national children where, luckily, the wife of the owner devoted some time to teach him Italian and to help him get a secondary school diploma. Having created good relations with the staff of the house, he managed to acquire some working experience within the association helping with the reception of incoming foreign minors. However, when he arrived in Rome with the intention to enroll at the university, he felt absolutely disoriented. First he stayed at a friend's house for some days then he found a place at a center for 'emergential housing' for foreigners. "By chance", he says, "I was lucky and at that point the region of Lazio had funded a project to get a training as cultural mediator, I signed up and I did it".¹⁹¹ The findings of the PUCAFREU research conducted in various European countries, including Italy, about *Unaccompanied children lacking protection in Europe* present some of

¹⁹⁰ "In viaggio non puoi mai sapere quanto starai quando ripartirai. In Iran ho conosciuto un ragazzo che andava in Inghilterra e io ero in contatto con lui e la mia idea era di andare in Inghilterra. Per due motivi: uno perchè c'era questo mio amico, due perchè sapevo l'inglese. Poi l'esperienza del signore di Benevento mi ha fatto cambiare idea e sono volute rimanere in Italia. Ho detto l'Italia è un paese che può accogliere bene. Ora ho cambiato idea cioè tra un pò voglio andarmene via perchè la situazione politica, economica e sociale italiana me l'ha fatta cambiare l'idea". *Interview wit Evazali, March 2014, Rome.*

¹⁹¹Evazali, Interview, March 11, 2014.

the experiences and difficulties UASC had within institutional care.¹⁹² Among the interviewed children's perceptions the lack of adaptation to and the non-understanding of the rules of the reception facilities, often recur as problems faced in accommodation centres. Often it is felt that rules are implemented arbitrarily, and without a proper explanation of the need to impose certain constrictions.¹⁹³ The three young migrants interviewed have expressed similar perceptions. Children perceive the restrictions imposed by the protection facilities as a deprivation of liberty, the public reception project offered to them might be regarded as unclear or not 'concrete' enough for their immediate needs. The rules of the centres and the way they are treated clash with their priorities and perception of themselves as adult and responsible. They need to work to pay the debt back to the smuggler or to help the family at home. They might perceive school useless because they might associate it with the only types of schools they know, which can be the one in their home country where the education system might be extremely punitive and not stimulating.¹⁹⁴ Bertolino confirms that they do not understand the need of control that operators and social services have towards them:

the young boys and girls I see talk about the difficulties of being in a centre where they feel treated like children. [...] the thing that often emerges in the clinical practice is a radical question that they raise, 'What do these people want from me? What do these social workers want from me, because they say to us 'you have to', 'what are you doing?' 'I am worried about you''. This is not a naive question at all. In many ways, it is revealing something about the level of power and control.¹⁹⁵

Evazali says that he experienced directly the discomfort of living in a family home where he was not treated like an adult as he felt, after having travelled since he was 9 from Afghanistan, through Pakistan, Iran, Turkey, Greece to Italy.

I had always to follow a certain discipline, I could not be alone, I could not go out alone, I had always to stay under the monitoring of educators... all these things...and

¹⁹² PUCAFREU and Senovilla Hernandez, *Unaccompanied Children Lacking Protection in Europe*.

¹⁹³ *Unaccompanied children lacking protection in Europe*, PUCAFREU project, Final comparative report, *Promoting unaccompanied children's access to fundamental rights in the European Union, 2013*, Available at: <http://www.pucafreu.org> (last visited: 16 June 2014)

¹⁹⁴ *Interview with Amr (conducted by the author)*, Egyptian 21-Year-Old Cultural Mediator at CivicoZero, Save the Children, Rome, February and March 2014, March 11, 2014; PUCAFREU and Senovilla Hernandez, *Unaccompanied Children Lacking Protection in Europe*.

¹⁹⁵ "I ragazzini ti parlano della difficoltà di stare in una comunità di minori classica dove c'è un processo di infantilizzazione. Tutti gli altri ragazzini che vanno a casa la domenica dai genitori, ma la cosa che emerge spesso nella pratica clinica, che fa un po' sorridere però, è una domanda radicale che si pongono questi ragazzini, ed è "ma cosa vogliono questi da me? Cosa vogliono questi operatori sociali da me, che dicono ma tu devi, ma cosa fai, ma sono preoccupato per te" è un interrogativo che è tutt'altro che ingenuo per molti versi, livello tra potere e controllo, ed è interessante". *Interview with Roberto Bertolino, March 2014*.

at a certain point this created...frustrated me because I could not understand all these rules.¹⁹⁶

According to Cappuccino, when the minor breaks the rules the care facilities often opt either for expulsion or collusion, because of the lack of competence, capacity of dealing with young people with different profiles, expectations and needs, and the lack of adequate resources allocated. They might decide to be very strict and expel the minor at the first step out of the line, because (s)he “does not fall within the established parameters (of their management)”.¹⁹⁷In other cases they let them go out to work illegally pretending that they are unaware of this and promising not to refer the breach as long as the minor returns to the structure.

From the discussion I had with Evazali, Syed and Amr and from the findings of the PICAFREU project, the establishment of a positive and genuine relationship with the staff of the reception facilities, and the motivation and sensitivity social workers and educators show and instill, play a great role in influencing minors’ choices and behaviors. If they perceive from the staff supposed to care them the existence of a systematic suspicion about their declarations (concerning the age, the country and context of origin, the migration route, the status as ‘unaccompanied’, the family links, the fact of being or not in transit), in turn minors also feel more reluctant, less confident and less respectful with regard to the system. At the question concerning his perceptions about the reception centres he entered in contact with and his perspectives about changes that must be made in order to address the issues faced by the centres and UASC, Amr (21-year-old Egyptian male) says:

As I see it, first you have to change the behavior of those who work in the family home... so the behavior is the first thing .. because at the end if you scream in face to the kids, all Egyptians do not like this. This is not what we like. And the Italian maybe gets angry, screaming here and there and maybe the Egyptian gets angry too, then

¹⁹⁶ “Io questa cosa l’ho vissuta sulla pelle perché quando io sono arrivato e mi hanno portato in una casa famiglia, io mi trovavo molto come una persona adulta, non mi trovavo come venivo trattato, insomma. Che io sono minorenne, che dovevo stare sempre ad una certa disciplina, che non dovevo stare da solo, che non dovevo uscire da solo, dovevo sempre stare sotto l’osservazione degli educatori tutte queste cose qua, che ad un certo punto creava...mi frustrava perché non riuscivo a capire tutto questo regolamento”. Evazali, Interview.

¹⁹⁷ “Perciò c’è sempre questo squilibrio tra un sistema di accoglienza che è molto tutelante ma non sa leggere quali sono le problematiche del minore e quasi la tutela così elevata del minore alza la soglia di accesso per entrare in questo sistema, ecco perché noi riusciamo ad intercettare così tanti minori, perché un servizio così, come si dice, di ‘bassa soglia’ crea la possibilità di poter accederetutela informale nella loro permanenza qui a Roma e abbiamo la possibilità di una lettura di fenomeni molto molto ampi. Ad oggi, qui, soltanto nuovi per quest’anno sono venuti 1300 ragazzi. I vecchi sono intorno alle 1800 teste, 2600 minori che ...al mese vengono all’interno di questo centro[...]perché altrimenti la non conoscenza l’uno dell’altro all’inizio fa sì che i sistemi o colludono e quindi ci sono case famiglia che effettivamente dicono ok, vai a lavorare ai mercati io quando esci ti faccio una segnalazione di fuga poi se torni io dico che sei tornato però se non torni io non so niente: collusione. Espulsione: ‘no, guai! Tu dalle sette *in poi non puoi uscire, tu questo non lo puoi fare, tu questo no se non vai a scuola*’: il ragazzo se ne va”. Interview with Marco Cappuccino, February 2014, Rome.

they do not get along. However, once you have changed this, you come immediately in contact with the boy. They have to understand one thing that these kids are here, they made the journey alone. An Italian never does a trip like this. Not even an adult, I tell you. So what they do right now is treating them like little Italian children and Egyptians do not like this. They should treat them more as adults.¹⁹⁸

On the contrary, positive experiences of real support by motivated, specialized, multidisciplinary staff and the creation of mature relationships with the social and educational environment, have proved to be one of the key elements that propel stories of positive integration. Amr continues:

Look at me, when I arrived the only thing I was looking for was a job. After a while, I have understood that you cannot work as a minor so I had to wait. Then I started to study and now I'm working here at Save the Children. [...] At the beginning I was feeling as an outsider, but then...I was lucky because I have not received hostile attitudes. I felt welcomed. It is true. Yes, I was lucky because I was in a family home, and it was very good, we were in 6 or 7 and there were 7 educators, each one following one boy. I felt that I could freely speak with them and I felt comfortable. At the beginning I wanted to find a job, I told them this. They enrolled me in this school, to take an Italian course. I did it and I finished it ... after that they enrolled me in the scuola media (secondary school), I finished it . Then I did the scuola alberghiera (hotel business studies) , I finished it [...] after they helped me to take a course as bouncer.[...] First I came to Italy to find a job, as many others now are coming. But then when I realized that in Italy you do not work until you are an adult, I did not want to waste the time and I then said to myself 'I am going to study'. I started to study and my parents at home, in Egypt, agreed. Indeed, the parents agreed with me. At school I was able to immediately enter in their world. Here you need 'the brain', once you have figured out the person in front of you, you give and receive respect, how I can tell you ... it was not very difficult.¹⁹⁹

¹⁹⁸“Come la vedo io, innanzitutto bisogna cambiare il comportamento di quelli che lavorano dentro alla casa famiglia perchè ultimamente la trattano davvero come una merda..quindi è il comportamento la prima cosa..perche alla fine sono ragazzini e ci urlano in faccia e all'egiziano non piace questo. Questa cosa non ce piace. E l'italiano magari che si incazza, urla di qua e di la e l'egiziano magari rusica anche lui quindi si incazza quindi non vanno d'accordo. Comunque una volta che hai cambiato questo, entri subito in contatto con i ragazzi [...]Loro devono capire una cosa che questi qui sono ragazzini, hanno fatto il viaggio da soli. Un italiano un viaggio come questo non lo fa mai. Nemmeno uno grande, te lo dico. Quindi quelli che fanno adesso è che li trattano come i ragazzini italiani e questo all'egiziano non ci piace. Devo trattarli piu da adulti”.

Interview with Amr.

¹⁹⁹ “Guarda io quando sono arrivato aspettavo solo una cosa, il lavoro. Dopo un po' ho capito che non si può lavorare da minorenne quindi ho dovuto aspettare. Poi mi sono messo a studiare e ora sto lavorando qui a Save the Children. [...]Si, all'inizio mi sentivo più fuori..solo che dopo..Non ho avuto esperienze di atteggiamenti ostili nei miei confronti. Anzi...mi sono

Syed talks about his experience at CivicoZero as *operatore socio-assistenziale* (care-social worker) and cultural mediator:

from what the guys I talk with say, here they see CivicoZero as a refuge and thanks to the cultural mediation they can communicate, expressing themselves, they have people who listen to them, listen to their stories, their sufferings. We do what we can. They see that we are there for them, whatever they need, and they trust. They talk and open up. [...] My friends ask me if I do not find it difficult to be in the same context, listen to the same stories of guys who have done more or less the same trip that I did and have experienced the same sufferings I suffered. But no, this is what gives me the strength to help them; just because our stories are similar I know it is hard to have no one. And I have the strength to do this work ... it is a human thing.²⁰⁰

3.1.2. Promoting interaction vs medicalizing the UASC phenomenon

From the studies that have tried to map the characteristics of the heterogeneous care facilities available to UASC and from all my informants which have had, for various reasons, close contact with a number of different centres, it emerges that competence and ability in dealing with foreign minors are very often weak or lacking. The General Comment, No. 6 of the CRC provides some hints on how to understand the concept of competence regarding the personnel dealing with UASC and the type of training they should undertake.

Particular attention should be paid to the training of officials working with separated and unaccompanied children and dealing with their cases. Specialized training is equally important for legal representatives, guardians, interpreters and others dealing with separated and unaccompanied children. Such training should be specifically tailored to the needs and rights of the groups concerned. Nevertheless, certain key elements should be included in all training programmes, including: Principles and provisions of the Convention; Knowledge of the country of origin of separated and

sentito accolto bene. È vero sono stato fortunate...perché eravamo comunque in 6, 7. In casa famiglia dove ero io c'erano 7 educatori che lavorano e ogni educatore segue un ragazzo quindi. Io all'inizio quello che volevo era di trovare un lavoro. Solo che ho parlato con loro...e mi hanno iscritto a questa scuola, per fare un corso di italiano..l'ho fatto e l'ho finito..dopodichè mi hanno iscritto alla terza media, l'ho finita. Poi l'alberghiera, l'ho finita", *Ibid*.

²⁰⁰ "Da quanto dicono i ragazzi con cui parlo qui vedono CivicoZero come un rifugio e grazie alla mediazione culturale possono comunicare, esprimersi, hanno chi li ascolta, ascoltano le loro storie, le loro sofferenze. Noi facciamo quello che possiamo. Loro vedono che noi siamo lì per loro, qualsiasi cosa hanno bisogno e si fidano. Parlano e si aprono. [...] I miei amici mi chiedono se non trovo difficile essere sempre nello stesso contesto, ascoltare le stesse storie di ragazzi che hanno fatto più o meno lo stesso viaggio che ho fatto io e che hanno vissuto le stesse sofferenze. Invece no è proprio questo che mi dà la forza di aiutarli, proprio perchè le nostre storie sono simili so che è difficile se non hai nessuno. Ed io ho la forza di fare questo lavoro...una cosa umana". *Interview with Syed (conducted by the author) Afghan 26-Year-Old Cultural Mediator at CivicoZero, Save the Children, Rome (Rome, February 26, 2014).*

unaccompanied children; Appropriate interview techniques; Child development and psychology; Cultural sensitivity and intercultural communication. Initial training programmes should also be followed up regularly, including through on-the-job learning and professional networks.²⁰¹

Competent professionals dealing with UASC should therefore be aware and interested in promoting a less superficial understanding of both childhood and migration. Bertolino says:

Surely institutions, not only the public ones but also private associations, have their own 'rigidity'. They are often not able to read the deep meanings involved in this type of practices. The child migration is multifaceted, ever-changing with very different characteristics.

According to him, the problem relies not only in the struggle of the institutions in understanding the needs of young people, because indeed that depends a lot on the operators that one might find. The first and real obstacle is that institutions have a series of ideas about minors and migrants and as a consequence provide a certain type of approach in the protection/care facility. First they are not themselves aware of these sets of representations they have and secondly, they fail in explaining their approach to children. Consequently children do not understanding why for example they are 'controlled'. Furthermore institutions struggle in recognizing both the collective and individual dimension of migration together. Bertolino continues: "They find it definitely hard to understand that some of these are not guys who must be 'educated' but must be 'accompanied'. The two things are different.[...]And they struggle for the continuous changes of migration processes'".²⁰²

According to Vacchiano, in order to increase competence it urges to devoting more time and efforts to creating spaces for reflection, research thinking and confidence building.²⁰³ However, the research reveals that in very few cases do care facilities promote a

²⁰¹ Committee on the Rights of the Child, *CRC/GC/2005/6*, 26, para. 95-97.

²⁰² "Sicuramente le istituzioni, anche quelle del privato sociale, non solo quelle pubbliche hanno delle loro rigidità spesso non sono capaci di leggere i significati profondi che hanno questo tipo di pratiche, questo per fare un esempio. Poi va beh, la migrazione minorile è sfaccettata, in continuo mutamento con caratteristiche molto differenti.[...] e allora le istituzioni secondo me non è tanto che fanno fatica a capire i bisogni dei ragazzi, perché poi c'è molto arbitrarietà, dipende dagli operatori che trovi, secondo me fanno fatica a esplicitare il loro immaginario rispetto a questi ragazzi e capire quanto questo incide sul fatto che questi si avvicinino o si allontanino dalle istituzioni fanno fatica a riconoscere la dimensione collettiva della migrazione in quanto ragionano sempre sul singolo e fanno sicuramente un po' fatica a capire che alcuni di questi non sono ragazzi che vanno 'educati' ma che vanno accompagnati, che sono cose un po' diverse. E fanno secondo me fatica anche per il continuo mutare dei processi migratori". *Interview with Roberto Bertolino, March 2014*.

²⁰³ "[...] le competenze, quello è importante, che tante volte...ma che ne so appunto in comunità tu dici, ti chiamano per dirti, abbiamo questa ragazzina che vuole vedere lo psicologo, va bene venite prima voi così parliamo del caso prima di vederla, ah, dobbiamo venire noi? Mah, abbiamo dei problemi, abbiamo i turni, siamo in pochi. Ma state lavorando su questa situazione, dovete investire, volete capirci di più, venite, casino, fatica per eh...alla fine io dico, d'accordo io la ragazzina la

type of protection which simultaneously exhibits a deeper understanding of the identities involved, encouraging agency without neglecting the vulnerable aspects and needs of the minor.²⁰⁴ In most cases the idea of the UASC as ‘temporary guest’, or dependent children (who need a shelter until the moment in which they reach the age of majority) prevails.²⁰⁵ This attitude hinders an investment into more concrete and solid perspectives for the future and maintain the minors in an indefinite status of uncertainty about themselves and their future. The idea of protection they claimed to guarantee can be inadequate to the realities and the challenges UASC face on a daily basis. In Bertolino’s view there is also the risk that the lack of competence and understanding of the individual story of the minor, drives the social workers of the care facilities to bestow upon them infantile attitudes (*‘processo di infantilizzazione’*) that those minors might naturally not feel.

Sometimes we place them in the structures in which needs of care are solicited, that maybe they would not have felt before[...] and it is not said that those [needs] were there and were dormant. In a logic a bit ... ‘ethnocentric’, we say a kid is a kid and has those needs, but in reality it is not always the case.[...] our system asks them to re-enroll in an identity that they had passed, no, they did not passed, they had left. Then right after six months we tell them to forget about that ‘protected identity’ we had told them they had.²⁰⁶

Rather than promoting the emergence of each individual’s own resilient tools, this approach reinforces their vulnerabilities. In some instances the promotion of protective measures is inconsistent with their real needs, and instead it encourages the development of new ‘created needs’. In the long run this approach is absolutely inconsistent with the expectations

vedo, ma almeno alla condizione che la accompagnate, perché è tosto andare dallo psicologo, è importante che lei sappia che voi siate fuori dalla porta per lei, che prendete del tempo per lei, perché dovete costruire una fiducia, una presenza, questo è molto importante. Niente, non si riusciva, il fatto che questa ragazzina fosse accompagnata, cosa è successo? Che dopo questa ragazzina se n’è andata. [...]era un posto di lavoro in cui lavoravano male, demotivati, non informati. Cosa vuol dire lavorare bene? Vuol dire informarsi, avere una buona supervisione, e vuol dire utilizzare delle risorse competenti, cioè darsi questo spazio del pensiero, dell’apprendimento, questo è importante [...]’ *Progetti a bassa soglia, importantissimo, pochi, in Italia ce ne sono ancora pochi, CivicoZero non a caso lavora bene, però di per sé la bassa soglia non basta, quindi sono d’accordo con quello che tu dicevi*”. Interview with Vacchiano Francesco, March 2014, Lisbon.

²⁰⁴ Matarese refers the project called Le Doti financed by the Ministry of Interior in 2012 (now not anymore) as ‘excellent programme’. Interview with Evazali, March 2014, Rome.

²⁰⁵ Interview with Zorzella Nazzarena, March 2014, Bologna; Interview with Syed, February 2014, Rome.

²⁰⁶ Interview Bertolino, “E talvolta nelle strutture in cui noi li inseriamo si sollecita l’emergere di bisogni che questi ragazzi non sentivano. Ed è chiaro che se tu vieni messo in un contesto che ti sollecita l’emergere di bisogni di accudimento, piuttosto che di.., questi bisogni...che non è detto che ci fossero e che fossero sopiti..in una logica un po’ etnocentrica noi diciamo un ragazzino è un ragazzino e ha quei bisogni lì, non è per nulla detto.”[...]”E quindi poi è un po come se si creasse una situazione particolare perché il nostro sistema li sollecita a riscrivere in una identità che loro avevano transitato, non avevano transitato, avevano abbandonato, per poi subito dopo dire loro subito dopo guarda che te ne devi dimenticare di quell’identità tutelata che ti avevo detto solo sei mesi fa avevi”

bestowed upon them as soon as they turn 18 years old and perpetuates the weak likelihood of having a meaningful engagement in the receiving society.²⁰⁷

Finally, from his experience as psychologist at the Fanon Center, which provides psycho-social support for immigrants, Bertolino very often perceives difficulties when collaborating with care facilities which host UASC. He finds that when asking social workers and educators to take part in programs of counseling or just committing in questioning their own attitudes towards minors, a “delega della relazione” instead prevails. They often opt to delegate the process of ‘relationship-building’ to someone else (namely psychologists or psychiatrists) and to the clinical space. The type of protection provided seems sometimes to follow a ‘medical model’ which prefers to define children as ‘sick’ and in need of treatment, medicalizing their reactions and vulnerabilities through westernized tools of ‘healing’.²⁰⁸ By seeing children in situations of pathology and in need of rehabilitation, this approach tends to individualize and de-politicize what is also structural and often profoundly political. The causes of sufferings, behaviors reactions can have societal roots and be produced by our own system.²⁰⁹

It is easier to say that the minor is ‘difficult’, has problems and needs to see a psychologist rather than it is to question one’s own methods of approach and to create spaces of dialogue, participation, and expression starting from the reception centre. This approach from one side, could be more adequate for the minor, who might feel more relaxed talking with the educator they see every day, rather than experience something imposed or external. At the same time it would help the social workers in better understanding the minor, and how (s)he imagine and represent her/himself and needs.²¹⁰ Bertolino explain:

we offer short or long courses of expert advice to the operators, because a lot of times it is not the boy/girl that has issues, but there are problems of interaction with the

²⁰⁷ Bertolino, Interview.

²⁰⁸ White et al., *Transnational Migration and Childhood*, 180–1.

²⁰⁹ In another context, but not too different, Moreno and Melazzini ‘street teachers’ who created the project ‘Chance’ to teach to young people from the most marginalized areas of Naples, who had dropped out from the formal school, realized the failure of those educational projects which try to anesthetize the sufferings of young people in order to ‘teach to them’, instead of starting exactly from that pain, from the same context which has seen the pain emerging, in order to deal with it and go over. C. Melazzini, *Insegnare Al Principe Di Danimarca*, Sellerio editore, Palermo, 2011.

²¹⁰ “[...]come dire fornire al ragazzo, o alla ragazza, dico ragazzo perché sono quasi tutti maschi, uno spazio di relazione, di parola, e di ascolto, ma quello è quello che dovrebbe avere in una struttura di accoglienza, anche perché oggi di un lavoro di tipo terapeutico o se no, non le vuoi raccontare ad un estraneo, queste cose sono cose che racconti in uno spazio di relazione tout court hai piacere a raccontarle all’educatore che fa colazione con te la mattina, non ad un estraneo che vedi in una stanza devi stare una stanza di aspetto, ecc. eppure noi lo proponiamo ogniqualvolta è possibile, tra l’altro è anche questa una presa in carico, quindi non è una questione economica, di lavorare con l’équipe che seguono per ragionare proprio su cosa vuol dire il percorso del ragazzino, come si immagina il ragazzino, aiuta anche alcuni a ricordare che è un minore non accompagnato ma non è un minore solo, hanno qualcuno a cui dover rispondere, hanno legami più o meno positivi”. Bertolino, Interview.

educational spaces of the life within the community. Theoretically, these meetings serve to give advice to the operators and to help them understanding, together with us, how we can do better with the boy, and also to assess whether actually it is appropriate to consider to take the boy/girl in charge [by the Fanon Centre for a psychological support] or not and if yes, how to propose and explain it to the boy, the girl. So for me it is equally important the advisory work with these operators, which is not always accepted by social workers in general because there is a tendency to say 'if (s)he act in this way, it is because (s)he has psychological problems, then (s)he must see the psychologist', that is, they prefer to send him/her to us rather than come themselves as well.²¹¹

3.2. The accessibility of protection

3.2.1. 'Alta soglia' reception centers and the option of invisibility

The problem of the actual, real access of the available care system, beyond the formal entitlement by law offered to any minor without discrimination, both emerged in the discussion with Vacchiano and Cappuccino. In most cases, the care facilities wait for minors to 'look for them', to go and knock their doors asking help, or for the police who after having intercepted them by accident refer them to the municipality and/or to a reception centre. Rarely is the situation of their territories and an outreach with the help of cultural mediators mapped in order to increase their knowledge about unaccompanied or separated minors on the territory who might be interested in having support.²¹² The lack of information delivered also to UASC themselves and the limited understanding of the various dynamics entailed in child mobilities, produces a system 'ad alta soglia' (high threshold system) which results in being very difficult to 'enter'. The dense bureaucratization of the system of service providers makes it even more difficult to be reached.²¹³

²¹¹ "Noi proponiamo un percorso breve o lungo di consulenza degli operatori, perché tante volte non è il ragazzino non ha problemi, ma sono dei problemi di interazione con lo spazio educativo di vita della comunità. In teoria questi incontri servono come consulenza degli operatori per aiutarli a comprendere insieme a noi come si può agire meglio con il ragazzo ed anche a valutare effettivamente se una presa in carico del ragazzo è opportuna o no e se è opportuna a valutare se e come proporla al ragazzo, alla ragazza e via dicendo. Quindi per me è ugualmente importante il lavoro di consulenza con questi operatori, cosa che non sempre è accettata dagli operatori sociali in genere perché c'è la tendenza a dire 'se fa così è perché ha dei problemi psicologici se la vedo lo psicologo', cioè preferiscono mandarcelo che venire loro". *Interview with Roberto Bertolino, March 2014.*

²¹² "C'è ancora molto questa questione qui, questa disparità, in cui ci sono le prese in carico fatte bene e poi ci sono, cioè non ci sono le prese in carico. Se proprio vieni a chiedermelo, mi bussi alla porta e magari il giorno dopo ritorni pure. Cioè quindi proprio una soglia non alta, ma stratosferica per il minore. Capisci quello che voglio dire? Un minore lo devi andare a cercare, non è che devi stare lì ad aspettarlo per venire a chiederti aiuto nel tuo ufficio, se viene va beh, come si dice, tanto meglio però se non fai degli outreach, va beh che poi i ragazzini tra loro il passaparola lo fanno. Dove vanno gli egiziani? Ad un certo punto sparivano tutti gli egiziani! Va beh, andateli a cercare...sicuramente se state lì ad aspettare nell'ufficio, minori stranieri dei servizi sociali loro non ci vengono. È chiaro!" *Interview with Vacchiano Francesco, March 2014, Lisbon.*

²¹³ Petti, *Il Male Minore.*

The complex-isation results more in terms of the structure built around the ‘problem’ and the variety of actors involved than in the understanding of the issues at stake. According to Cappuccino, a lack of understanding of the issues that a foreign minor needs to face or is challenged by, results in a lack of effectiveness of the protective measures put in place and contributes to the factors which encourage them to keep moving and changing places (not surprisingly minors might decide to move where they are told there are better solutions for them) or encourage their disappearance from the local formal care *tout court*. The chosen legal invisibility of UASC who travel irregularly is a currently debated phenomenon among experts in the field and it raises different opinions.²¹⁴ From the perspectives of the two officials of the Ministry of Labour and Welfare interviewed, in order to tackle the issue of untraceable or missing children escaping from centres, and their unwillingness to stay within the official care structures, it is necessary to develop a system to ‘track’ them and ‘follow’ them in their movements across the country in order to avoid double registration and *alias*. While for the ‘children on the move’ who do not present themselves to the authority since the beginning, the Ministry officials think that it is pointless to stopping them from continuing their trajectory and if they find inadequate response in Italy “we cannot prevent them to move somewhere else”.²¹⁵ The only and possible solution in this last case, according to them, would be to promote a more systematic collaboration with other European countries to maintain their journey into legality. Although these points are relevant and should be seriously taken into consideration, it seems to me equally urgent to interrogate other reasons why actually many child migrants are unwilling to stay and to question the modalities of protection put in place in the majority of care facilities in Italy.

From other sources, the phenomenon of ‘disappearances’/ un-traceability raise questions about how responses provided by the care structures are perceived by minors themselves and how to better adjust the responses to their profiles. The PICAFREU research for example report some young migrants’ voices which show that these decisions are often determined by a widespread perception that the existing protection system is inadequate to their real needs.²¹⁶ The circulation of information about the better reputation of the reception system in the Scandinavian countries, for example, can influence the choice of remaining ‘untracked’ and keep moving.²¹⁷ According to Cappuccino, many young migrants are indeed

²¹⁴ White et al., *Transnational Migration and Childhood*, 122–123.

²¹⁵ Interview with Scarpelli Stefano, March 2014, Rome; Interview with Serena Matarese, March 2013, Rome.

²¹⁶ Pucafreu project; Protecting children on the move; my interviews PUCAFREU and Senovilla Hernandez, *Unaccompanied Children Lacking Protection in Europe*; Borghi and Santarossa, *Protecting Children on the Move, Addressing Protection Needs through Reception, Counseling and Referral, and Enhancing Cooperation in Greece, Italy and France*. And all the interviewees acknowledged this phenomenon.

²¹⁷ This is especially the case of the asylum seeker children, who preferred to remain invisible to the Italian system because they aim at seeking asylum in other countries. Indeed because of Dublin III they would risk to be sent back in the country of

disillusioned by the negative experiences of acquaintances and compatriots about care facilities and the opportunities offered to them when turning 18 years old. They are discouraged in taking part in certain 'integration programmes' if then any perspective to remain once older than 18 is vague and uncertain. Evazali confirms that the choice of 'invisibility' is fuelled by peers' or compatriots' experiences which might discourage them in believing that a regularization and a real integration would be possible when they come of age. "If compatriots tell to you their bad experiences in Italy in terms of future perspectives it is obvious that you do not want to stay" (Evazali 2014).²¹⁸ According to Italian legislation indeed UASC cannot work until they are they are 15 and if they can proved to have completed at least 9 years of school.²¹⁹ The pressure of finding a job and rapidly earning money, combined with the lack of a clear public reception project or the widespread information about the difficulty of achieving regularization when they come of age, influence UASC's choice to remain untracked and find jobs illegally.²²⁰ The development of the migration project of those children is very often influenced by information obtained largely through informal networks. Opting for invisibility or the forms of protection offered by the street is facilitated when contacts with networks of co-nationals have already been established within the territory. The lack of registration results in the lack of enjoyment of official protection system, affecting access to accommodation, emergency care and preventative health measures, to which, according to the law, all identified and registered UASC are entitled.²²¹ The phenomenon of escapes and disappearances (whose rate cannot actually be quantitatively assessed) also provides a counterargument to the potential fear that the Italian open and prohibition of expulsion of foreign minors automatically results in 'calling' increasing numbers of minors from third-countries willing to 'exploit' the Italian formal protection system.²²² Due to the described heterogeneity of the situation and the lack of systematic studies on the variety of UASC's reception centres in Italy, it is difficult to determine in a quantitative way how many reside where, with what frequency minors actually change 'residence', moving from the street to a centre of first reception (or vice versa) or moving from a care facility, a family house, and the street again or the house of a compatriot

first arrival. For example, recent data show that of the 1,094 Afghan national children entering the Italian protection system upon arrival, 50 % disappear after registration. Borghi and Santarossa, *Protecting Children on the Move, Addressing Protection Needs through Reception, Counseling and Referral, and Enhancing Cooperation in Greece, Italy and France*, 9.

²¹⁸ Interview with Evazali, March 2014, Rome.

²¹⁹ According to Law 189/02 (Bossi-Fini), foreign minors can attend professional courses and serve apprenticeship, if inserted in some social-integration programmes, but they cannot be employed until they are 18 years old and are granted a residence permit for 'work reasons' (if they have the right to do so and with the positive opinion of the ex Foreign Minors Committee (see Section 4, Chapter 3)

²²⁰ Vacchiano, "Bash N'ataq L-Walidin ('To Save My Parents'): Personal and Social Challenges of Moroccan Unaccompanied Children in Italy.," 118–119.

²²¹ Borghi and Santarossa, *Protecting Children on the Move, Addressing Protection Needs through Reception, Counseling and Referral, and Enhancing Cooperation in Greece, Italy and France*, 23.

²²² Giovannetti's interview and her research conducted in a number of Italian municipalities confirmed the reiteration of these discourses. In Giovannetti, *Storie Minori. Percorsi Di Inclusione Ed Esclusione Dei Minori Stranieri Non Accompagnati*, 180.

or a relative. In general terms, both for those who initially planned to remain in Italy and those who did not, movements remain a common aspect of UASC's lives even within Italy. The trip itself determines its development. In their personal accounts, Syed, Amr and Evazali changed lots of accommodation after their arrival in Italy. And even now that they have settled and that they have found a job in Rome they think about moving and making new projects, plans of next trips. This aspect suggests again that the fear of being invaded and overwhelmed by foreigners is completely unfounded. Mobility is determined by a multiplicity of aspects including family, money, job, connections, aspirations and unforeseen new desires for the future. Using system-produced categories and at the same time showing their limit, Sayed explains how his movements and aspirations change overtime,:

From 'forced migrant' I became an 'economic migrant'. I want to go to Belgium where there is my wife, she is Afghan as me. She came to Italy but she did not like it, she cannot see avenues here, she is waiting for me in Belgium now. But then the idea, one day, is to do the same thing [care-social worker] back in my country.²²³

3.3. Overcoming fragmentation. Which obstacles?

3.3.1. Foreign children as an economic threat

Throughout the interviews conducted, we attempted to deepen our understanding of the fragmentations inherent to the Italian protection system, and to investigate the perceptions of key informants with regards to the main obstacles inhibiting systematic coherence and homogeneity. Since very recently the management of the phenomenon has tended to be emergency-oriented and fragmented, left completely to the discretion of the municipalities.

The lack of a national coordination and distribution of the responsibility and competence among regional and local governments to support the expenses of the reception, and the lack of precise data on the quantitative and qualitative aspects of the phenomenon have allowed for the instrumental use of 'emergency discourses'. According to Cappuccino the strategy of calling for an emergency, in time of perceived 'crisis' (for the invasion of too many young migrants and lack of resources) is used by several municipalities to justify quick and inconsistent responses, lower the standards of reception and to ask for 'emergency funding' (*finanziamenti a pioggia*).²²⁴ As Faedda explains, since 1980s, the term

²²³ "Quindi da migrante forzato sto diventando migrante economico. Vorrei andare in Belgio dove c'è mia moglie, afghana anche lei. Lei è venuta in Italia ma non le è piaciuta, non vede prospettiva qui, mi sta aspettando in Belgio ora. Però l'idea è quella poi un giorno di fare la stessa cosa [operatore socio-assistenziale] per il mio paese".

²²⁴ Interview with Marco Cappuccino, February 2014, Rome.

'emergency' has always been related to immigration.²²⁵ Lack of resources in an era of austerity is one of the main justifications for the random placement of UASC in one care facility depending on the availability of the moment and not according to the needs and profiles of the minors.²²⁶ Scarpelli also confirms that any change in the budget balance at this moment in Italy seems to create concern. While the UASC, as considered vulnerable subjects by law, require the protection of the state, their presence concerns because of their 'dependence' and the cost they represent for the host society. At the regional and local level, the potential impact on the local welfare state of the required support of these children is perceived as a big challenge. Especially in a context where only certain regions seem to be 'invaded' by the phenomenon while other, though wealthier, remain disinterested and do not support the areas more 'affected', UASC raise concerns about the management of resources, the coordination of reception, and the provision of durable solutions.²²⁷ Additionally, the idea of having a migrant that, while still a minor, must be protected by law – and to whom 'give' something - clashes with the more rooted concept in the receiving society according to which the migrant is a temporary guest that 'offers' something, and (s)he is valued for her/his utility (as the quota system and *decreto flussi* suggest). A precarious worker who contributes to the host country's economy when needed and that goes back home when instead there is a shortage of labour that nationals are willing to fulfill.²²⁸ The UASC category disturbs this idea: the migrant becomes someone who 'receives', instead of someone from whom hosts 'receive labour force.' According to Scarpelli, who is regularly in contact with various municipalities on the Italian territory, the tension between the duty to protect minors and at the same time the willingness to preserve the very fragile budget balance creates concerns at the local level. Cappuccino urges for a substantial change in the way the system is managed, starting from a quantitative and qualitative assessment of the UASC in Italy (not just how many, but seek more information about them and their stories), their traceability, and improvements in the coordination of the reception and accommodation with financial support coming from the central government. In his words, the application of the *Proposal for an amendment to the Consolidated Act* and provisions concerning UASC, proposed on 4 October 2013 by the chamber of Deputy in collaboration with Save the Children Italy, as it is conceived, would be a definite turn for the better in terms of reception and protection of unaccompanied foreign minors. *Inter alia*, it envisages

²²⁵ Faedda, "We Are Not Racists, but We Do Not Want Immigrants': How Italy Uses Immigration Law to Marginalize Immigrants and Create a (new) National Identity."

²²⁶ As Maria Cecilia Guerra, Deputy Minister of Labour and Social Policy stated in response to Paolo Beni's questions, president of the Italian association for the social promotion, "Minori Stranieri Non Accompagnati Non Ci Sono Risorse", *Arci*, 17 Sep. 2013, Available at: <http://www.cronachediordinariorazzismo.org/minori-stranieri-non-accompagnati-non-ci-sono-risorse/> (last visited: 16 June 2014)

²²⁷ Interview with Scarpelli Stefano, March 2014, Rome.

²²⁸ Sayad, *L'immigration Ou Les Paradoxes de L'alterité. Préface de Pierre Bourdieu*.

establishing a national system of reception, with an adequate number of seats and standard quality guaranteed and with reception centers located in all regions and it highlights the importance of promoting active and direct participation of unaccompanied foreign minors in all proceedings affecting them, in accordance with the principles of the CRC.²²⁹ It is obviously too early to know whether this proposal will be seriously taken into consideration. Serena Matarese and Stefano Scarpelli agree on the fact that improvements in the quality of the reception and protection would be conceivable only once the homogenous distribution of the reception responsibilities of these minors throughout the entire territory is achieved. The main impediment, according to Scarpelli, is the lack of information about the phenomenon since the last few years, and the reluctance of some regions to cooperate with those more directly 'affected' by the phenomenon because geographically positioned in arrival areas of migrants.²³⁰

3.3.2. Recent Developments: Tentative Steps Encounter Reluctance

In 2008, ANCI (the National Association of Italian Municipalities) implemented the National Programme for the protection of unaccompanied foreign minors through the funding given by the Italian Ministry of Labour and Social Policy. The Programme focused on the first reception, aimed at supporting local authorities, and improving their cooperation and information sharing with the central administration. The National Programme represented a start-up project, but it has not been renewed because of the lack of further funds from the government.²³¹ However in 2012 the central government has shown an increased engagement to promote coordination, seeking ideally to shape a more standardized and homogeneous system of 'redistribution of minors' for reception and protection programmes all over the national territory.²³² When asked about their perceptions on the reasons behind this increased attention towards the issue by the central government, the interviewees working at the Ministry of Labour and Welfare immediately mentioned the so-called *North Africa humanitarian emergency* which between 2011-2012 caused distress at the local level

²²⁹ Other important points of the bill regards: Support in an organic social integration, education and employment of foreign unaccompanied minors also in view of the age of majority, the right to education and health; engaging local communities in support of unaccompanied minors through the appointment of " volunteer tutors ", properly selected and trained, and the promotion of foster children as an alternative to shelters. Chamber of Deputies and Save the Children, Italia Onlus, *Proposal for Amendment of the Consolidated Act (286/1998) and Provisions Concerning Unaccompanied and Separated Minors (Modifiche Al Testo Unico Di Cui Al Decreto Legislativo 25 Luglio 1998, N. 286, E Altre Disposizioni Concernenti Misure Di Protezione Dei Minori Stranieri Non Accompagnati)*, Proposta Di Legge on the Initiative of Following Members of Parliament: Zampa, Carfagna, Antimo Cesaro, Gozi, Dall'osso Fratoianni, Mantero, D'agostino, Dellai, Formi- Sano, Galgano, Iori, Marazziti, Oliaro, Sbröllini, Scuvera, Sottanelli, Vezzali, Rampi, De Rosa in Collaboration with Save the Children, October 4, 2013.

²³⁰ Interview with Scarpelli Stefano, March 2014, Rome.

²³¹ ANCI and Cittalia, *Protection of Unaccompanied Foreign Minors. The Italian Experience.*, 15. And Giovannetti, Interview.

²³² Interview with Serena Matarese, March 2013, Rome; Interview with Scarpelli Stefano, March 2014, Rome.

and revealed the urgency for a more coordinated response from the central level.²³³ The 'North Africa Emergency' revealed the deep fragmentation embedded in local responses and procedures that can be deleterious for everyone (migrants and citizens). Better coordination can be achieved solely if prompted by the central government. More than 16 thousands migrants arrived and were hosted in various accommodations throughout the territory. Many municipalities are currently declaring to be in default, lacking funds to invest in a more serious engagement with UASC. At the same time the feeling of suspicion towards those that can 'pretend to be minors' exploiting the system which is designed to be 'open and protective' for minors increases. The gradual realization of these weaknesses²³⁴ has stimulated two main initiatives at the central level. In 2011, an Information System for Minors (SIM, *Sistema Informativo Minori*) has been created as a database that will be managed directly by institutional actors who have competence over UASC and whose data will be shared and available by/for all. In 2012, a Structural National Fund has been created and activated. The nature of the Fund is contributory: 20 euro of contribution are allocated for each minor the municipality has previously declared to have registered. The contribution can support any of the steps within the process of reception –no conditions are imposed- but it is necessarily given directly to the municipalities and intentionally not to the minors themselves or the service provider organizations. In Matarese words this decision has been done "to avoid implementing the idea that from the migration the minor can earn" and indirectly encourage more families to send their children to Europe²³⁵. The problem now is ensuring continuity to the National Fund and as Scarpelli says, hoping that it will encourage a better management for the reception of UASC distributed throughout all the territory. Although the "contribution is really minimum", according to him, it signals a turning point and has revealed an increased interest and commitment in protecting all minors –regardless their nationality and status- by the central government.

²³³ Dpcm. 3933 (13 April 2011) appointed the Head of the Department of Civil Protection as Chief Commissioner for the implementation of all the measures needed to deal with the state of emergency declared by the decrees of the President of the Council of Ministers of 12 February and 7 April 2011. The ordinance of the Head of the Department of Civil Protection (No. 33 of December 28, 2012) regulated the closure of the state of humanitarian emergency for the extraordinary flows of third-country citizens from North Africa. The ordinance has established the return to ordinary activities since 1 January 2013. "Emergenza Umanitaria Nord Africa: L'accoglienza Dei Migranti," *Protezione Civile. Presidenza Del Consiglio Dei Ministri Dipartimento Della Protezione Civile*, accessed June 14, 2014, http://www.protezionecivile.gov.it/jcms/it/view_dossier.wp%3Bjsessionid=BE3B3B5CB54D5C0C73FFEF2DE848789?contentId=DOS24090; *Audizione del Viceministro Sen. Bubbico presso la Commissione Migrazione dell'Assemblea Parlamentare del Consiglio d'Europa*, Roma, 4 Feb. 2014

²³⁴ The awareness has been facilitated also by the findings released in March 2012 by the Parliamentary Committee on childhood and adolescence presenting the results of the investigation conducted in 2008 on UASC in Italy and aimed at underlying the weaknesses of the Italian protection system for minors. Commissione Parlamentare per l'infanzia e l'adolescenza, *Indagine Conoscitiva Sui Minori Stranieri Non Accompagnati*, March 27, 2012, 168.

²³⁵ *Interview with Giovannetti Monia, February 2014, Rome.*

Despite these recent changes and the increased engagement of the central government, the process is still moving slowly and encountering resistance and more or less explicit obstacles. Certain regions are reluctant to take charge/ share the responsibility with some other areas more directly interested by the phenomenon. According to Scarpelli, currently in contact with regions in order to advocate for more coordination, it is difficult to convince other regions to participate because they simply want to defend their scarce resources. He says that we cannot deny that still for many regions the budget balance is in crisis, and any small changes in it could make lots of difference. But he also admits that for certain localities, not immediately touched by the phenomenon, the obstacle is thinking to engage and commit, economically and socially, especially when the minors are not considered 'theirs' – but only temporary foreign guests.²³⁶ What is more, years of waning government interest in the matter has spread general mistrust towards the credibility of this recent engagement in coordination and funding. Local governments that for long have not received any concrete help from the central government now lack trust in its new commitments. They also are aware that migration is an extremely political issue and might be subjected to other abrupt changes and easily fall from the agenda. The reluctance in spending the (perceived) few resources at the disposal of municipalities is increased by the lack of trust in the people for whom those resources are allocated and the lack of trust in a support by the central government. Although the concern of public order and criminality it is not explicitly mentioned, it is evident from this attitude that the phantom of 'the unknown and untrustful foreigner' is not dispelled. Even though the actors involved in the system generally not 'strategically' plan gaps and inadequacies, the weaknesses described show a deep lack of understanding and a persistent reluctance towards what is unknown. The increased academic attention on the phenomenon of the last five years to which Scarpelli refers, in our view has not necessarily elucidated the matter of UASC. Perceptions remain consciously or unconsciously blind before the issue's complexity.

Indeed, according to Zorzella it is not just the lack of resources that prevent other regions from becoming more involved in the issue (by contributing to improving the quality of protection), but there is also a lack of interest in understanding deeper the phenomenon that is challenging because it regards minors that are deemed to be 'difficult' to approach, to deal with, to establish a trustful relation with. There is, more generally, an attitude of carelessness about viewing child migration from various perspectives and in a more complex way²³⁷.

3.4. The Temporal Dimension of Mobility

²³⁶ *Interview with Scarpelli Stefano, March 2014, Rome; Interview with Serena Matarese, March 2013, Rome.*

²³⁷ *Nazzarena Zorzella, Interview, March 14, 2014.*

The last main issue raised unanimously by the interviewees concerns the uncertainty of UASC situation and legal status once over the age of majority, namely 18 years old. This point (not unique to the Italian case but shared by other European countries)²³⁸, raises the problem of how to ensure the so-called durable solutions envisaged in both the international legal provisions concerning young people and in the European Action Plan on UASC. The legal framework and the approach adopted by Italy when a foreign minor turns 18 years old guides us in proceeding our investigation about how actually protection is conceived and performed.

The reaching of 18 years old indeed represents for foreign minors the activation of an additional filter, which operates by selecting between who 'deserves to' remain and who must leave the country. While they are minors, the receiving country played officially the function of UASC's 'guardian' and protector. At the formal transit to adulthood, foreigners are expected to be independent. The border imposed by the time situates child migrants on a threshold, in the space of 'between-ness'. They are insiders till they are formally children, they risk abruptly becoming outsiders once formally adult. A mix of anxiety, hope and frustration marked the waiting time before reaching the age of majority. The uncertain outcomes of the regularization procedure of their status as foreign adult and the lack of clarity on who and how their future will be decided increases the stress among young migrants. The awareness of this indefinite situation and uncertain future hardly encourages them to develop a sense of belonging, trust and genuine participation in the host country. As mentioned above, the lack of hope and trust might result in a voluntary disappearance from the protection system. They choose invisibility in advance, avoiding wasting time and waiting for when invisibility is imposed upon them.

3.4.1. Article 32, Consolidate Immigration Act: A history of indecision

Italy's schizophrenic approach to UASC is evident in the history of the changes of the art. 32 of the *Consolidated Immigration Act*, envisaging *Provisions concerning minors turning 18 years old*. The history of art. 32 is emblematic of the concerns that UASC raise because of their being 'foreigners'. Indecision and disagreements have marked throughout the years the law-making process concerning the opportunity for UASC turning 18 to remain legally on the Italian territory. Art. 32 underwent four amendments in a period of a decade. The Bossi-Fini law amendment first attempted to narrow down the possibility of staying for migrants 18 and

²³⁸ UNHCR and Council of Europe, *Unaccompanied and Separated Asylum-Seeking and Refugee Children Turning Eighteen: What to Celebrate?*, Field Research on European State Practice Regarding Transition to Adulthood of Unaccompanied and Separated Asylum-Seeking and Refugee Children (Strasbourg, March 2014); *Migrating Alone: Unaccompanied and Separated Children's Migration to Europe*.

older (who originally –since the 1998 first version of art. 32- could aspire to obtain a permit of stay for work, studies or ‘*attesa occupazione*’).²³⁹ It privileged the legal stay for those in foster care family – the minority- over those under the custody of care facilities for minors.²⁴⁰ In 2003 the intervention of the Italian Constitutional Court in the judgment 198/2003 tried instead to affirm the principle of non-discrimination between minors (including minors in foster care families or not, national and foreigner). The reform brought by Law 94/2009 however remarkably cut foreign people’s aspiration to remain and finally the effects of the last change with the legislative intervention in August 2011 still remain unclear.²⁴¹

3.4.2. Unrealistic conditions introduced by the ‘Pacchetto Sicurezza’

Over the years, with the increase of the phenomenon compared to the 1990s, and the increase of its variety in terms of sending countries and migrants’ profiles, the possibility of remaining legally after 18years old notably reduced. Particularly it is worth giving some details about the reform brought by Art. 1, paragraph 22, V) of the Law 94/2009 concerning ‘*Provisions on public security*’ (*Pacchetto Sicurezza*) which in modifying some articles of the Consolidated Immigrant Act, incredibly worsen the condition of foreign minors. It set that only in the case in which the migrant has been present on the Italian territory for 3 years and has been participating in programs of integration for 2 years (s)he is allowed to ask for the replacement of her/his stay permit for foreign minors into a work permit. This meant that for those arriving when fifteen and older (the majority) the possibility of the conversion (that is to say, a longer permanence) was precluded.²⁴² Giovannetti explains how much unrealistic this provision was, neglecting completely the context –the reality of the UASC phenomenon- mainly concerning young boys arriving in Italy when 16-17 years old.

According to art. 32 of the Consolidated Immigration Act, as modified by Law the 94/2009, when the migrant reached the age of eighteen, the special protection guaranteed to minors indeed expired. Only in very rare cases another permit were guaranteed to migrants in order to allow them to stay and work. As a consequence, the time and the patterns of mobility responded accordingly. The migratory experience in itself in many cases assumed the form of a ‘predatory adventure’ in which minors had to maximize their utility in the

²³⁹ A period of legal stay to look for jobs.

²⁴⁰ Law 189/2002

²⁴¹ D. Consoli, M. Giovannetti, and N. Zorzella, “La Conversione del Permesso di Soggiorno del Cittadino Straniero alla Maggiore Età: Le Modifiche all’Art. 32 TU N. 286/98 e il ruolo del Comitato per i Minori Stranieri” *Diritto, Immigrazione E Cittadinanza* XIII, no. 3, 2011, 63–71.

²⁴² Save the Children, Italia Onlus, *L’impatto Della Legge 94/2009 Nei Confronti Dei Minori Stranieri Non Accompagnati: Un Prima Rilevazione in Sei Città*, February 2010; Giulia Perin and Lorenzo Miazzi, “Legge N. 94/2009: Peggiora Anche La Condizione Dei Minori Stranieri,” *Rivista Di Diritto, Immigrazione E Cittadinanza* XIII, no. 4 (2009): 178, http://www.piemonteimmigrazione.it/site/index.php?option=com_content&view=article&id=2824%3Alegge-n-94-del-15-luglio-2009-pacchetto-sicurezza-&catid=243%3Amaterialiasgi2&Itemid=73.

shortest period as possible rather than enjoying an opportunity for long-term investment on themselves and in the receiving society. In the awareness that their formal protection would have ended at the strike of the 18 years old, and that any attempts of integration and engagement would have been nullified by the fact of not being anymore entitled to legal presence in the host country, many young migrants have preferred invisibility and forms of protection given by the street. Only for a few UASC investing in their future in Italy was a feasible option. This created frustration in both the centre itself that was not stimulated in investing in good-quality integration programmes and in the young migrant.

3.4.3. The lack of clarity in the latest amendment

In case the requirements set by Law 94/2009 are not satisfied, today having the positive opinion and the approval to stay by the GD (ex Committee of Foreign Minors) represents another possibility for having the permit of stay as foreign minors converted when reach the adulthood. The amendment of the art. 32 introduced in 2011²⁴³ aims at facilitating the stay for those minors turning 18 who have not been on the Italian territory for three years. However it creates some ambiguities. The criteria upon which the GD will evaluate its opinion are not made explicit in the amendment. It still remains unclear when and how the GD should issue its positive/negative opinion about the legal permanence of the 18 years old migrant.²⁴⁴ With the previous version of art. 32, it was evident the fear of foreigners circumventing the quota-system and the intention to prevent young migrant to take advantage of the Italian protection system for minors as an easy entry point to the country and its labour market afterwards.²⁴⁵ On the other hand, opinions about the advantages and disadvantages of the most recent amendment are divergent. Matarese explains that, as the ultimate responsibility of deciding about the conversion of the residence permits remains always upon the public security authority (*questura*), the opinion of the GD is not binding. It can provide extra information about that specific child's experience and projects, and facilitate her/his permanence by not only referring to what (s)he has achieved since the arrival (in terms of participation to education, training and social integration programme) but also what (s)he is planning/committed to do.²⁴⁶ According to Zorzella and Giovannetti instead, the issue relies in the fact that neither the amendment nor the new Guidelines of the GD explain the criteria

²⁴³ Art. 3(1), g-bis of Law 129/2011

²⁴⁴ D. Consoli, M. Giovannetti, and N. Zorzella, "La Conversione del Permesso di Soggiorno del Cittadino Straniero alla Maggiore Età: Le Modifiche all'Art. 32 TU N. 286/98 e il ruolo del Comitato per i Minori Stranieri" *Diritto, Immigrazione E Cittadinanza* XIII, no. 3, 2011, 63–71.

²⁴⁵ Interview Zorzella, Giovannetti, Matarese, Vacchiano, Cappuccino, Bertolino, confirms this.

²⁴⁶ D. Consoli, M. Giovannetti, and N. Zorzella, "La Conversione del Permesso di Soggiorno del Cittadino Straniero alla Maggiore Età: Le Modifiche all'Art. 32 TU N. 286/98 e il ruolo del Comitato per i Minori Stranieri" *Diritto, Immigrazione E Cittadinanza* XIII, no. 3, 2011, 63–71.

and the timing of the issue of the opinion.²⁴⁷ In their views, the problem lies mostly in the fact that the nature of the DG as a body remains unclear; certainly it is not a legal body.²⁴⁸ While since 2011 thus far the negative opinions about the possibility to stay for UASC turning 18 have been few, this trend can change any time if a political change occurs, given the fact that no law would prevent doing otherwise. The history of changes of Art. 32 shows that as soon as the minor became legally an adult, all the fears, reluctant attitudes and resistance towards the ‘foreigner’ as someone that might remain longer or even permanently on the Italian territory emerge. As Sayad pointed out, the notion of migrant is always attached to an idea of impermanence and temporary status.²⁴⁹ Now, with the last amendment the approach is more flexible, but in this flexibility we perceive again the indecision and schizophrenia that characterized the Italian approach to the phenomenon. Despite this last change that should have brought more hope to young migrants’ aspirations, referring to those minors that still prefer to remain ‘invisible’ and opt for the protection of the street, Cappuccino explains that it is still too soon to see a change in their mind and to overcome the deep lack of trust towards the institutional system for an effective support and protection that the previous law have contributed to create. In this fragmented picture, there is no mapping, assessment and only little knowledge transfer about the projects and best practices implemented at the local level. The CRC Committee’s Concluding observation addressed to Italy indeed stressed on the importance to improve analysis studies and reporting on the impact of the variety of projects and programmes implemented within the country.²⁵⁰ Make and share empirical knowledge about what is working and what is not could be a basis for the implementation of an effective protection.

4. THE INVISIBLE BORDER BETWEEN OURS AND OTHERS’ MINORS

In Italy we have witnessed a fragmentation of the care system (its practices and law enforcement) the inconsistency of the norm related to the legal status of the minor when turning 18 years old, together with gaps in the quality, competences and the ‘*alta soglia*’ of most of the care facilities available to UASC. Given these circumstances, Italy would benefit by reconciling its rhetoric of protection with a conceptualization of child mobility that

²⁴⁷ Ibid.

²⁴⁸ Being a body whose nature remains hybrid (but *de facto* it is not a legal body), for its opinion to remain legally valid it should be given when the GD issues the results of the family investigation that such body is by law in charged to conduct as soon as the unaccompanied minor is identified (in the dpcm 535/99, which regulates the functions of the Committee and sets this option, it is stated that such a body is in charge of conducting the inquiry in the country of origin in order to evaluate the option of assisted return for the minor and evaluate the situation in her/his country of origin. If the assisted return is not possible the migrant is not sent back home) It would be indeed illegal to issue the opinion just three months before the minor turns 18 years old, because it would be based on a moral judgement completely at the discretion of the members of the GD. However the practice that so far has been settled is the issue of the GD’s opinion just 3 months before the reach of the majority age. Matarese, Interview.

²⁴⁹ Sayad, *L’immigration Ou Les Paradoxes de L’alterité. Préface de Pierre Bourdieu*.

²⁵⁰ Committee for the Rights of the Child, *Concluding Observations to Italy*, 19.

accommodates multiple dimensions of youth and migration. Considering the central government's increasing involvement, and the recent initiation of a special fund devoted to the phenomenon, now appears an appropriate time to revise the perceptions and performances related to protection. The weaknesses of the system demonstrate that the 'threat of the foreigner' (mostly for 'attacking' domestic resources) is never completely dispelled when managing the UASC phenomenon. Even if not explicitly depicted as a threat, the 'ghost' of the 'alien' as threat leaves an indelible residue. In the context of a supposedly strong protection system designed for minors without discrimination, the representations attached to illegal migrants remain nuanced by other forms, which surface from time to time. The narratives normally attached to migrants (criminalization, economic burden, lack of trust, impermanence) emerge when suspicion and mistrust prevail. As Bertolino suggests:

there is a protection from exploitation and marginalization defined by law, which is 'untouchable' and almost 'sacred'; but then there is a form of marginalization that is not defined by law which instead seems acceptable because it does not incur the legal risks for those who represent the authority.²⁵¹

4.1. Migration and Impermanence

The above described protection system, which offers shelter defined by passive trust rather than the proactive creation of trustful and durable relationships, has been created within the rationale of impermanence. This unclear and incomplete approach to protection is clearly evident in the difficulty of having clear ideas about how to manage young adults reaching the age of 18 years old. It is a protection 'with a limit': at 18, if you are lucky and you are in a good centre maybe you will have the possibility to continue a project and have some prospects. If you are not lucky, if you have had some difficulties in participating in programmes, or your past has been characterized by small criminal records – whatever the reasons - you are out. At 18 the 'minor' and 'unaccompanied' connotations are lost and what remains is the fact of being foreign. The profile of the 'child at risk' is substituted by that of the adult (for whom there may be no place in the host society) or the temporary guest (valued for her/his utility or feared as a burden). Bertolino argues that while the flaws in the system are linked to a dearth of resources, we cannot deny that there is also something deeper about how these young people are constructed by our social system.²⁵² The protection and support offered in the reception centres is designed only for people under 18,

²⁵¹ "Si sono creati dei meccanismi, in un momento di crisi sociale accentuati, che pervertono un po' no ed è come se ci fosse una tutela dallo sfruttamento e dalla marginalizzazione definita per legge che è sacro e santa poi però c'è una forma di marginalizzazione che è indefinita per legge invece quella è accettabile perchè non incorre nei rischi giuridici per chi poi rappresenta l'autorità". *Bertolino, Interview.*

²⁵² "Una falla che è apparentemente legata alle risorse, che non si hanno, ma c'è anche qualcosa di molto profondo di come vengono costruiti questi ragazzi dal nostro sistema sociale". *Ibid.*

and is therefore temporary. This impermanence can be comprehensible *per se*. If protection is perceived as support given to a dependent, vulnerable child it is clear that the time limit is an inherent aspect of the idea that the child will grow up and develop into an 'adult'. However, if protection is conceived as support developed with the full participation of the person for whom it is provided, and is regarded in a more flexible and contextual way, the temporal aspect takes on another meaning. When taking into consideration the future perspectives of young migrants and their views, by incorporating their participation in the matters affecting them and in the way their protection is shaped, and by including a serious consideration of their capacities, protection develops into an investment and cultivates relationships without predetermined time limits. Protection should stem from strengthening the resilience and capacities of the child (Woodhead 2005).²⁵³ Interventions aimed at providing protection to UASC in Italy instead fail to concretely provide spaces and opportunities to accommodate children's views and promote their participation in their own protection. As we have already seen, "the view of children as vulnerable and needing protection by the state is a long-standing feature of other Western societies" (Eastmond and Ascher 2013, 34).²⁵⁴ In particular Italy is a country with a good reputation for the protection of infancy on the international scene and with a moral and ideological background (faith-related) of charitable support for the most vulnerable subjects. In such a context the best interest of the child for the protection of a vulnerable child has gained dominant rhetorical force.²⁵⁵ Beyond disregarding a child's right to participate and be heard in a sensitive and attentive way, 'the best interest of the child' risks becoming a mantra that, given its semantic flexibility, can be appropriated by different actors and mobilized for different ends'.²⁵⁶ Matarese, Zorzella and Giovannetti admit that Italy finds it difficult to look at youth as a potential and to realize that young people are full of capacities, requiring spaces and opportunities for expression. This seems even more difficult when young people are foreigners, whose potential is seen only in her/his temporary utility as precarious worker. Voices are silenced or simply ignored while a protective paternalism and a charitable narrative are ingrained in defense of vulnerable children incapable of contributing to the policies and practices related

²⁵³ M. Woodhead, "Early Childhood Development: A Question of Rights."

²⁵⁴ M. Eastmond and H. Ascher, "In the Best Interest of the Child? The Politics of Vulnerability and Negotiations for Asylum in Sweden," in *Transnational Migration and Childhood* (Naomi Tyrrell, Allen White, Caitriona Ni Laoire, 2013), 34.

²⁵⁵ Giovannetti reminds the concern for children welfare in Italy has a long tradition.

And Zorzella explains that historical research on childhood shows that the notion of best interest was emphasized by The Constitutional Court, in disputes regarding divorces, separation, and also in migration matters with regard to the right of the migrant family to remain in the host country for the best interest of the child if there is a question of expulsion for the loss of the residence permit. Giovannetti, Interview; Zorzella, Interview.

²⁵⁶ Eastmond and Ascher, "In the Best Interest of the Child? The Politics of Vulnerability and Negotiations for Asylum in Sweden," 27.

to them.²⁵⁷ The gaps between the rhetoric and the practice in the commitment to the rights of the child suggest that the implementation of the best interest principle, without the practical involvement of children, results in a humanitarian, charitable intervention easily withheld when resources are lacking. It is an initiative within which children cannot raise legitimate claims, to which the state allocates more or less adequately at its convenience. The rhetoric of emergency then becomes instrumentalized and children's interests remain subordinated to the state's need to manage other priorities and regulate migration. Under these circumstances, the Italian protection system for UASC assumes the character of a social service,²⁵⁸ temporarily catering to needs without establishing relationships with those who are 'protected' or supported. Such a system does not allow envisaging UASC's main concerns about their transition to adulthood and their own futures.

Very often, migration is a topic that raises practical concerns about managing public order and regulating borders, the labor market, and welfare provision – it is, as Sayad suggests, a *problematique imposée*.²⁵⁹ The interest is imposed by the fact that there is this presence of the 'foreign' on the territory, but this sole reason promotes only an incomplete, biased, limited comprehension of the phenomenon. From the perceived need to 'order and manage' a flow and provide quick solutions to the 'problem of migration', or in the specific case of UASC the need to perform the duty to place the 'abandoned' child in a safe place,

²⁵⁷ Matarese: "Il minore viene protetto in quanto tale con i limiti di questa cosa. Cioè secondo me l'Italia è indietro nel lavorare sull'evolving capacity del minore, sulla necessità di valorizzare i minori più grandi, cioè quindi quelli che sono in transizione verso l'età adulta"; Zorzella: "Meno presente è il diritto all'ascolto che indirettamente comporta il diritto alla partecipazione [...]. Adesso lo stiamo [noi, associazione ASGI] pian piano veicolando e introducendo anche noi come diritto, che ha a che fare con un diritto alla partecipazione. Non ha una struttura giuridica ben precisa, però perché se io non vengo sentito, cosa comporta, però? L'illegittimità di un provvedimento che mi ha detto di ritornare nel paese? Non lo so però è un elemento che nella pratica non è molto utilizzato, è uno dei principi che devono prendere piede bene"; Giovannetti: "Per noi c'è anche molta difficoltà ad uscire da un concetto di minore bisognoso di tutela mentre ciò che ci arriva da un approccio più europeo, è invece quello di pensare a questi minori come soggetti capaci, determinati a decidere il loro progetto di vita; questo concetto di promuovere il loro concetto di vita insomma a noi ci sembra assolutamente estraneo, un minore non può essere capace di determinare il proprio progetto di vita". *Serena Matarese, Interview, March 10, 2014; Zorzella, Interview; Giovannetti, Interview.*

²⁵⁸ "Some characteristics of the Italian protection system available for UASC share some aspects of what have been called the 'social services model' and the 'medical model' when talking about some typical child protection mechanisms set up in developing countries by third party actors (aid agencies, or the government itself), most of the time without involving families and the local communities. In our case, we are talking about a country of the so-called developed world 'receiving' foreign minors and called/expected to give a 'response' to them". Bissell et al., "Rethinking Child Protection from a Rights Perspective: Some Observations for Discussion.," 11.

²⁵⁹ "Autant la société d'immigration est portée, on le comprend facilement, à investir le fait de l'immigration durant son accomplissement-c'est pour elle une affaire d'ordre public ou, en d'autres termes, une nécessité de la vie pratique-, autant elle est indifférente, à bon droit lui semble-t-il, aux conditions et aux circonstances qui gouvernent l'émigration, se considérant comme totalement étrangère, nullement concernée et encore moins intéressée par ce type de préoccupations. Et quand, par exception, elle est amenée à s'interroger sur la 'naissance' à l'immigration, c'est-à-dire, en fait, sur la naissance de l'émigration, elle est portée, par une manière d'ethnocentrisme d'ordre tout à fait pratique, vision 'endogène' d'une réalité qui est extérieure et qui dépasse le champ de ses attributs et de ses compétences, à en rechercher les causes, la raison, le principe explicatif dans ces propres structures internes (ces structures économiques, le marché du travail, ses structures démographiques, ses structures sociales, etc)". Sayad, *L'immigration Ou Les Paradoxes de L'alterité. Préface de Pierre Bourdieu*, 16.

the complexity of the motives and modes of migration is neglected. Any comprehensive system of child protection, including foreign minors, requires a fundamental re-shaping of how protection is thought and performed starting, beginning with an engaged understanding of the multiple aspects of child mobility. The following prognosis is not intended to target any specific layer of the above-mentioned fragmented system, but it sets out broad principles that offer to inform debate and ease the reconciliation between policies and practices in the protection of UASC at any level. The following sections are the product of an investigation of those approaches, which have produced innovative approaches that recognize UASC as subjects of speech and knowledge. Disparate efforts that have been implemented by some organizations (although there has not been a sustained and coordinated approach across the field) have yielded productive, observable and tangible results privileging as starting point a deeper investigation into UASC's stories, a re-consideration of the driven forces behind the migratory experience and the investment in a process of relations-building.²⁶⁰ The hope of this contribution is that these efforts can be harmonized because they rest on fundamental principles, which for their underlying validity and utility can be mobilized and operationalized at any level (starting from the national policy-making level to the grassroots implementation level).

4.2. Child mobility: in search of lost causes?

There was no reason, let's say, I got bored because I saw that my cousin was leaving, I was out of work, then ... I decided, I go as well ... a real reason...I do not have it...

(Amr migrated from Egypt to Italy when he was 16 years old)²⁶¹

In Bertolino's and Cappuccino's view, the rhetoric of protection, which results in inadequate and superficial care, is mainly explained by the fact that it is very complicated to understand identities and circumstances linked to migratory projects in constant flux and which have rapidly changed over the years. Care facilities and their operators struggle to understand the primary concerns of young migrants. Migration patterns today appear *destrutturati* (de-structured), without a real project or plan at their origin.²⁶² UASC self-declared priorities are finding a job, becoming autonomous, and acquiring a permit to stay legally.²⁶³ However, the

²⁶⁰ It is the case for example of the approaches adopted by the project CivicoZero in Rome (see Introduction) and the Centre Frantz Fanon in Turin. The following investigation also gained inspiration from the discussion had with Micheal Montgomery who had long experience internationally as advisor on children's rights.

²⁶¹ "Noo, non c'era un motivo.. solo che.. diciamo, mi sono stufato perché ho visto il cugino che partiva, io stavo senza lavoro, quindi..allora ho deciso anche io..un motivo vero io non ce l'ho, io non ce l'ho". *Amr, Interview, March 11, 2014.*

²⁶² Cappuccino, Interview.

²⁶³ Interview with all interviewees confirm these statements

aspirations behind these apparently simple and straightforward declarations are not immediately accessible. Current policies and practices appear to have a myopic view of the variability and heterogeneity behind the motives for UASC mobility. Hein de Haas re-frames migration as a function between opportunities, capabilities, and aspirations. Such a view accommodates the mutual and processual constitution of agency and structure, avoiding the reductive understanding of migration through a purely micro or purely macro lens. In this section I draw from Haas' framework to ground a wider understanding of UASC mobility.

For children, as for anyone, the option to migrate can be socially produced and influenced by the opportunities (not only economic) offered (or not) in the country of origin, but personal circumstances, capabilities, and aspirations also play a crucial role. Community practices and social transformation, at the local and global level, are often actualized through children. They interact and react to state institutions and policies. They are often at the center of political, social, economic, and cultural life.²⁶⁴ Therefore, it should be recognized that there is a tension between structure and agency in children's participation in migratory processes.²⁶⁵

Understanding migration today requires an engagement with a complexity, accepting that a multi-faceted phenomenon at the interstices of local and global processes cannot be met with a one-size-fits-all response. Understanding migration today requires interrogating various layers. Haas' theoretical framework can be implemented by Vacchiano's suggestion of considering six distinct levels of analysis when approaching child mobility.²⁶⁶

First, the structural determinants: the processes that occur in the country of origin (conflict and situations of violence, the economic and cultural situation²⁶⁷, the social, spatial, marginality, corruption, inequality, class differences and resource distribution). Secondly, the 'migratory subjectivity' should be considered. What makes one person migrate and another stay? Normally it is taken for granted that the answer is flattened down to the first aspect – the circumstances of the origin country, while there is a *quid* in between that makes the difference between those who migrate and those who remain. The third level includes whatever happens during the trip and determines the way in which it develops. A fourth element concerns the bureaucracy of the borders that make migrants 'illegal migrants',

²⁶⁴ Marisa O. Ensor and Gozdziaik, "Introduction: Migrant Children at the Crossroads," 3.

²⁶⁵ *Children and Migration At the Crossroads of Resiliency and Vulnerability*, 211–213.

²⁶⁶ Vacchiano, Interview.

²⁶⁷ We share Rogoff's idea of culture not as a fix concept. She promotes a dynamic understanding of culture, as common patterns and practices which change across generations and vary within community. Barbara Rogoff, *The Cultural Nature of Human Development* (UCSC Foundation Professor of Psychology; Oxford University Press, 2003).

attaching to them a category that becomes a new identity.²⁶⁸ The border control performed and reiterated by the states as the primary strategy of the EU approach to migration is represented as the natural order of things. This emphasis fuels our understanding that the illegal border crossing is unnatural, 'pathological', and represents a threat that must be punished.²⁶⁹ The border itself and its strict control produce in turn an additional sense of exclusion, where the 'elsewhere' acquires the connotations of the ideal place to be.²⁷⁰ The border deprives but at the same time stimulates the idea of an ideal 'elsewhere'. The fifth element to take into consideration is what happens once inside the borders: the migrant can go through a 'regularization' path of her/his status or remain invisible to institutions. Finally one should consider the expectations, the family project, and the aspirations for the future, which might be subjected to change throughout the migratory experience.

4.2.1. Mobility as a compensation. A claim of presence. A claim of being other

The migratory subjectivity interacts with the structural environment in a dynamic way. People's expectations, hopes and aspirations may value the 'elsewhere as the only possible solution' to change their current situation, stimulated by a representation of the abroad, where fulfillment and recognition might be found, but also where a family can find compensation for its history. Others may instead believe it is possible to remain or attempt a change by opting for a different approach.²⁷¹ For example, in certain contexts children's contribution to the household is well-established.²⁷² The idea of childhood is compatible with the idea that a minor can be a productive individual for the family if there is the need, if (s)he

²⁶⁸ The Schengen system has created the 'clandestino' in Vacchiano's words 'Il migrante forzato sì, il migrante economico no, quindi, ergo, qual è la grande dicotomia che informa poi tutto questo discorso: la nuova ontologia della clandestinità... quella che nasce da Schengen in poi per definire lo statuto della cittadinanza in termini di regolarità o irregolarità. È lì che sta poi la questione. C'è proprio una progressione da Schengen in poi per costruire quest'apparato che permette poi di discriminare, catalogare e indirizzare verso certe piste piuttosto che altre i vari soggetti, è proprio un apparato di gestione, di management, delle migrazioni quindi poi le esperienze che ci entrano dentro sono poi condizionate da questo, però bisogna tenere conto che non è solo qui il punto, in genere i due piani che si vedono sono: ah, guarda quello che succede lì e così è brutto, cattivo oppure no e così quello che succede qui in termini burocratici, amministrativi dando per vere le classificazioni che sono utilizzate qui" Vacchiano, Interview.

²⁶⁹ Khosravi, *"Illegal" Travel. An Auto-Ethnography of Borders*, 2.

²⁷⁰ Vacchiano explains: "in questo senso, la nuova disciplina europea delle frontiere, con le sue molteplici iniziative di securizzazione del confine e illegalizzazione della mobilità, concorre a riprodurre quei meccanismi di cristallizzazione sociale, impedendo di investire in un'alternativa plausibile. Di fronte all'assenza di prospettive, in patria o fuori, molti giovani si chiedono semplicemente 'che dovremmo fare' ? è in questo contesto di sensibilità, valori, aspettative e visioni che matura e prende corpo da un lato la sensazione –peraltro giustificata- di essere 'reclusi' e dall'altra l'idea di un 'altrove' compensatorio verso il quale il soggetto si proietta immaginando il proprio successo in termini di riconoscimento". Vacchiano, *Interview*.

²⁷¹ Vacchiano, "Bash N'ataq L-Walidin ('To Save My Parents'): Personal and Social Challenges of Moroccan Unaccompanied Children in Italy."

²⁷² Karin Heissler, "Migrating with Honor: Sites of Agency and Power in Child Labor Migration in Bangladesh," in *Children and Migration, At the Crossroads of Resiliency and Vulnerability*, Palgrave Macmillan (Marisa O. Ensor and Elzbieta M. Gozdzia, 2010), 225.

decides to drop from school or if school itself is not particularly valued.²⁷³ In some cases minors can be productive at home and are not induced to travel abroad to help their families. Instead, in certain areas socio-economic change brought about through global and local processes has contributed to a situation where migrating to find a job, as family livelihood strategy, or as a mean to escape a marginalizing environment or a frustrating education system, becomes a feasible option to be taken into consideration. If families take part in the decision of the migratory project of the child, it does not necessarily mean that the minor is not participant and agent of the project itself. The child can be 'in agreement' with the family mandate because (s)he shares certain values of her/his community including for example the idea of being productive and helping the family by earning an income. Community and household context as well as global and local structures and practices can activate (and sometimes constrain) individual agency. Minors can conceptualize themselves in a different way from what we see being typical and suitable of children. They may perceive themselves as 'gown up already', not in need of protection or of adult advice, actively and positively engaged in building a better future for themselves and their families.²⁷⁴ Migratory subjectivity is indeed also influenced by the 'culture of migration' of the country of origin.²⁷⁵ In certain contexts migration can become a common social behavior, a symbolic tool to gain redemption and liberation and this can incentivize the decision of a minor to leave without necessarily being prompted by a family mandate.²⁷⁶ Optimistic representations of the abroad can drive someone to underestimate the risks of an illegal voyage and give more emphasis to its ultimate benefits. A lot of trust might be put in the networks of acquaintances or co-nationals already abroad. As suggested by numerous studies on migration and networks, the presence of intermediaries, friends or country-fellows on the territory of the host country can give an incentive to the migration initiative, although this does not necessarily translate into a certainty of protection and support.²⁷⁷ When Amr arrived to Italy from Egypt, he already knew that his cousin and his uncle were living in Milan.

²⁷³ According to Barbara Rogoff "conceptualizations of childhood and acceptable roles for children at different ages vary across time, space, and class and age expectations are based on many features of the organization of the community, such as whether adults are nearby supervising and whether children have the opportunities to begin observe and participate in those activities at early age. Sometimes psychology studies are blind to cultural aspects of human development and how the organization of a specific community can influence the development of a child, and the images attached to her/him". Rogoff, *The Cultural Nature of Human Development*.

²⁷⁴ *Children and Migration At the Crossroads of Resiliency and Vulnerability*, 26.

²⁷⁵ Khosravi, "Illegal" Travel. *An Auto-ethnography of Borders*.

²⁷⁶ Mai suggests that "visual narratives of individualistic prosperity conveyed by Western media are combined with the stories of economic success told by a transnational peer group [...]The reiterated reference to the availability of work and the possibility of making money abroad underlines how migration of minors and young adults forms an integral part of broader migratory flows and of late-modern socio-economic transformation encompassing us all" Mai, "Tampering with the Sex of 'Angels': Migrant Male Minors and Young Adults Selling Sex in the EU," 81–82.

²⁷⁷ Khosravi explains that "the imaginings of fortune, success, being part of the modern world, and our fascination with the West were all undoubtedly common factors that have led to the emergence of current migration patterns [...] Information, images, myths, and stories of success in the West are transmitted through personal networks and the media. The result is a

In Agrigento I stayed 3 weeks in a reception center. Then I came to Rome. I worked for six months in the market. Then I went to my uncle in Milan, I stayed only a month there though. We did not get along. I then decided to leave and go to Rome and do everything by myself'.²⁷⁸

Cappuccino refers to the most recent flows from Tunisia and Egypt that are strongly linked to the new cultural movements and changes regarding how youth perceive themselves and the world. Young people are probably the most exposed to the various expectations coming from the local context and the global world. Even if living in marginalized areas, they might very easily get exposed to global processes. Vacchiano is referring specifically to the youth from Maghreb who, whether male or female, are growing up with an open awareness of the contemporary world, developing expectations that are deeply linked to a global subjectivity, sometimes in conflict, but not necessarily, with local discourses and traditions.²⁷⁹

In Cappuccino's explanation, Tunisians, for example, have a migratory project difficult to seize as it is apparently 'not-structured' and undertaken almost 'at random'. In fact, recent events in the Maghreb have influenced aspirations of empowerment and a refusal of old structures perceived as corrupted and unfair. Journeys become a way to claim belonging to a global world. The profile of young migrants arriving in Italy from Tunisia through illegal routes is very often that of minors from the poorest and most marginalized urban neighborhoods, escaping in order to claim, at least at the individual level, what it seems impossible to achieve collectively.²⁸⁰ The existence of structural demands for cheap and irregular labour in the receiving country also encourages certain aspirations. Young Egyptians can have personal motivations to leave but they are also often involved in networks of black labour market managed by Italians or their co-nationals already present in the receiving territory. Amr for example decided to leave without the approval of his parents at first. Inspired by his cousin's example, he wanted to 'see *the world*', and at the same time his uncle already in Italy promised to find a job for him (which turned out to be an illegal and exploitative job).²⁸¹

powerful imagination creating alternative worlds and lifestyle". 37 Khosravi, "Illegal" Travel. *An Auto-Ethnography of Borders*; Heissler, "Migrating with Honor: Sites of Agency and Power in Child Labor Migration in Bangladesh"; Matarese, Interview.

²⁷⁸ "C: Avevi già contatti in Italia, sapevi già dove andare?"

A: No va beh si. C'ho il cugino. C'ho lo zio a Milano. Ad Agrigento sono stato 3 settimane in un centro d'accoglienza. Poi sono venuto a Roma. Ho lavorato per sei mesi dentro al mercato. Poi sono andato dallo zio a Milano, sono rimasto solo un mese però. Non andavamo d'accordo io e lui. Ho deciso di tornare a Roma e fare tutto da solo". Amr, Interview.

²⁷⁹ Francesco Vacchiano, "Giovani in Movimento. Soggettività e Aspirazioni Globali a Sud Del Mediterraneo," *Afriche e Orientali* XIV, no. 3-4 (2012): 98-110.

²⁸⁰ Francesco Vacchiano, "Giovani in Movimento. Soggettività E Aspirazioni Globali a Sud Del Mediterraneo," *Afriche E Orientali* XIV, no. 3-4 (2012): 98-110.

²⁸¹ Amr, Interview.

Bertolino points out that despite being legally labeled unaccompanied or separated, UASC are not always completely alone. They might be accompanied by someone that by law or by custom is not their official legal representative. They have relations, networks, contacts, someone to whom they have to 'respond', 'refer', 'deal with' in more or less positive circumstances.²⁸² Therefore, the concept of vulnerability needs to be investigated from different perspectives, taking into consideration the various elements and actors constituting the environment surrounding the minor. Vulnerability can also come not from simply being alone, but being in connection with certain networks or trusting someone that might be exploiting them. Once in Italy, Amr was supposed to be helped by the uncle in finding a job, but ended up being disappointed by all the promises that had been made to him. He decided to count only on himself. By engaging with a positive institutional program for minors, he actually managed to regularize his status, complete his education, and find a regular job.

When I arrived here at the beginning, no one helped me. No one. Neither uncles, cousins, nothing. Yes I stayed at my uncle's for a few months, but they did not give me any other kind of support. So when I decided to leave Milan and come to Rome, I decided that I wanted to do everything by myself.²⁸³

In other cases UASC perceive themselves 'alone', especially in contexts which lack communication tools. Evazali says:

When I arrived [in the first reception centre] I was there alone, I did not understand anything, and I could not talk to anyone. So let's say it was a strong impact. Strong because at the beginning I was not able to speak the language, I did not know how to explain ... I did not have the opportunity to explain my problems, my inconveniences ... so. Yes, then slowly learning a little bit of Italian, a few words, let's say, I was able at least to ask those basic things.²⁸⁴

²⁸² "Come si immagina il ragazzino, aiuta anche alcuni a ricordare che è un minore non accompagnato ma non è un minore solo, hanno qualcuno a cui dover rispondere, hanno legami più o meno positive". Bertolino, *Interview*.

²⁸³ "A me questo lavoro mi piace, cioè me diverto soprattutto con i ragazzi, ragazzini appena arrivati. Quelli che non sanno. Mi diverto. Io, quando sono arrivato qui all'inizio, nessuno mi aiutava. Nessuno. Nè zii, nè cugini, niente. Va bene che ero rimasto qualche mese a casa sua, ok. Ma altri aiuti non me li hanno dati. Allora quando ho deciso di tornare da Milano, ho deciso che volevo fare tutto da solo. Sono entrato in casa famiglia, ho studiato, ho fatto la terza media, ho fatto l'alberghiera, ho fatto... il corso per il buttafuori..quindi sì, ho fatto un sacco di cose, con l'aiuto della casa famiglia. Quindi quando vedo un ragazzino appena arrivato che non sa la lingua, non sa nulla, qua tocca aiutarlo.qua ce tocca aiutarlo e mi piace". Amr, *Interview*.

²⁸⁴ "Ero lì solo, non capivo nulla, non riuscivo a dialogare con nessuno. Quindi diciamo che è stato un impatto forte. Forte perchè non potendo parlare con nessuno, non sapendo come dovevi spiegare..non avendo la possibilità di spiegare i tuoi problemi, disagi..quindi. Sì, poi piano piano imparando un po' l'italiano, qualche parola, diciamo..il minimo che dovevo chiedere, almeno quelle cose proprio di base". Evazali, *Interview*.

Young people might also experience a 'vertical exile from their fathers': they do not recognize themselves anymore in their traditional culture and their journey expresses their need to experience, see, and be 'other'.²⁸⁵ According to Bertolino the migratory experiences of some young Moroccans from Casablanca represent a form of 'rebellion or resistance'.²⁸⁶ Similarly, from his encounter with Moroccan young migrants, Vacchiano realized that the growing importance of migration was shaped by the comparison between the expectations of well-being and social participation and the limits imposed by a system that reproduced hierarchies of class, age and gender. Perceiving this sense of stillness produces in them an intolerable and alienating 'void of existence' foreshadowing the idea of leaving.²⁸⁷ This dynamic should be understood in a context where being mobile is becoming a new way of discerning between those who enjoy the right of a global citizenship and those feel confined at the margins, and enclosed in an inescapable ennui. Khosravi points out that for some people crossing borders is an inescapable feature of life; it is a mode of being in the world.²⁸⁸ And while very few categories of people enjoy unrestricted mobility rights, most people are caught within borders. As Bauman suggests, mobility rises to the highest rank among the values that give prestige, and freedom of movement, which has always been an unequally distributed and scarce commodity, quickly becomes the most pronounced social stratification of our times.²⁸⁹ James Ferguson uses the notion of 'abjection' to express the feeling of humiliation and frustration emerging from the tension between the representation of a global world of first class and the realization of the impossibility to be an active part of it, The awareness of one's own position of exclusion from the place where the life is deemed to be worth living in and whose symbols and objects are increasingly available to everybody's sight generate a feeling of dissatisfaction.²⁹⁰ Despite abundant information about the crisis affecting European economies, and despite the well-known risks of an illegal, the desire to 'leave at any costs' persists and the experience of the voyage remains a desirable option.²⁹¹ Leaving at any costs is something that many young people from all over the world can experience, motivated by a mixed feeling of frustration and desire; the expectation of breaking certain limits and freely consuming new forms of both freedom and dependence²⁹². In certain instances mobility represents a form of initiation ritual through which "you become an adult

²⁸⁵ Vacchiano, "Bash N'ataq L-Walidin ('To Save My Parents'): Personal and Social Challenges of Moroccan Unaccompanied Children in Italy."

²⁸⁶ Bertolino, Interview.

²⁸⁷ Vacchiano gave a talk during the Conference .I attended on 21 March 2014 *MOBILITIES / IMMOBILITIES*.

²⁸⁸ Khosravi, *"Illegal" Travel. An Auto-Ethnography of Borders*, 4.

²⁸⁹ "La mobilità assurge al rango più elevato tra i valori che danno prestigio e la stessa libertà di movimento, da sempre una merce scarsa e distribuita in maniera ineguale, diventa rapidamente il principale fattore di stratificazione sociale dei nostri tempi". Z. Bauman, *Dentro la Globalizzazione. Le Conseguenze sulle Persone*, Laterza, Roma-Bari, 2002, 4.

²⁹⁰ James Ferguson, *Global Shadows: Africa in the Neoliberal World Order*, Duke University Press (Durham and London, 2006).

²⁹¹ *MOBILITIES / IMMOBILITIES*, 2014.

²⁹² Vacchiano, Interview.

by violating the marginalizing border, which is that of Fortress Europe”.²⁹³ Vacchiano, more generally, confirms:

The crossing of the border, whether undertaken in accordance with the family mandate or following a crisis in the domestic holding structure, is always the symbolic passing of a limit [...] Noticeably an initiation passage introduces a suspended time in which the identity is transformed, in a synchronic way, in accordance with an impressive social mandate: to return as a winner or not to go back anymore.²⁹⁴

Once across the border, sometimes this dimension of protest and rebellion can be translated into the choice of remaining invisible to the formal system. Choosing alternative forms of protection is not only a personal response to the individual suffering but also a collective and political claim of resistance. It emphasizes the choice of rupture, which began in the country of origin, and the willingness to test in any form a supposed sense of freedom. Therefore, the interaction with the formal protection system ends up being very difficult.²⁹⁵ The available structures for the care of minors hardly appreciate these dimensions of UASC behavior and choice. The tendency is first to look at minors as de-politicized identities. Such an image (and the attendant response) will be completely destabilized when confronted by an assertive individual, evidently driven by multiple, often complex, socio-political aspirations (this tension will be explored below). Given the varied picture, finding precise motivations and determinants of migration is very difficult. Sometimes it is even difficult for young migrants to fully grasp and explain their motivations. The aim of protecting UASC should be enacted by working together with young migrants in order to capture a sense or rediscover the essence of their migratory experience and simultaneously interrogate the meaning of the support provided.

4.2.2. Materiality and mobility

The first impression that educators and social workers have about UASC is that the only thing they want is to work and earn money, without wasting time.²⁹⁶

As the physical movement becomes part of the process of construction of the self, the materiality of the mobility as well gains much relevance. Young migrants reject the idea of being spectators of the global world. They want to share in the symbology of modernity:

²⁹³ Bertolino, Interview.

²⁹⁴ Vacchiano, “Bash N’ataq L-Walidin (‘To Save My Parents’): Personal and Social Challenges of Moroccan Unaccompanied Children in Italy.,” 114–115.

²⁹⁵ At the Conference at the University of Bergamo in June 2013 Marco Cappuccino gave a talk: *Minori Stranieri Non Accompagnati: Tra Tutela E Accoglienza*; Mai, “Tampering with the Sex of ‘Angels’: Migrant Male Minors and Young Adults Selling Sex in the EU.”

²⁹⁶ Cappuccino, Interview.

having basic things, the things of today's world, a global life style (including having leisure time, seeking self-realization, social recognition, and personal development). The search for the material outcomes of migration (job, money, house, etc.) reflects the research for a way of being 'other'. *Il culto del soldo facile* (the cult of the 'easy money') play a big role in these mobilities, according to Vacchiano. In precarious conditions, he explains, making money becomes a way to measure one's own ability, capacity, and adult-ness. "The measure of personal value moves progressively from strength of character expressing itself in resistance and moral fiber to an ability evaluated on a monetary parameter: it is in this way that [...] - money- becomes the yardstick of achievement".²⁹⁷ Making money can be an essential and desired aspect of the migratory project which generates various meanings beyond the simplistic stigmatization of 'economic migrants' willing to exploit our 'system'. Making money could mean negotiating an adult role rather than accepting protectionist and infantilizing initiatives of social intervention.²⁹⁸ The initial determined refusal of going to school should for example be investigated deeper. What ideas of school persist, what type of education system has been experienced before (was it stimulating or punitive?). The narratives linked to education in origin contexts are frequently negative or attached to the idea that working is more useful. Once in the host country they might transpose the same conceptualization and the same ideas of their own experiences with school. In addition they have the pressure of earning money, showing in a material sense the usefulness of their migratory project, either for themselves, for their family or community at home. Gainful employment is not an end in itself, but can be attached to different values. Earning money, producing and sending back remittances, becomes a proof that one was right in leaving the country and choosing migration. The migration experience indeed sometimes can be appraised or stigmatized by those who remain at home. And in certain way, its positive outcomes, the hoped advantages, are expected to be shown before and once one is back. Bertolino explains:

When we think about the profiles of child migration, we forget that sometimes ...remittances have a strong identity value. They are not only a way to send money but they are a confirmation of membership. The migrant is always a potential traitor in others' eyes. (S)he must always justify her/his staying away. We see this for the adults and for migrant children as well. You have to justify to yourself, your family and the community from which you come because you are not there. Especially when then the migration goes wrong, basically, when you cannot produce income... questioning (if not malicious) glances burden the migrant, and sending remittances

²⁹⁷ Vacchiano, "Bash N'ataq L-Walidin ('To Save My Parents'): Personal and Social Challenges of Moroccan Unaccompanied Children in Italy.," 118–120; *MOBILITIES / IMMOBILITIES*. Conference in Lisbon, March 2014, Vacchiano was one of the main speakers

²⁹⁸ Mai, "Tampering with the Sex of 'Angels': Migrant Male Minors and Young Adults Selling Sex in the EU," 91.

also serves to confirm membership, to say 'I have not forgotten you, I have not forgotten where I come from.'²⁹⁹

The auto-ethnography of Khosravi confirms that

The glorious homecoming of exiles is a subject of myth and saga. Sometimes homecoming is full of shame, rather than glory. [...] the idealized migrant is one whose commitment to home continuously manifests itself through social and economic investments, activities and performances.³⁰⁰

4.3. From the clash of representations to the emergence of a culture of skepticism

4.3.1. Protecting nationals from the would-be usurpers?

They are not beautiful, clean little kids like Anna dai capelli rossi, Heidi, Dolce Remì or some other orphan of the fairy-tales... They are often ugly, dirty, bad guys.³⁰¹

Provocatively, Vacchiano refers in these terms to UASC he had met during his years of experience as a psychologist at the Centre Franz Fanon in Turin. With these words he delivers the idea of the difficulty of comprehending the aspects of agency and vulnerability intertwined in UASC profiles and their consequent behaviour and choices.

All the interviewees agree in saying that UASC are perceived by social workers and educators in the reception centres as difficult to manage. This difficulty needs to be understood in a context where a clash is produced between the romanticized idea of a child travelling alone and the actual encounter with an extremely varied phenomenology, including those who do not fit dominant perceptions of childhood. Western society conceptualizes childhood as the time of innocence, vulnerability, dependence and passivity. Children are often seen as 'adults –in-the-making' rather than social beings in their own right. The child protection approach is generally based on the assumption that there is a single universal

²⁹⁹ "Quando ragioniamo sui profili della migrazione minorile, si dimentica che talvolta il produrre rimesse e ciò che ha motivato una scelta esistenziale radicale di separazione dalla famiglia, le rimesse hanno un valore identitario forte non sono solo un modo per mandare soldi ma sono proprio una conferma dell'appartenenza. Il migrante è sempre un potenziale traditore agli occhi (degli altri). Deve sempre giustificare il suo stare lontano. Noi lo vediamo per gli adulti lo vediamo per i minori. Hai da dire a te stesso, alla tua famiglia e alla comunità da cui vieni perché non stai lì. Soprattutto quando poi la migrazione va male, sostanzialmente, non si riesce a produrre reddito- o chè- pesano sulle spalle del migrante degli sguardi interrogativi se non malevoli, e mandando le rimesse serve anche a confermare l'appartenenza, a dire 'non mi sono dimenticato di voi, non mi sono dimenticato da dove vengo'. *Interview with Roberto Bertolino, March 2014.*

³⁰⁰ Khosravi, *"Illegal" Travel. An Auto-Ethnography of Borders*, 87.

³⁰¹ "Non sono ragazzi bellini, pulitini come Anna da i capelli rossi o Heidi, Dolce Remì o qualche altro orfanello delle storie. Sono ragazzi brutti, sporchi cattivi spesso". *Interview with Vacchiano Francesco, March 2014, Lisbon.*

experience and understanding of childhood, whose proxy is age and whose development is dictated by common sequential phases.³⁰²

Speaking about refugees, Malkki and Khosravi, noted that there is a tendency to universalize the “refugee” as a special kind of person, from a judicial category it becomes a mode of being, a re-created ‘identity’ where there is no space for enjoyment, agency, self-representation or individual background, almost a role of ‘how to be’ stripped of the specificity of culture, place and history.³⁰³ Similarly, a certain idea of ‘childhood’ is imposed on unaccompanied foreign minors that hardly approximates reality, and cannot be easily reconciled with other representations of childhood that travel with UASC. The encounter with the realities of their stories can create tension, a feeling of disappointment, suspicion, and mistrust.

First, the fact that most UASC arriving on the Italian territory are males aged between 16 and 17 years old complicates the way unaccompanied minors are sometimes perceived and treated.³⁰⁴ The romanticized idea of the vulnerable child in need of care is likely to get lost when local authorities, border control officers, social workers, and caretakers have to deal with boys who seem difficult to ‘keep under control’ or refuse the sort of protection offered. Secondly, suspicion from the service providers increases with the awareness that within the new and manifold migratory flows there are likely those taking advantage of entering Italy under the ‘vest’ of minors.³⁰⁵ From this clash of representations, new images emerge: UASC can potentially be liars, they are not always willing to engage with and obey the rules, and they are solely concerned with earning money. Their identities are flattened down to the disillusioned images of potential imposters, false minors, deceitful teenagers that are not really in need of support, additional “hungry mouths” to feed but who cannot be fully trusted.³⁰⁶ Finally, the assumption that their presence is just temporary and their condition

³⁰² White et al., “Children’s Roles in Transnational Migration,” 1–7; Gozdziaik and Ensor, “The Way Forward: Conclusions and Recommendations,” 2010, 274.

³⁰³ Khosravi, *“Illegal” Travel. An Auto-Ethnography of Borders*, 72–73.

³⁰⁴ Cittalia, Fondazione Anci Ricerche, *I Minori Stranieri Non Accompagnati in Italia*, 2014.

³⁰⁵ “C’è tanto di culturale dietro alla norma sull’immigrazione in Italia, cioè c’era una norma nuova e già di grazia che venivano concepiti questa fetta, che è stata protetta in quanto categoria vulnerabile e in quanto minorenni, stanno all’interno del 19, i minori stranieri sono inespellibili e venivano protetti in quanto tali, poi c’è stata un’evoluzione, l’evoluzione che ha fatto vedere che per quale motivo un ragazzino che entrava a 16anni e faceva un percorso di integrazione, lo stato investiva su e si vanificava tutto il percorso. Poi questo cosa ha aperto? Situazioni di ragazzi maggiorenni che fingono di essere minorenni perché in Italia se sei minorenni se sei valutato come minorenni sei protetto, c’è un atteggiamento di timore, rispetto all’ordine pubblico, però è sempre su i maggiorenni cioè nel senso c’è la volontà, per esempio anche sulla questione della valutazione dell’età, che è una questione molto dibattuta, per esempio con l’UNHCR, però insomma, è vero bisogna trovare un metodo che sia il più possibile multidisciplinare sostenibile-io dico- che deve essere garantita l’informativa al minore, tutto questo è vero, però è anche vero che va fatta, l’accertamento dell’età, perché sennò con tutte queste cose, ci sta bene che i ragazzini di 14 anni stanno insieme ai ragazzini di 25? Ci sta bene che le risorse destinate a un minorenni vengano poi date a un maggiorenne? No. Cosa penso io? Non è che il compimento del 18esimo anno d’età ti rende adulto, e quindi ti rende privo di bisogni, quindi bisogna dare delle risposte adeguate anche a questa categoria un po’ intermedia, di giovani che non sono minorenni, ma che non sono adulti. Però devi mettere un punto, perché sennò’.” *Interview with Serena Matarese, March 2013, Rome.*

³⁰⁶ *Ibid.*; *Interview with Vacchiano Francesco, March 2014, Lisbon.*

almost inherently unstable risks impeding an engaged effort to develop mutual understanding, investing time to establish mutual trust and taking care of both their protection and promotion of independence.³⁰⁷ When UASC lose their childish appearance, the powerful narratives about irregular migrants strongly rooted in the receiving country can be attached also to UASC, even though initially and formally they are said to be treated first as minors, then as migrants. Generally, a clash is produced between an apolitical view of the child and the encounter with minors who bring with themselves and their migratory experiences many socio-political questions. The clash of expectations and realities increases suspicion towards the 'other' and makes it difficult to give an adequate response. This tension may result in rendering invisible those who do not fit dominant accounts of victimhood and sit uncomfortably in how child protection is conceived.³⁰⁸ Young migrants develop their own representations and performative attitudes which are conditioned by the roles ascribed to them in communities of origin, throughout the border crossing experience, and by the host community. Overlooking the overlapping of processes and dynamics described above result in giving simplistic answers. It has promoted a type of protection that more often resembles a time-limited and disengaged service provision, or a medical approach which sees in UASC's behavior something inherently pathologic to delegate away.

4.3.2. A family mandate: the stigmatization narratives and the externalization of responsibility

Shifting the blame from migrant children to their origin countries might result in a victimizing approach. The tendency to read migration processes through the lens of the 'degree of choice' of the migratory project -ranging from free (voluntary migration) to not-free (forced migration)³⁰⁹ very often influences our understanding of child migration as the product of 'external' 'bad' choices made by families or even worse by the exploiters of the human trafficking market. This adult-centric approach results in a partial understanding of the decision-making process in child migration patterns, reflecting hegemonic assumptions about childhood, family choices about upbringing in developing countries, and 'economic migration' itself.³¹⁰ Under the banner of 'the best interest of the child', policy responses and programs aiming at protecting children from the abuses and violations of their rights might end up stigmatizing families at home and reinforcing the stereotype that those who migrate for work 'are bad'. Those interventions can reproduce certain narratives in the country of origin which stigmatize those who leave, and consequently stimulate further the need for the migrants

³⁰⁷ Interview with Scarpelli Stefano, March 2014, Rome.

³⁰⁸ White et al., *Transnational Migration and Childhood.*, 127.

³⁰⁹ Khosravi, "Illegal" Travel. *An Auto-Ethnography of Borders*, 13.

³¹⁰ White et al., *Transnational Migration and Childhood.*, 1-7.

themselves to prove they were right in going away. In turn, the need to earn money at any cost becomes even more urgent. The exhibition of the money accumulated abroad and the display of the material outcomes of the migratory experience can be explained by this desire of showing the achieved goal, or as a self-realization following previous experiences of frustration.

The stigmatization narrative also reflects the externalization of responsibility, and de-politicization of a phenomenon that is instead highly political and inserted in the net of global, local, and transnational dynamics.³¹¹ According to Zorzella even though in certain instances minors are encouraged by the family to migrate, this phenomenon should be read also considering the particular structure of the Italian migratory policy.³¹² Although existing data cannot be disaggregated in such a way as to test a correlation between restrictive migration policy and the increase in independent child migration, we cannot overlook that restrictive immigration policies have a certain influence in the decisions taken by people willing to move and by families' livelihood strategies.³¹³ If harsher regulations of the borders fail in stopping mobility *tout court*, they make it more dangerous, more expensive, and produce new forms of mobility. Restrictive policies aiming at controlling who enters and who does not, also operates a sorting mechanism of who is now able to pass the increasing difficulties when crossing without the required documents. It has been argued indeed that today the market of illegal migration seem to require "healthy young bodies" (Khosravi 2014).³¹⁴ And given the restrictive migration policies in Italy, phenomena such as illegal networks, which promise job opportunities to young foreign people might emerge more intensively.³¹⁵ Without denying the existence of situations in which the child migration project has been instilled by a family mandate or in which a child can be caught by the criminal net of trafficking, with this analysis we want to underline the fact that the phenomenon of child migration cannot be reduced to these situations. Moreover it should be acknowledged that there are situations in which it is not easy to draw the distinction between forced and voluntarily decisions to migrate. Minors can have an active part in the dynamics of the household decision-making processes

³¹¹ O'Connell Davidson, "Moving Children? Child Trafficking, Child Migration, and Child Rights," 471.

³¹² "Secondo me la cosa sbagliata è volere capire e risolvere un segmento del fenomeno senza guardare l'insieme" Zorzella, Interview.

³¹³ The absence of statistics that prove a correlation between more restrictive policies for adult migrants and increased child migration can easily provide a counter argument for this fear, explains Giovannetti. But even if there was a correlation in this terms, according to Zorzella, it came again back to the need for a reconsideration of the real effectiveness of the migration policy

³¹⁴ Khosravi, *Lecture at the Graduate Institute of International and Development Studies*; Khosravi, "Illegal" Travel. An Auto-Ethnography of Borders, 103.

³¹⁵ O'Connell Davidson, "Moving Children? Child Trafficking, Child Migration, and Child Rights," 467; The Egyptian Cabinet Information and Decision Support Centre and Population Council. Research that makes a difference, *Survey Young People in Egypt. Preliminary Report*, The Population Council, Inc., February 2010; Asmaat Elbadawy, "Migration Aspirations among Young People in Egypt: Who Desire to Migrate and Why?," *Economic Research Forum*, Politics and economic development. ERF 17th Annual Conference, 2010.

involving migration and accept to leave for a varied mix of reasons. Personal aspirations can meet structural forces at both local and transnational levels. Considering all these various aspects, it is necessary to be cautious in giving simplistic explanations to the experiences of UASC.

4.3.3. From a culture of disbelief to a culture of deservedness

Dearth of information again results in increased suspicion and reluctance towards the 'others'.³¹⁶ The encounter with identities escaping any pre-conceived categorizations and contradicting our representations should guide us to re-consider 'the sense, the meaning of our doing' and test our modes of care and apparatuses of protection. Instead, from this culture of disbelief, what more frequently occurs is the emergence of a culture of deservedness.³¹⁷ In the lack of immediate trust, the minor, even though legally entitled to receive a certain type of care and protection, needs in a way to prove that (s)he deserves it, by showing a certain coherence, determination in engaging in the society of the host country. Paradoxically by showing a coherence that it is often not even expected from other minors (nationals). Bertolino pointed out that we often are surprised, disappointed, almost offended if UASC show plainly their desires of consumption, even the desire itself of being mobile within the territory, or if they seem to 'betray' their customs once here (while our lives are allowed to be culturally as contradictory as we want). Why do we expect more coherence from them than from ourselves? Why do we apply different standards to migrants? This attitude shows that they are always perceived as foreigners that need to prove somehow that they are worthy to stay and that they deserve to stay. Khosravi writes

the idea of immigrant as a guest is a metaphor, but people have forgotten that it is a metaphor [...] A guest is always a stranger; there is an asymmetric power relationship between host and guest. This relationship is violent. It requires a definite gratitude. Guests are expected to display their gratitude for being tolerated.³¹⁸

Despite being minors, UASC remain always foreigners and as such guest whose presence is expected to be only temporary. Moreover, because of their, being non-adult, un-accompanied and non-national they are given something. However, even though there is a law grounding this 'provision of protection', it seems that for foreigners this process of filling the 'defects' cannot happen at 'zero cost'. It seems that because of this qualification of

³¹⁶Interview with Vacchiano Francesco, March 2014, Lisbon; Interview with Roberto Bertolino, March 2014; Interview with Serena Matarese, March 2013, Rome.

³¹⁷ Khosravi, "Illegal" Travel. An Auto-Ethnography of Borders, 111–112.

³¹⁸ Ibid., 93; Sayad, *L'immigration Ou Les Paradoxes de L'alterité*. Préface de Pierre Bourdieu.

'being without something', an higher expectation in terms of behavior, correctness, and honesty is placed upon them. The issue lies, in my view, in the fact that differences are most commonly interpreted in negative terms as a 'lack of', as an 'absence'. And when suspicion takes over, the unknown becomes a victim, a threat or a form of inferiority to be dominated and controlled, who should prove her/his vulnerability and deservedness of help.³¹⁹

4.4. Caring about how to care

4.4.1. Seeking an Informed Balance Between Agency And Vulnerability

Beyond the challenge of seizing the variety of today's child mobility determinants, the Italian responses to UASC avoid engaging with the nature of childhood, conceptualized and represented in different way according to different contexts.

The most recent anthropological scholarship on child migration emphasizes the fact that there is a "multiplicity of constructions of childhood, defined not only by age, but also by cultural understandings of gender, ethnicity, history, and local and global contexts".³²⁰ While from a legal point of view a minor is a well-defined category, through the sociological lens the same concept appears questionable and more flexible.³²¹ Representations of childhood change according to certain social values, which result from perceived social needs or may also be produced by institutions. Referring to what has been outlined in Chapter 2, this consideration could result in difficulties regarding the interpretation and application of internationally recognized child rights. In the delicate negotiation between universality of rights and context-specific representations (of childhood, child development, child protection), it is crucial to seek children's views, their perceptions, the sense they confer to certain situations and to their own attitudes. In this investigation the promotion of child's participation in her/his protection is crucial to find an informed balance between the recognition of their agency and the more or less explicit forms of their vulnerabilities.

³¹⁹ *Fra Saperi Ed Esperienza*, 22.

³²⁰ *Children and Migration At the Crossroads of Resiliency and Vulnerability*, 274.

³²¹ According to Bourdieu 'youth' is just a word; it is the product of a particular and contextualized set of social relations that mirror a socially constructed division of power. It is therefore fundamental to analyse the differences between the 'youths'; "Quand je dis jeunes/ vieux, je prends la relation dans sa forme la plus vide. On est toujours le vieux ou le jeune de quelqu'un. C'est pourquoi les coupures soit en classes d'âge, soit en générations, sont tout à fait variables et sont un enjeu de manipulations [...] Ce que je veux rappeler, c'est tout simplement que la jeunesse et la vieillesse ne sont pas des données mais sont construites socialement, dans la lutte entre les jeunes et les vieux. Les rapports entre l'âge social et l'âge biologique sont très complexes.[...]l'âge est une donnée biologique socialement manipulée et manipulable; et que le fait de parler des jeunes comme d'une unité sociale, d'un groupe constitué, doté d'intérêts communs, et de rapporter ces intérêts à un âge défini biologiquement, constitue déjà une manipulation évidente. Il faudrait au moins analyser les différences entre les jeunes". Pierre Bourdieu, "La Jeunesse N'est Qu'un Mot," *Questions de Sociologie*, Paris, Minuit, 1981, 143–154.

Recent studies on child mobility seek to put more emphasis on the fact that children know, understand, judge, decide and not only believe, feel or sense.³²² They recognize how lives, decisions, trajectories, aspirations of migrant children are at the crossroad of local, national, global, and transnational dynamics, where local realities meet global processes. These studies also argue that the emphasis on the vulnerability aspect can result in a dangerous disregard of their agency and their right to participate in matters affecting them. Zermatt and Stocking define agency as “the exercise of the ability to act, particularly in the pursuit of personal objectives”.³²³ Agency is an act of presence- what De Martino calls the fundamental *ethos* of the human being. Recognizing agency in UASC means acknowledging that they are responding to the call to be human in the present world.³²⁴ If from one side it is important to avoid victimization and recognize the potential capacity and agency of minors; from the other side one should also acknowledge that their agency could also be a *suffering* agency. Vacchiano warns us against exalting agency as a new stereotype to the detriment of the recognition of UASC vulnerabilities, untold needs of security, continuity, self-esteem, self-realization, the unexpressed requirement for a holding environment, or the desire to be guided in certain decisions, and the willingness to have points of reference.³²⁵ According to Vacchiano the fact that there are different conceptualizations of childhood, various representations and expectations socially built around children does not mean that in certain instances the real presence of needs that children might feel should be denied *a priori* but that they are not immediately expressed until a particular environment, an holding environment (which is at the same time normative and affective), allows such expression.

Any comprehensive system of child protection and aiming at supporting foreign minors, will not be able to consider agency and vulnerability together unless the voice of the minors are given wide space of expression and are investigated in the social ecology surrounding them, the contexts they have been through and the discourse they have been subjected to. This approach would require at the fundamental level the acknowledgment that their voices and narratives might be also embedded in representations and that UASC are fluid subjectivities trying to position themselves somewhere, negotiating places, memberships, narratives and discourses. Butler and Foucault talk about the interaction between a fluid, dynamic and multiple subjectivity, and the positioning process where bounds and constraints, such as discourses, social institutions and representations, take place in a multi-sited context (in the family, origin community, host community environments). From this

³²²Gozdziaik and Ensor, “The Way Forward: Conclusions and Recommendations,” 2010, 274.

³²³J. Zermatten and D. Stoecklin, *Les Droits Des Enfants de Participer, Norme Juridique et Réalité Pratique: Contribution À Un Nouveau Contrat Social*, Sion: Institut International des Droit de l’Enfant, 2009, 95.

³²⁴ Vacchiano and Jiménez, “Between Agency and Repression. Moroccan Children on the Edge,” 466.

³²⁵ Vacchiano, Interview.

interaction emerges the processes in which the subject makes of itself an object (subjectivization –*assujettissement*- process)³²⁶, it interacts with the social processes, structural constraints surrounding her/him, facing the representations made of her/himself, to better know, shape and reshape the self.³²⁷ The performativity of the subject, as Butler calls it, according to which the ‘I’ is crafted through numerous and fluid citations of existing power relations, should be taken into high consideration in order to contextualize children’s voices and agency if stereotypical and stigmatizing narratives is to be tackled in a comprehensive way across the field of UASC studies and practices. Protection should provide a meaningful support to migrants considering in a meaningful way the ‘figure and the background’ simultaneously and acknowledging that agency and vulnerability, capacity and suffering, resilience and protection, are not mutually exclusive concepts. Despite the difficulty of ascertaining the veracity of this way of interpreting protection, and that any sort of claim to truth will inevitably interact reflexively with reality (denying any sort of conclusive investigation into the phenomenon a futile exercise), observers, practitioners and ex UASC interviewed agree with the arguments. Listening to UASC voices and incorporating UASC participation in their own protection means providing support to these processes of self-positioning and meaning making - understanding the interactions between fluid subjectivity and the surrounding forces affecting the essence of an entity in flux.

Considering protection in a holistic way thus means simultaneously working together with the person ‘to be protected’ on the perception of vulnerability and establish a relation which allows the child to develop her/his own resilient strategies. Resilience should be intended as one’s own constellation of resources to cope with adversity and risk factors³²⁸ and to promote an healthy, positive and productive adjustment.³²⁹ Children’s resilience is not to be defined in opposition to vulnerability. Children possess and acquire protective factors that alleviate the risks to which they may be vulnerable.³³⁰ Through the support of someone additional resilient attitudes can also be learned and improved. Vacchiano specifies that vulnerability can be defined also as the ‘propensity to self-harm’, the inclination to be

³²⁶ “The paradox of subjectivation (*assujettissement*) is precisely that the subject who would resist such norms is itself enabled, if not produced, by such norms” P. Kendall R., “Rhetorical Maneuvers: Subjectivity, Power, and Resistance,” *Philosophy & Rhetoric* 39, no. 4 (2006): 310–311.

³²⁷ “The tension between the fluidity of the human subject and the constraining nature of the subject position has important implications for our understanding of the nature of subjectivity and its processes of becoming in the world’, practical implications when the subject ‘seeks to negotiate the space in between its multiplicity and its position within discourses that seek to fix it.” Butler, p. 329 in Kendall R., “Rhetorical Maneuvers: Subjectivity, Power, and Resistance.”

³²⁸ Risk factors regarding both the social context and the individual her/himself – lack of social competence and/or ability; the family context, the relation aspects of her/his life- adversity, psychological suffering, trauma

³²⁹ Michael Rutter, “Resilience in the Face of Adversity. Protective Factors and Resistance to Psychiatric Disorder,” *British Journal of Psychiatry* 147 (1985): 598–611.

³³⁰ Bauman, *Dentro la Globalizzazione. le Conseguenze sulle Persone*, 4.

sanctioned. Vulnerability is the “exposure to the repression, to the sanction”.³³¹ Being vulnerable means being exposed to a series of circumstances on which the child migrant can hardly have control or adequate experience to manage. Departing from an evaluation of vulnerability solely based on the age factor, the journey’s modality and experiences, health conditions, gender, “challenges encountered in their efforts to adapt to life in their host countries”³³², desires, priorities, and necessities³³³ should also be considered to evaluate the foreign minors’ vulnerability. Working on the perception of vulnerability means, according to Cappuccino, encouraging the minor to realize that there are alternatives, feasible other options that are less likely to expose them to harm and risks. They can gain awareness of particular circumstances in which they might find themselves, consciously and actively take their own decisions on what affects them.³³⁴

4.4.2. When words take on a sense of caring. Establishing relations and building confidence

Drawing from the premise that deep knowledge is always inserted in an experiential process, in a story of life, we wonder how we claim to 'know' what the Other wants, what the Other is, and what the Other could be for 'us', without a meeting, an experience that makes us explore persons and stories. Experience is always about being in relationship with something else.

³³⁵

In Amr’s story, various elements intertwined to generate a positive outcome. He found a job in Italy as cultural mediator in collaboration with Italians and newly arrived foreigners. After having perceived his state of vulnerability when exploited in the black labour market for the first year after his arrival, he accepted the fact that to achieve something he should have started studying, he accepted the rules of the receiving country (minors cannot work until they have completed 10 years of mandatory school), and his determination of giving a sense to his presence encountered the open disposition of a family home in which each of the seven foreign minors living there found a space of expression and purpose. Supportive and sensitive educators established a trustful relationship negotiating the terms of protection in a way that also suited the minors’ ideas and aspirations.

³³¹ “La vulnerabilità è la propensione a farsi male [...] la propensione ad essere represso, la propensione alla sanzione perché se tu esci la sera e ti pigli a bottigliate con gli altri ragazzi finisci in carcere, e se tu non vuoi stare in comunità va benissimo, ma poi è peggio per te”. *Interview with Vacchiano Francesco, March 2014, Lisbon.*

³³² *Ibid.*, 30.

³³³ Mai, “Tampering with the Sex of ‘Angels’: Migrant Male Minors and Young Adults Selling Sex in the EU,” 75.

³³⁴ Cappuccino explaining the approach taken by the project *CivicoZero* (Introduction of the present paper)

³³⁵ *Fra Saperi Ed Esperienza*, 12.

I did a lot of things, with the help of the family home. Yes, I was lucky because I was in a family home, and it was very good, we were in 6 or 7 and there were 7 educators, each one following one boy. I felt that I could freely speak with them and I felt comfortable. At the beginning I wanted to find a job, I told them this. They enrolled me in this school, to take an Italian course. I did it and I finished it ... after that they enrolled me in the scuola media (secondary school), I finished it . Then I did the scuola alberghiera (hotel business studies) , I finished it [...] after they helped me to take a course as bouncer.[...] So when I see a guy who just arrived and does not know the language, he know nothing, well, here it is needed a support. And I enjoy it.

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Any comprehensive system of child protection will not be able to appropriately respond to child's expectations, evaluate those expectations and discern between induced and spontaneous needs unless an informed relationship is established with the child. This crucial requirement can be incentivized without burdening the declared unstable budgets.

Establishing meaningful relations between and with the self and the world is the starting point to assign meaning to one's own life and acts to then extract a sense. From various research and from my own findings it emerges that the language (inter-subjective communication can take place in various forms) and the 'narration' of the self (re-building an individual and collective story, taking care of the memories, reminding the subject that (s)he can be the catalyst for change in her/his life), are the privileged starting point in this process of relation-building. A protective environment for UASC should create a wider space of speech and interaction in order to negotiate solutions together in mutual respect of one another's views and experiences and possibly question together with the young migrants what impedes the construction of a social bond/relation. As Scarpelli says, "creare un patto", a sort of deal- based on mutual knowledge, respect and trust, is crucial at any level of the child protection field.

4.4.3. The mirror function of youth and migration

³³⁶ "A me questo lavoro mi piace, cioè me diverto soprattutto con i ragazzi, ragazzini appena arrivati. Quelli che non sanno. Mi diverto. Io, quando sono arrivato qui all'inizio, nessuno mi aiutava. Nessuno. Nè zii, nè cugini, niente. Va bene che ero rimasto qualche mese a casa sua, ok. Ma altri aiuti non me li hanno dati. Allora quando ho deciso di tornare da Milano, ho deciso che volevo fare tutto da solo. Sono entrato in casa famiglia, ho studiato, ho fatto la terza media, ho fatto l'alberghiera, ho fatto... il corso per il buttafuori..quindi sì, ho fatto un sacco di cose, con l'aiuto della casa famiglia. [...]Si sì, ..è vero sono stato fortunate ..perché eravamo comunque in 6, 7. In casa famiglia dove ero io c'erano 7 educatori che lavorano e ogni educatore segue un ragazzo quindi.. C: Ti sentivi che potevi essere libero di parlare? Eri tranquillo con loro? A: Sì sì assolutamente. . Io all'inizio quello che volevo era di trovare un lavoro. Solo che ho parlato con loro..e mi hanno iscritto a questa scuola, per fare un corso di italiano..l'ho fatto e l'ho finito..dopodichè mi hanno iscritto alla terza media, l'ho finita. Poi l'alberghiera, l'ho finita. [...]

Quindi quando vedo un ragazzino appena arrivato che non sa la lingua, non sa nulla, qua tocca aiutarlo.qua ce tocca aiutarlo e mi piace". *Amr, Interview.*

Foreign minors are a litmus test of contemporary society. Young people are much more exposed to the rhythm and dynamics of today's world. Minors are products of the present and they easily become '*rivelatori di sensibilità*' (sensitivity detectors) and '*rivelatori epistemologici*' (epistemological detectors). In Bertolino explains:

I find it very useful to treat these guys as ethnographers, people who are able to tell you the reasons for their discomfort; they are able to tell you something of their social context. Giving back to them their own agency means considering them as people who are aware of the processes that they build, while usually we never treat them starting from this consideration. In the work group we were doing in prison, we almost never asked directly to the boy 'why did you come here?', We used to ask 'what's going on in Morocco?' - There were many Moroccan boys there -that is, we need to restore their role of ... experts of their symptom.³³⁷

Recognizing UASC as subjects of speech and knowledge is the starting point. Young migrants can be the products of today's global solicitations, incitements and requests and as such they become *rivelatori di sensibilità* (detector of sensitivity).

What interests me is the underlying sensitivity, the feelings, perceptions, and awareness. What is it that drives you...What is it that makes you say I am leaving at any cost. Am I going to die? I do not care. I will be exploited, I do not give a damn, I am going. What's this? And I think that the answer to this question is really something that is deeply connected with the present time, it says something about my condition today, your condition today our human condition in the present time.³³⁸

Foreign children force us to continuously call into question our categories, the way we think about each other. At the same time they powerfully shed light on the critical issues of our society; the contradictions and inconsistencies that we ourselves produce and which might belong to the youth generally, including the young people of the host society. Acknowledging the potential of foreign minors as epistemological 'detectors' of strengths and weaknesses of

³³⁷ "Io trovo che sia molto utile trattare questi ragazzi come degli etnologi, cioè persone che sono in grado di dirti le motivazioni dei loro disagi, che sono in grado di dirti qualcosa del loro contesto sociale. Ri-agentivizzarli vuol dire anche considerarli ragazzi che sono consapevoli dei processi che costruiscono mentre di solito non li consideriamo mai da lì. Il gruppo che facevamo in carcere, non chiedevamo quasi mai 'tu perchè sei venuto qua?', dicevamo 'cosa succede in Marocco?'- erano molti ragazzi marocchini- cioè restituire il ruolo di quello che viene chiamato nella malattia psichica, "esperto del proprio sintomo". Bertolino, *Interview*.

³³⁸ "[...]i minori sono proprio perché sono più esposti ai ritmi del presente e alle sollecitazioni del presente, i vecchi hanno già le loro storie, hanno già la loro vita, hanno già le loro categorie, i giovani no, sono delle spugne, le prendono no? Sono dei prodotti del presente, molto di più, e quindi diventano dei rivelatori di sensibilità. A me quello che interessa è la sensibilità, qual è la sensibilità che c'è dietro. Cos'è che ti porta cos'è che ti fa dire, cos'è che ti fa partire a ogni costo? Cos'è che ti fa dire, io vado a qualunque costo. Muoio? Non mi importa. Sarò sfruttato, ee, non me ne frega niente io vado. Cos'è? E credo che rispondere a questa domanda sia veramente, la risposta a questa domanda sia qualche cosa che è profondamente connessa con il tempo presente, dice qualcosa sulla mia condizione oggi, sulla tua, sulla nostra condizione umana nel tempo presente". *Interview with Vacchiano Francesco, March 2014, Lisbon*.

today's societies and heralds of contemporary symbols and practices, means recognizing the relevance of considering minors' views when tailoring an appropriate response. If their views and circumstances are duly taken into consideration, migrant children could suggest new ways of approaching those issues related to child mobility that are not self-evident. They oblige us to question our practices and categories. They escape our process of labeling and the representations emerging from it. They become 'the problem' for the host society and for the adults who are supposed to take care of them, because in fact they are showing the faults and leaks of the receiving society itself and the weaknesses in how protection is perceived and performed by adults. In Bertolino's words:

they are doing a fine critique of the adult world, but they are also suffering in the meanwhile. Then we realize that our tools are limited [...] But what is important is at least thinking about the meaning and thus also about the connection of truth that we confer to things.³³⁹

Beneduce also explains that "any question about the Other, about the 'otherness', is a question about the self, about one's own identity (and the crisis of the first is nothing more than a reflection of the crisis of the second)" (Beneduce 2002).³⁴⁰ This contribution has aimed to provoke a broad questioning of the knowledge and meaning upon which is based any performance of child protection and any action of care.

CONCLUSION

Building fruitful bridges between research-based evidence and action on behalf of children is one of the most pressing challenges facing those working to improve the lives of migrant children worldwide. (Beneduce 2002)³⁴¹

Potentially insights from anthropological works would help encouraging deeper knowledge to better identify the dynamics extra- and intrahousehold structures, at the local and global level which contribute to shaping child mobilities. There is a need to challenge the deeply rooted, overlapping and mutually reinforcing assumptions about childhood, migration, and protection

³³⁹ "Alla fine loro stanno facendo una critica raffinata del mondo degli adulti ma non è che non soffrono, soffrono anche poi noi lo sappiamo che i nostri strumenti sono limitati perché io se incontro un ragazzo quello che sono capace di fare è farlo sedere in una stanza e fargli un colloquio, concretamente quello faccio. Però riflettere sul senso quindi anche sul rapporto di verità che si attribuisce alle cose che loro dicono è importante". *Bertolino, Interview.*

³⁴⁰ R. Beneduce, "Corpi E Saperi in Conflitto. Etnopsichiatria, Migrazioni E Politiche Della Cultura," in *Fra Saperi Ed Esperienza. Interrogare Identità, Appartenenza E Confini*, Il leone verde (Torino, 2002).

³⁴¹ *Ibid.*

of child migrants in particular, using a multidisciplinary perspective which takes into account the legal and the anthropological aspects of these concepts. Protection of UASC should always be informed by a holistic understanding of the child and the migration experience. There is a need for more solid relationships between research, policy, and advocacy concerning migrant children. A rights-based perspective and an anthropological approach can coexist together with the need to raise awareness on particular vulnerable situations which require activating specific protection tools. In-depth analysis, a care of how we 'know' (being lucid about the categories we use) may assist migration practitioners in implementing practices to actually enhance the well-being and the participation of the migrant child. Child protection laws and policies applied to UASC cannot be detached from a culturally located understanding of child mobility and they cannot disregard the community, local and global forces, and the socio-political and socio-economic context in which migratory processes occur. In order to go beyond the rhetoric of protection and translate it into real and adequate interventions, it is important to start by critically interrogating the knowledge that influences our discourses and practice. By thinking of UASC first as individuals of speech and knowledge we can critically interrogate what we know about the factors of child migration, about their reactions to migration policies and to the system of reception and protection available to them.

ANNEX 1. INTERVIEWEES' PROFILES

Amr is an Egyptian 21-year-old cultural mediator at CivicoZero, Save the Children, Rome

Syed, Afghan 26-year-old cultural mediator at CivicoZero, Save the Children, Rome

Evazali, Afghan 28-year-old cultural mediator at CivicoZero, Save the Children, Rome

Marco Cappuccino is the project manager of the project CivicoZero and educator at the CivicoZero Centre, Rome

Montgomery Micheal is an international development consultant and Advisor on Children's Rights. Since 2008 he has been senior associate and special advisor on children's rights and protection at the International Institute for Child rights in Development (IICRD). He has been principal advisor on children's right at the Canadian International Development Agency (CIDA) and in 2000 co-founder of The Child Protection Alliance.

Nazzarena Zorzella is an Italian lawyer specialized in the field of migration, in charge of the scientific journal "*Diritto Immigrazione e Cittadinanza*" at the Associazione Studi Giuridici sull'Immigrazione (A.S.G.I.) whose role is precisely to study the Italian legislation on immigration.

Monia Giovannetti, is a researcher at Cittalia- Research Institute of ANCI (National Association of Italian Municipalities) which is dedicated to studies and research on the topics of most interest to the Italian Municipalities (welfare and society, social inclusion, participation and management of public spaces and urban policy, migration). Since 2008 Ms. Giovannetti focused on unaccompanied and separated foreign minors in Italy. She has directly interviewed various State and non-state actors working with UASC. Moreover, by coordinating the annual redaction of the ANCI Report on UASC, she is constantly exposed to the variety of the Italian local governments' positions on the matter.

Matarese Serena works at ItaliaLavoro, technical agency of the Ministry of Labour and Social Policies in Rome. She is specialized in integration policies and unaccompanied and separated foreign minors. She collaborates also with the General Directorate for Immigration and Integration Policies Unit IV - "Unaccompanied Minors and Integration Policies".

Stefano Scarpelli is the ex Vice-president of the Committee for Foreign Minors, and currently officer at the General Directorate for Immigration and Integration Policies Unit IV - “Unaccompanied Minors and Integration Policies” at the Ministry of Labour and Public Polices in Rome.

Francesco Vacchiano, he is a clinical psychologist with a PhD in Anthropology. Since 1997 he has been member of the Frantz Fanon Centre in Turin (a non-profit non-governmental organization which provides migrants with counseling service, psychotherapy and psycho-social support). Currently he is research fellow at the ICS-UL (Instituto De Ciências Sociais - Universidade De Lisboa) in Lisbon and Member of the IMEDES (Instituto Universitario De Investigación Sobre Migraciones, Etnicidad y Desarrollo Social) of the Universidad Autónoma of Madrid. His interests focus on the anthropology and ethnopsychology of Migration, medical anthropology, borders and boundaries, institutions and politics of citizenship. He works as consultant in several projects of social and community intervention in Italy, Spain, Morocco, Tunisia and Portugal

Roberto Bertolino is an ethno-psychologist at the Centre Frantz Fanon in Turin.

Stefania Maselli. At the Central Service of the SPRAR (Protection System for Refugees and Asylum Seekers) in Rome, she is in charge of assisting and monitoring projects on asylum seeker children in some Italian regions, which are included in the SPRAR Network. The SPRAR Project is financed by the Ministry of the Interior through the National Fund for Asylum Policy and Services.

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