

# GUARANTEED MINIMUM INCOME AND MIGRANTS' INCLUSION: THE CASES OF ITALY AND CANADA

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## *Abstract*

In a context of economic crisis, the fulfilment of social rights becomes more and more difficult, considering the lack of public resources necessary to support the members of the society hit by poverty. Among these members, newcomers might represent a significant amount, especially if economic and migration crises happen simultaneously. This essay is focused on non-citizens' access to a specific social security tool, the guaranteed minimum income, reflecting on the reasons behind stricter or more extensive criteria and their rationale. To do so, a comparative study is carried out between the Italian and the Canadian legal systems, showing two different approaches on migrants' management and so opening to a broader analysis about the rationality of the securitarian and exclusive pattern characterizing the Italian way to migrants' integration.

## TABLE OF CONTENTS

1. Public administration, poverty and migrations.....	658
2. Social security, social rights and rights of newcomers.....	660
3. The guaranteed minimum income.....	664
3.1. Guaranteed minimum income and citizenship requirements in Italy.....	667
3.2. Guaranteed minimum income and citizenship requirements in Canada.....	675
4. Conclusion.....	683
5. One last thought.....	687

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## 1. Public administration, poverty and migrations

Since 2008, the word “crisis” has become a daily presence in our life, referring to the economic and financial recession which has affected (and still affects) our existences, to varying degrees. However, the economic recession is not the only crisis that shocked Western countries in the last decade: a global humanitarian crisis has evolved, resulting in dramatically increased immigration to developed countries.

Poverty and immigration are two firmly connected elements: poverty, indeed, often constitutes the social condition from which migrants are trying to escape, perceiving the country of destination as a place of opportunities<sup>1</sup>. Nevertheless, poverty risks to be a static feature in migration dynamics: social exclusion, cultural and linguistic barriers, difficult access to the job market, etc. may relegate newcomers to a condition of poverty also in the host countries, giving rise to social concern and doubts about the role of the public administration in addressing this issue<sup>2</sup>. Indeed, public administrations are generally conceived as the subjects in charge to deal with both the migration and the economic crisis, being considered as the best-fitted institutions to provide effective solutions to phenomena characterized by elements such as market failures, need for considerable resources and for systematic planning, direct involvement of human rights and dignity, etc.. In this way, the public administration re-earned areas of responsibility previously transferred to the private sector<sup>3</sup>.

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<sup>1</sup> According to World Bank, *Migration and Remittances Factbook* (Washington D.C: The World Bank, 2016) at 21, online: <https://openknowledge.worldbank.org/bitstream/handle/10986/23743/9781464803192.pdf>, the number of refugees constitutes approximately 7.9% of migrants, implicitly suggesting that the majority of migrants migrate for economic reasons.

<sup>2</sup> According to the Italian National Institute of Statistic (ISTAT), on the 2017, the 34,5% of the foreigners legally residing in Italy lived under the poverty line, with peaks of 59,6% in some areas of the country. Also in Canada, rates of low income among immigrants continue to be higher than among the Canadian-born population; see G. Picot, Y. Lu, *Chronic Low Income Among Immigrants in Canada and its Communities*, 2017, online: <https://www150.statcan.gc.ca/n1/pub/11f0019m/11f0019m2017397-eng.htm>

<sup>3</sup> M. Ramajoli, *Quale cultura per l'amministrazione pubblica?*, 2 *Giorn. dir. amm.* 188 (2017).

The aim of this paper is to analyse the tools at the disposal of public authorities in addressing poverty, particularly under the point of view of their accessibility by the non-citizens. More precisely, this reflection will focus on the guaranteed minimum income systems, which recently have gained significance as modern tools capable to drastically reform the national welfare mechanisms, and universally prevent and eradicate poverty from our societies. Thus, being the guaranteed minimum income directed to fight poverty, a first general question will guide this article: does poverty matter only for citizens? (And, if not, which are the reasons justifying the newcomers' inclusion in a guaranteed minimum income scheme?).

A comparison between two legal systems, furthermore, will help us to better understand how different realities may respond in different ways to similar problems, helping us define the reasons and the rationality (or irrationality) existing behind different choices. The comparison will take place between Italy and Canada: notwithstanding the diversity of the two nations, looking at a country which has a history of successful migration management and multiculturalism would probably help to identify useful suggestion for the Italian context, which is at the heart of the recent migration phenomenon and whose mentality towards newcomers should probably undergo to a substantial change. Indeed, even if the guaranteed minimum income has found limited implementations in the Canadian system, these hypotheses will be capable to show the diverse cultural approach existing behind the migration management in the north-American country.

The present essay, as a consequence, starts with a broad reflection on the intersections between economic and migration crises, highlighting how the lack of public resources has negatively affected social rights, especially for non-citizens. Subsequently, the third section describes the rationale and the main features of the guaranteed minimum income, and the two following subsections are focused on the analysis of the different actualisations the guaranteed minimum income has had in Italy and Canada, naturally underlining the diverse access criteria for newcomers. Finally, the two conclusive parts of this essay try to draw some conclusions, answering to the questions raised in this section (and specified in the next one), showing how a cultural

change becomes the prerequisite to ensure a broad access for migrants to the guaranteed minimum income; a broad access which represents not only a fair but also a rational solution in order to ensure that this instrument of social security is able to efficiently pursue its objectives.

## **2. Social security, social rights and rights of newcomers**

Before starting any reasoning on the guaranteed minimum income, it is useful to highlight the two kinds of poverty that have traditionally interested the public actions, resulting in two different kinds of solutions: the widespread poverty, as a pathology affecting an entire society, and the individual poverty. The first is faced by public authorities through general policies of wealth creation and redistribution; the second generates the right for individuals to public assistance, which can take the form of tax reduction, service and goods supply, or monetary support<sup>4</sup>.

Looking at its general dimension, it is immediately clear that poverty is a problem of public interest, not circumscribed only to its direct victims: except from the moral issue, it can generate widespread negative consequences. Poverty may often mean poor living conditions (malnutrition, lack of hygiene, etc.), and poor living conditions can cause an increase in public healthcare costs<sup>5</sup>. Moreover, poverty is generally a consequence of unemployment, and this lack of job opportunities pushes the individual towards different forms of sustenance. Criminality is one of them, which clearly has negative effects on society at large. Therefore, the significance of the above-mentioned policies of economic growth, industrial development and job creation appears crystal clear, as a general wealth increase can produce positive effects also on the weaker social classes<sup>6</sup>.

Nevertheless, this paper will focus on a tool primarily directed to address individual poverty, whose application can

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<sup>4</sup> B.G. Mattarella, *Il problema della povertà nel diritto amministrativo*, 2 Riv. trim. dir. pubbl. 359 (2012).

<sup>5</sup> On this topic, E.L. Forget, *The Town with No Poverty: The Health Effects of a Canadian Guaranteed Annual Income Field Experiment*, 37:3 Can. Public Policy 283 (2011).

<sup>6</sup> N. Amendola et al., *Povert , in G. Vecchi (ed), In ricchezza e povert . Il benessere degli italiani dall’unit  ad oggi* 302 (2011).

efficiently combat also poverty as a social issue. The guaranteed minimum income, like all the other social security programs, is not just a means to satisfy the basic needs of a person, but it must be a tool of equity and social integration, able to ensure satisfactory human development and to preserve the right to life and human dignity of the individuals<sup>7</sup>. In this sense, social security programs (or social services) can be qualified as the services provided (first of all) by the public administrations and designed to give assistance to overcome the hardships that may characterize life in modern societies<sup>8</sup>. As already mentioned, they can be provided in the form of monetary income support (for instance, old-age pensions or unemployment insurance, housing/children benefits and, naturally, guaranteed minimum income), tax reduction or provision of goods and services (for example, provision of vocational training courses or food and clothing supply)<sup>9</sup>. Since all these interventions have a cost, they must be financed through taxation, becoming a means of equity and wealth redistribution.

From the point of view of administrative law, on the one hand, the social assistance programs can be seen as a particular kind of public service, therefore bound to principles of efficiency, economy and non-discrimination, but characterized by a specific purpose: promoting the physical and mental health of the individual according to the above-mentioned principles of equality, social integration and human development<sup>10</sup>. On the other hand – in consonance with laws and constitutions of modern welfare states – the individuals are entitled to specific rights to

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<sup>7</sup> In general, about this role of the social services, see V. Cerulli-Irelli (2005), *La lotta alla povertà come politica pubblica*, 4 Dem. dir. 83.

<sup>8</sup> For a definition of “social services”, V. Caputi Jambrenghi, *I servizi sociali*, in L. Mazarroli et al. (eds), *Diritto amministrativo* 1023 (2001); E. Ferrari, *I servizi sociali*, in S. Cassese (ed), *Trattato di diritto amministrativo* 891 (2003).

<sup>9</sup> The choice between one form or the others should be taken considering the aim of the public assistance and its beneficiaries. Moreover, the choice can be the result of political and cultural beliefs: for instance, poor people may be considered less responsible and less capable in the management of their economic resources, thus suggesting that social assistance through provision of goods and services can be more effective than monetary support. On this topic, C. Saraceno, *Il welfare* 44 (2013).

<sup>10</sup> M. Delsignore, *I servizi sociali nella crisi economica*, 3 Dir. amm. 607 (2018).

receive the social services offered by public administrations, the so-called “social (security) rights”<sup>11</sup>.

Looking at the current situation of the “social rights-public assistance” system, it is undeniable that the economic crisis has affected it significantly<sup>12</sup>. From the point of view of public authorities, public expenditure cuts and policies directed to achieve a balanced budget become of primary consideration, forcing strict evaluations on the economic viability of the introduction, or even the conservation, of social programs<sup>13</sup>. If the economic recession may be seen as an unavoidable turning point, pushing the administration to act more efficiently (“doing more with less”<sup>14</sup>), in any case, the crisis has produced a new equilibrium between public resources and social rights<sup>15</sup>. From the point of view of the individuals, this new equilibrium has often implied a sacrifice of their social rights for the sake of avoiding a national economic crisis<sup>16</sup>. In times of economic recession, the idea of social rights not as “immediately payable” but as “financially conditioned” rights becomes stronger and stronger<sup>17</sup>. As already seen, social rights have evident costs and involve the redistribution of wealth: if the crisis has direct negative effects both on the private and on the public economy, it should become harder and harder to find resources to redistribute, and so funds

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<sup>11</sup> For a definition of “social rights”, see M. Mazziotti di Celso, *Diritti sociali*, in *Enc. dir.* 802 (1964); A. Baldassarre, *Diritti sociali*, in *Enc. giur.* (1989).

<sup>12</sup> On this topic, see M. Delsignore, *I servizi sociali nella crisi economica*, cit. at 10, 587; S. Civitarese Matteucci, S. Halliday (eds), *Social Rights in Europe in an Age of Austerity* (2018); D. Tega, *Welfare Rights and Economic Crisis before the Italian Constitutional Court*, 1-2 EJSJL 63 (2014).

<sup>13</sup> Italy, during the economic crisis and in accordance with new European regulations, introduced the principle of balanced budget in its Constitution (art. 81).

<sup>14</sup> G. Pitruzzella, *Crisi economica e decisioni del governo*, 1 Quad. cost. 29 (2014).

<sup>15</sup> M. Delsignore, *I servizi sociali nella crisi economica*, cit. at 10, 592.

<sup>16</sup> For a short overview on the negative effects of the austerity policies upon public social services provision in the European countries, see the report of European Social Network (ESN), *Public social services in crisis: challenges and responses*, June 2015, available at the following website: [https://www.esn-eu.org/sites/default/files/publications/2015\\_Public\\_Social\\_Services\\_in\\_Crisis\\_report\\_-\\_FINAL.pdf](https://www.esn-eu.org/sites/default/files/publications/2015_Public_Social_Services_in_Crisis_report_-_FINAL.pdf)

<sup>17</sup> M. Cinelli, *L'effettività delle tutele sociali tra utopia e prassi*, 1 *Riv. dir. sic. soc.* 25 (2016).

to finance public assistance interventions<sup>18</sup>. As we will further discuss in the conclusion, this idea has been deeply criticized by those who think that social rights, being an expression of social justice, cannot be sacrificed in the name of economic viability. This should be true especially in times of crisis, when the need for support of individuals is stronger, and so is the need for public interventions<sup>19</sup>.

However, the crisis produced further consequences upon the criteria for identifying the holders of social security rights. Besides the traditional qualitative criteria (as age, diseases or disability, level of incomes, etc.), new quantitative criteria have been introduced. In other words, the need to strictly quantify *ex ante* the funds at disposal for a social service can force the public authorities to fix a quantitative limit to public spending, and so to the number of their recipients<sup>20</sup>. Thus, “first come, first served” has become a rule applicable to the supply of social security programs<sup>21</sup>.

This was the context where the migratory crisis took place. The intrinsically problematic nature of this phenomenon comes from the addition of further situations of needs in a context of lack of resources, barely sufficient to face the needs of the “native society”. Under this point of view, the migration crisis became not only a challenge for the economy of the receiving states but also a test case for the effectiveness of the principles of equity, human dignity and protection of human rights affirmed by the national, supranational and international fundamental norms<sup>22</sup>. On the one

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<sup>18</sup> A. Mangia, *I diritti sociali tra esigibilità e provvista finanziaria*, (2012) online: [https://www.gruppodipisa.it/images/rivista/pdf/Alessandro\\_Mangia\\_-\\_Relazione\\_di\\_sintesi\\_della\\_III\\_sessione.pdf](https://www.gruppodipisa.it/images/rivista/pdf/Alessandro_Mangia_-_Relazione_di_sintesi_della_III_sessione.pdf)

<sup>19</sup> L. Carlassare, *Diritti di prestazione e vincoli di bilancio*, 3 *Costituzionalismo.it* 137 (2015).

<sup>20</sup> In this sense, see the art. 15, legislative decree n. 22, March 3, 2015. This article introduces an unemployment allowance for a specific category of workers, strictly limiting its recipients: only workers who lost their job between January 1 and December 31, 2015 can receive this support. For the following years, the article explicitly refers to “future” laws, which will evaluate the availability of funds.

<sup>21</sup> M. Cinelli, *L'effettività delle tutele sociali tra utopia e prassi*, 1 *Riv. dir. sic. soc.* 25 (2016).

<sup>22</sup> For instance, we can recall the Universal Declaration of Human Rights or the Charter of Fundamental Rights of the European Union, where

hand, if the “first come, first served” rule works also for social services, it seems that for the “newcomers” the access to these public interventions should be limited, since they always arrive after citizens, as the word “newcomers” suggests. On the other hand, the negative effects of the economic crisis (fewer public resources, but more individuals in vulnerable conditions) make more difficult for states to justify, in the eyes of public opinion, the use of public funds to enhance the quality of life of the foreigners, before supporting their own citizens.

In conclusion, the initial question “does poverty matter only for citizens?” can be further articulated in three more specific questions, clearly expressing the concerns related to the interaction between the migration and the economic crises<sup>23</sup>: 1) which is the rationale of the social security rights extension to individuals not effectively bound to a state? In other words, why do the foreigners deserve social security rights when they may not have the same amount of duties of the citizens towards the state?; 2) How can a sort of “social security tourism” be avoided? In other words, how can we avoid “opportunistic migrations”, directed only to take advantage of the social assistance programs of a state<sup>24</sup>?; 3) Is it mandatory, or even feasible, to ensure social security rights to the foreigners, also in a situation of economic recession?

### 3. The guaranteed minimum income

The guaranteed minimum income represents a privileged field of analysis to search answers to these questions, providing the opportunity to open a reflection about newcomers’ access to this mechanism that can lead us to broader conclusions on migrants’ inclusion in social security systems.

Moreover, several reasons support the choice to focus on guaranteed minimum income. First of all, the strong topicality of the subject cannot be ignored: this kind of social assistance, whose

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human/fundamental rights, equity and human dignity are included since their title and preamble.

<sup>23</sup> S. Cassese, *I diritti sociali degli altri*, 4 Riv. dir. sic. soc. 683 (2015).

<sup>24</sup> P. Van Parijs and Y. Vanderborght name “welfare magnets” the countries with more generous benefit systems. See P. Van Parijs, Y. Vanderborght, *Basic Income. A radical proposal for a free society and a sane economy* 218-219 (2017).

idea is actually several centuries old<sup>25</sup>, has recently regained the attention both of politicians and scholars<sup>26</sup>. Indeed, the inadequacy of the existing social security schemes – showed during the economic recession – has stimulated the search for alternative ways to assist the population<sup>27</sup>. In addition, the guaranteed minimum income can be conceived as the core of a social security net, able to replace several other social assistance schemes (for instance, unemployment and housing benefit or minimum pensions)<sup>28</sup>, having for this reason a deep impact on the national

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<sup>25</sup> A first idea of a universal minimum income can be found in T. Paine, *Agrarian justice*, a pamphlet of 1795. Moreover, other intellectuals dealt with this concept, as T. Spence (1848), in *Principles of political economy*, or B. Russel (1918), in *Roads to freedom*. More recently, J. Tobin (1966), *The Case for an Income Guaranteed*, 4 *The Public Interest* 31 (1966) and F. Von Hayek, *Law, legislation and liberty* Vol. III 54 (1982). Today, Philippe Van Parijs is one of the most famous supporters of basic income; see P. Van Parijs, *Why Surfers should be fed: The Liberal Case for an Unconditional Basic Income*, 20:2 *Philosophy and Public Affairs* 101 (1991); P. Van Parijs (ed), *Arguing for Basic Income. Ethical Foundations for a Radical Reform* (1992); P. Van Parijs, *Real Freedom for All. What (if anything) Can Justify Capitalism?* (1995); P. Van Parijs, Y. Vanderborght, *Basic Income. A radical proposal for a free society and a sane economy* cit. at 24. See also F. Blais, *Ending poverty. A Basic Income for All Canadians* (2002); M. Walker, *Free Money for All. A Basic Income Guarantee Solution for the Twenty-First Century* (2016); A. Lowrey, *Give people money. How universal basic income would end poverty, revolutionize work and remake the world* (2018).

<sup>26</sup> See, above all, the Basic Income Earth Network, online at: [www.basicincome.org/](http://www.basicincome.org/), which is a network of academics and activists interested in the idea of a Basic Income. For a schematic portrayal of the social security schemes comparable with a guarantee minimum income system implemented in different nations (Italy, France, Spain, Germany, Scandinavian countries, UK, Canada, etc.), see Vv.Aa., *Nuove (e vecchie) povertà: quale risposta?* (2018) and K. Widerquist, *A critical analysis of basic income experiments for researchers, policymakers, and citizens* (2018). Previously, see also M.C. Murray, C. Pateman (eds), *Basic Income Worldwide: horizons of reform* (2012) and R. van der Veen, L.F.M. Groot, *Basic income on the agenda: policy objectives and political chances* (2000).

<sup>27</sup> T. Treu, *Sustainable social security. Past and future challenges in social security*, 4 *Riv. dir. sic. soc.* 649 (2018).

<sup>28</sup> For instance, the participation to the Ontario Basic Income Pilot (see the following section 3.2.) imposed the withdrawal from other social assistance programs, as Ontario Works or the Ontario Disability Support Program (ODSP). The same happened in Italy with the “*Inclusion Income*” (“*Reddito di Inclusione*” – see the following section 3.1.), which substituted other social assistance programs [for instance, the ASDI (*Assegno Sociale di*

budget. Finally, as we shall see, it has the clear goal to prevent and eliminate both the individual and the widespread poverty from a community, providing the needy people not only with monetary support but also with other services directed towards their social inclusion.

A clarification is mandatory before proceeding with the analysis of how the guaranteed minimum income has been applied in Italy and Canada. There is a common misunderstanding about the extent of this social assistance scheme, which descends from a confusion about its correct “nomenclature”. Indeed, the guaranteed basic income must be distinguished from other similar (but different) social security measures<sup>29</sup>.

The guaranteed minimum income is a system that offers a guarantee of minimum monetary resources for all people living under the poverty line, regularly distributed (for instance, monthly). The guaranteed minimum income is, at the same time, a universal and selective tool. Selective, because it is directed only to the individuals whose resources are under a minimum threshold, independently of their working status. Universal because it is directed to all the people under the poverty line, in order to provide them with enough money to overcome (or get close to) this line, in any case improving their living conditions. Thanks to this feature, the minimum income also becomes a tool to prevent and combat poverty as a widespread phenomenon. Another characteristic of the guaranteed minimum income is conditionality: the access to the monetary support is conditional to the effort of the beneficiaries at least to maintain their job or, if unemployed, to search for a new job or improve their professionalism through school education and vocational training. Indeed, job placement and vocational training are services jointly provided with income integration. Therefore, the purpose of the guaranteed minimum income is clear: it aims not only to treat

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Disoccupazione), one of the unemployment allowances previously provided by the national legislation].

<sup>29</sup> About this distinction, see E. Granaglia (2018), *Premesse concettuali e nodi critici*, in Vv.Aa., *Nuove (e vecchie) povertà: quale risposta?*, cit. at 26; M. Martone, *Il reddito di cittadinanza. Una grande utopia*, Riv. it. dir. lav. 409 (2017); S. Toso, *Reddito di cittadinanza o reddito minimo* (2016); C. Del Bò, *Il reddito di cittadinanza fra mito e realtà*, il Mulino 790 (2013).

poverty, but also to prevent it, supporting its beneficiaries in their effort towards full inclusion in society and limiting their permanence under the poverty line through their integration in the labour market.

Different from the guaranteed minimum income are the minimum wage and, first of all, the basic income. In a few words, the minimum wage is the lowest remuneration, fixed by law, that employers can legally pay their workers. In contrast, the basic income is an income unconditionally granted to all, without means-test or work requirements<sup>30</sup>. Therefore, this tool is fully universal (at least among the citizens) and unconditional. In other words, everyone has the rights to benefit of this public monetary support, regardless of the level of their income and their commitment to keep/find a job and improve their professionalism. Since both the rich and the poor can obtain this benefit, the basic income is not properly a tool to hinder poverty, but more generally a public intervention to enhance the wealth of the entire population. As a consequence, a parameter other than poverty must be used to determine its beneficiaries. Thus, citizenship becomes one of the generally chosen criteria, because it is able to ensure an effective connection between the recipients and the country investing its resources<sup>31</sup>. For this reason, the basic income is also known as citizen's income or citizen's basic income.

### **3.1. Guaranteed minimum income and citizenship requirements in Italy**

Starting with the Italian context<sup>32</sup>, the first concrete attempt to implement a social assistance system similar to a guaranteed minimum income scheme came with the "Minimum Income for the Inclusion" ("*Reddito Minimo di Inserimento*" - RMI), introduced by the legislative decree n. 237 of June 18, 1998. The RMI was part of a national pilot project to verify the viability of a guaranteed

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<sup>30</sup> This is the definition provided by the Basic Income Earth Network; see the following website: <https://basicincome.org/basic-income/>.

<sup>31</sup> See P. Van Parijs, Y. Vanderborght, *Basic Income. A radical proposal for a free society and a sane economy*, cit. at 24, 220-224. According to the authors, the other criterion is "waiting period".

<sup>32</sup> For a short portrayal, S. Toso, *Una ricostruzione storico-analitica*, in Vv.Aa., *Nuove (e vecchie) povertà: quale risposta?*, cit. at 29, 223; M. Martone, *Il reddito di cittadinanza. Una grande utopia*, cit. at 29, 409.

minimum income scheme in the Italian system and it lasted four years (1999-2002), involving at its final stage 267 municipalities. Principally financed by the State (only 10% of the funds came from the municipalities), it was directed to supply an income integration to the working-age individuals, employed or not, whose incomes were lower than a fixed threshold. Consequently, the RMI was characterised by the fundamental features of the guaranteed minimum income: first of all, it respected the “selective universalism” principle, being granted to everybody who lived under a poverty line. Secondly, its supply was conditioned on an active job search or to the attendance in vocational training courses and, in any case, to the participation at personalised social integration programs crafted by the municipalities for every recipient. As clearly affirmed in the art. 1 of the decree n. 237/1998, the aim of the RMI was to pursue social inclusion and economic independence of its recipients. Looking at the non-economic access criteria, the RMI was directed to Italian/EU citizens legally residing in the interested municipalities at least for one year, or to non-EU migrants legally residing in the interested municipalities for at least three years. The lack of resources to extend the RMI to the whole country forced the interruption of the project, which was not substituted by any other guaranteed minimum income schemes till 2017.

Indeed, the so-called “Social card” (*“Carta acquisti”*, introduced by the decree-law n. 112, June 25, 2008) and the so-called “Support for Active Inclusion” (*“Sostegno per l’Inclusione Attiva”* – SIA, introduced by the decree-law n. 5, February 5, 2012) did not share the basic features of a guaranteed minimum income system. The first consisted of a limited monetary transfer (€ 40/month), charged on an electronic prepaid card, usable (only in the stores involved in the project) basically to buy food, medicines and to pay energy bills, and granted to people living beneath a poverty line. The second was a monetary support not cumulable with the Social card (€ 231/month, proportionally increasing in accordance with the number of the family members), introduced as a pilot project and then gradually extended to the whole of Italy, directed to families living under a poverty line. In any case, these two social assistance actions cannot be considered as expressions of a guaranteed minimum income because they did not respect the “selective universalism” or the conditionality

principles. The beneficiaries of the social card were only families with a child less than three years old and individuals older than 65 years old, while the beneficiaries of the SIA were only families with at least one under-age child and with all the working-age members unemployed<sup>33</sup>. Considering the target of the Social card (individuals younger than three years old and older than 65 years old), this benefit looks naturally unconditional and, in any case, no efforts towards employment were required to the working-age family members of the beneficiary. As for access criteria related to nationality, the Social Card was initially limited to Italian citizens, and only from 2014 it has been extended to EU citizens and non-EU citizens holder of an EU long-term residence permit<sup>34</sup>. Instead, the SIA was from its inception available to Italian and EU citizens, and to non-EU citizens holding an EU long-term residence permit; in addition, all of them must have been legally residing in Italy for two years at the time of the SIA application<sup>35</sup>.

The turning point came from the creation, by law n. 208, December 28, 2015, of a national “Fund to combat poverty” (*“Fondo per la lotta alla povertà”*, art. 1, comma 308), assigned to the Ministry of Employment and Social Affairs for the purpose of financing a new “National Plan to Combat Poverty”. Therefore, part of these resources was used to implement a new social security scheme – the so-called “Inclusion Income” (*“Reddito di Inclusione”* – REI) – which represented a concrete step towards the realisation of a guaranteed minimum income system also in the Italian context<sup>36</sup>. According to art. 2 of the legislative-decree n. 147,

<sup>33</sup> In 2016, the SIA was extended to families with a member with disabilities or with a pregnant woman; furtherly, the unemployment requisite was eliminated. See the Interministerial Decree, May 26, 2016 (art. 4), online: [https://www.lavoro.gov.it/temi-e-priorita/poverta-ed-esclusione-sociale/focus-on/Sostegno-per-inclusione-attiva-SIA/Documents/Decreto%20interministeriale%2026%20maggio%202016\\_SIA.pdf](https://www.lavoro.gov.it/temi-e-priorita/poverta-ed-esclusione-sociale/focus-on/Sostegno-per-inclusione-attiva-SIA/Documents/Decreto%20interministeriale%2026%20maggio%202016_SIA.pdf)

<sup>34</sup> This extension was disposed by the law n. 147, December 27, 2013.

<sup>35</sup> At its inception, when the SIA was a pilot project extended only to some municipalities, the residence criteria was limited to one year of residence in the interested municipality; see Interministerial Decree, January 10, 2013 (art. 4), available at this web address: [https://www.lavoro.gov.it/documenti-e-norme/normative/Documents/2013/Decreto\\_interministeriale\\_10\\_gennaio\\_2013.pdf](https://www.lavoro.gov.it/documenti-e-norme/normative/Documents/2013/Decreto_interministeriale_10_gennaio_2013.pdf).

<sup>36</sup> Italy and Greece were the last countries, among the EU member states, to concretely implement this kind of social policy. On this topic, see the already mentioned Vv.Aa. (2018), *Nuove (e vecchie) povertà: quale risposta?*, cit. at 29.

September 15, 2017, the Inclusion Income was a universal tool of family income integration, means-conditioned and subject to the acceptance by its beneficiary of a personalised social inclusion program, aiming to liberate individuals from poverty. It must be highlighted that this legislative-decree was the first, among the already-mentioned laws and decrees, to contain a normative definition of poverty as “the economic condition that does not let a family access goods and services needed for a fair quality of life” (art. 1, comma 1, lett. a). Except for this qualitative description, the economic eligibility of a family was determined in accordance with a mathematic index of their economic conditions compared to a poverty threshold. Nevertheless, in its first version, the REI could not be considered a proper guaranteed minimum income system, because it was not universal, being limited to families with at least an under-age child, a member with a disability, a pregnant woman or an unemployed member older than 55 years old. All these requirements were later removed, in accordance with the policy of enlargement of social support that characterised this tool<sup>37</sup>. Looking at the further contents of the legislative-decree, deep attention was dedicated to the personalised social inclusion plan and to the social services provided to concretely foster the social inclusion of the individuals and prevent future situations of need (artt. 6 and 7). Though education, vocational training and job placement programmes still played a central role, other services were listed in the decree. Among these, there are also the cultural mediation services, clearly directed towards foreigners. Indeed, considering the non-economic access criteria, the REI was accessible to Italian and EU citizens. As for non-EU citizens, access was explicitly guaranteed for holders of an EU long-term residence permit, but implicitly also to those entitled to international protection (refugees and hypothesis of subsidiary protection) and to stateless persons<sup>38</sup>. All of them (Italian, EU and

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<sup>37</sup> For instance, the poverty line of the REI was higher than the poverty line of the “Support for Active Inclusion” (SIA), allowing the assistance of more families in marginal conditions.

<sup>38</sup> This interpretation was held both by the Italian National Institute of Social Security (INPS) and the Ministry of Employment and Social Affairs; see INPS circular n. 172 of November 17, 2017, available at the following web address: <https://www.inps.it/bussola/VisualizzaDoc.aspx?sVirtualURL=%2FCircolari%2FCircolare%20numero%20172%20del%2022-11-2017.htm>; and the Ministry of

non-EU) must have been legally residing in Italy for two years at the time of the REI application.

Before proceeding to analyse the latest form of guaranteed minimum income, it is appropriate to carry out a global thought on the foreigners' access conditions to the above-described assistance tools. Focusing on non-EU citizens, the generic trend has been to switch from requiring just a minimum period of legal residence in Italy (a period, it must be highlighted, longer than the one required to Italian/EU citizens), to the need for the EU long-term residence permit, combined with a minimum period of residence (equal for Italian/EU citizens and non-EU citizens). This had negative consequences on the foreigners' eligibility, considering the criteria required to obtain the EU long-term residence permit. To obtain this permit it is necessary to: 1) have been legally residing in Italy for 5 years<sup>39</sup>; 2) pass an Italian language exam; 3) prove to have an annual income superior to a specific threshold; 4) prove to have even an adequate lodging, in case the request is not only for an individual but for an individual and his/her family members. First of all, it is clear that the first requirement for the long-term permit nullifies the illusory uniformity of the "minimum period of residence" required by the REI. According to the legislative-decree n. 147/2017, everybody (Italian, EU, non-EU citizens) must have been legally and continuously residing in Italy for two years but, in reality, non-EU citizens must have been resident at least for five years to obtain the long-term residence permit (excluding the time of the administrative procedure for the permit release)<sup>40</sup>. If this may be

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Employment and Social Affairs note of May 2, 2018, available at the following web address: [https://www.cittalia.it/images/nota\\_prot.\\_n.\\_5070\\_del\\_2-5-2018.pdf](https://www.cittalia.it/images/nota_prot._n._5070_del_2-5-2018.pdf). Moreover, according to the note of May 2, 2018 the foreigners holding a "humanitarian residence permit" cannot directly access to the REI, but as any other non-EU citizens, they must previously obtain the EU long-term residence permit. (The "humanitarian residence permit" was a permit - now abrogated - originally provided by the Italian legal system in order to allow the stay of foreigners who did not meet the requirements for international protection, but who would have been in serious danger if they had returned in their countries of origin).

<sup>39</sup> During these 5 years, the foreigner cannot leave Italy for more than six consecutive months and for more than ten months on the whole.

<sup>40</sup> According to art. 17, President of the Republic Decree n. 394 August 31, 1999, the administrative proceeding for the emission of a residence permit must last

an equal differentiation, in order to ensure an effective bond between the foreigner and the country, requirements number 3 and 4 should raise more doubts of legitimacy, indirectly demanding for an income and a housing solution in order to obtain a social assistance measure primarily directed to needy people.

Leaving these thoughts to the conclusion, we can notice that the described trend also corresponds to the general tendency that characterizes the access criteria to public social assistance in Italy. Starting from the Italian immigration law (1998)<sup>41</sup>, which ensured access to social services for any foreigner holding a residence permit valid for a minimum of one year, the Italian legislator kept on raising the bar of requirements, first of all introducing the need for the EU long-term residence permit<sup>42</sup>. Moreover, both national and regional legislators added minimum terms of residence to allow (only) newcomers’ access to numerous specific assistance interventions<sup>43</sup>. This legislative trend was several times held unconstitutional by the Italian Constitutional Court, which denied the legitimacy both of the long-term permit<sup>44</sup> and the differentiated minimum residence<sup>45</sup> criteria. The Court

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no longer than 90 days, but it can actually be longer as a consequence of the high number of requests and inefficiencies of public administrations.

<sup>41</sup> Art. 41, legislative-decree n. 286, July 25, 1998.

<sup>42</sup> Art. 80, law n. 388, December 23, 2000.

<sup>43</sup> For instance, art. 11, law-decree n. 112, June 25, 2008 required ten years of legal residence in Italy for the access to housing benefits.

<sup>44</sup> For instance, Italian Constitutional Court, decision n. 306, July 30, 2008, about the access of a foreigner with serious disability to an incapacity benefit. In the same sense, Italian Constitutional Court, decision n. 187, May 28, 2010; *Id.*, decision n. 40, March 15, 2013; *Id.*, decision n. 22, February 27, 2015; *Id.*, decision n. 230, November 11, 2015 (all about the access of foreigners to different kinds of incapacity benefits); *Id.*, decision n. 329, December 16, 2011 (about the access to education benefit for foreign students with disabilities). On this jurisprudence, S. Cassese, *I diritti sociali degli altri*, cit. at 23, 683.

<sup>45</sup> For instance, Italian Constitutional Court, decision n. 166, July 20, 2018 about the above-mentioned art. 11 law-decree n. 112/2008 (ten years of legal residence in Italy for the access to housing benefits). In the same sense, Italian Constitutional Court, decision n. 40, February 9, 2011 (36 months of legal residence for the access to additional social services offered by a region); *Id.*, decision n. 168, June 11, 2014 and *Id.*, decision n. 106, May 24, 2018 (respectively 8 and 10 years of legal residence for the access to public housing services offered by a region). On this jurisprudence, V. Ferrante, *È incostituzionale*

expressed this principle: the scarcity of economic resources may legitimate the legislator to circumscribe the number of social services beneficiaries, but this distinction cannot be unreasonably discriminatory and liable to harm the fundamental rights of the individual. In other words, access criteria directed to ensure the physical and legal presence of the foreigner in the country may be constitutional, but they cannot be irrational, and any further discriminatory requirement must be considered unacceptable. Thus, indirectly requiring a minimum income for the access to social security was considered unconstitutional, as well as asking for an irrationally long residence on the national soil.

Nevertheless, the Italian legislator did not change its mind, as it is clearly showed by the newly introduced "Citizenship Income" ("*Reddito di Cittadinanza*", disciplined by the law-decree n. 4, January 28, 2019). Despite its name, suggesting a basic income scheme, the 2019 Citizenship Income is a further guaranteed minimum income system. Looking at its features, the Citizenship Income proves to be an extension of the 2017 Inclusion Income. It is still a universal tool of family income integration, means-conditioned and subject to acceptance by its beneficiary of a personalised social inclusion program, aiming to liberate the individuals from poverty. On the one hand, the law-decree n. 4/2019 directly recalled the personalised social inclusion plan and the social services of the 2017 Inclusion income, extending the job research requirements for all the unemployed family members. On the other hand, the effective expansion operated by this new measure concerns the amount of economic support (from the basic € 3.000/year of the REI to the basic € 6.000/year of the Citizenship Income, combined with further housing benefits) and the amount of the possible beneficiaries, consequently to the rise of the poverty line (basically, from a poverty index of € 6.000/year of the REI to € 9.360/year of the Citizenship Income).

Unfortunately, this policy of beneficiaries' extension did not affect the newcomers, whose access criteria became even stricter. Indeed, the access to the Citizenship Income for the non-EU citizens now requires both an EU long-term residence permit<sup>46</sup> as

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*l'esclusione dei cittadini extra-UE dai benefici sociali: si apre la via dell'eguaglianza sostanziale?* 4 Riv. dir. sic. soc. 739 (2018).

<sup>46</sup> No explicit exceptions have been introduced, even this time, in case of international protection.

well as official documentation from the authorities of the states of origin, in order to fully prove the economic conditions of the foreigner. However, the law-decree n. 4/2019 explicitly admits that the last requirement does not work for refugees and for countries of origin where it is objectively impossible to obtain the above-mentioned documents (these states will be listed, according to the law-decree, in a specific decree of the Ministry of Employment and Social Affairs). Finally, the residency criterion – equal for Italian, EU and non-EU citizens – is now increased to ten years, with two years of uninterrupted presence before the application submittal.

The restrictions (and the inequality) seem obvious, even ignoring the already mentioned criticalities related to the economic requirement for the long-term permit. Only a foreigner – and not an Italian/EU citizen who may have lived most of its life abroad – is required to produce the additional documentation<sup>47</sup>. Furthermore, the request of this documentation seems hardly compatible with a ten years residence criterion, which should be enough to ensure limited connections between foreigners and their states of origin. Thirdly, obtaining this documentation could be impossible not only for refugees, but also for other humanitarian and economic migrants. Nevertheless, according to the law-decree, the impossibility cannot be demonstrated in relation to the single case, because it will be predetermined by the Ministry of Employment and Social Affairs through a list of countries.

Finally, whereas the two years residence criterion of the REI was basically absorbed by the five years of residence required for the EU long-term residence permit, the newly introduced ten years requirement doubles the term of residence for the foreigners. Furthermore, ten years is the term of residence needed to obtain the Italian citizenship: in other words, the foreigners eligible for the Citizenship Income are the ones also eligible for Italian citizenship. Probably, this is the justification of the 2019 measure’s name – Citizenship Income – even if it is still a guaranteed minimum income system, and not a proper basic income scheme.

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<sup>47</sup> A similar requirement has already been judged discriminatory in relation to other social services. See the decision of the Court of Milan, March 27, 2019, *Capelli, ASGI, NAGA vs Comune di Vigevano*.

As admitted by art. 1 of the law decree n. 4/2019, poverty and needs for social inclusion should be the only access criteria, not citizenship, since this tool is not directed to all citizens (regardless of their economic conditions), but only to people in a state of need.

Therefore, this policy on migrants' access to public support is clearly an expression of the restrictive model that is nowadays characterizing migrants' management in Italy. Reflecting a cultural approach toward migration existing in a substantial portion of our society, the denial of access to guaranteed minimum income is justified by the need to reserve the scarce public resources only to Italians, producing implicitly a sense of separation and contrast between citizens and non-citizens, excluding newcomers from the community of individuals deserving a full recognition of their (fundamental) rights.

### **3.2. Guaranteed minimum income and citizenship requirements in Italy**

Moving now to the Canadian context, here the idea of a universal minimum level of income has been debated since the first decades of the 20<sup>th</sup> century<sup>48</sup>. While the early political manifestations arose during the Great Depression<sup>49</sup>, a broad discussion was conducted during the late 1960s and 1970s. After noting an unexpectedly high level of poverty in the country, the Economic Council of Canada, a federally-funded crown corporation whose role was to assess the economic condition of the country, formulate the idea of a guaranteed income as an effective solution to help the high number of poor people (1968)<sup>50</sup>. Moreover, in 1971, the Special Committee on Poverty of the Senate of Canada recommended to introduce a guaranteed minimum

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<sup>48</sup> For a schematic portrayal, see D. Hum, W. Simpson, *A Guaranteed Annual Income? From Mincome to the Millennium*, Jan.-Feb. *Policy options* 78 (2001); E.L. Forget, *The Case for Basic Income in Canada*, in M.C. Murray, C. Pateman (eds), *Basic Income Worldwide: horizons of reform*, cit. at. 26, 81; P. Mulvale, S. Frankel, *Next Steps on the Road to Basic Income in Canada*, 43:3 *J. Soc. & Soc. Welfare* 27 (2016); A. Carli et al., *Canada*, in Vv.Aa., *Nuove (e vecchie) povertà: quale risposta?*, cit. at 29, 1999.

<sup>49</sup> Above all, we can recall the proposal to pay a "social credit" to all citizens expressed by the Social Credit Party, elected at the government of the province of Alberta in 1935.

<sup>50</sup> Economic Council of Canada, *The problem of poverty*, Fifth Annual Review: The Challenge of Growth and Change (1968).

income capable to support the Canadian citizens in state of need (excluding those who were single, unattached, and under 40 years old), fixing the basic features of the proposed tool in: being adequate, capable to preserve the incentive to work and fiscally possible<sup>51</sup>. These and other proposals pushed the Canadian government to sign an agreement with the Province of Manitoba (1973) to begin a minimum income experiment. Therefore, in 1974, the Manitoba Basic Guaranteed Annual Income Experiment (so-called “Mincome”) was launched, in order to verify the feasibility of a guaranteed minimum income system at a national level and study its economic, administrative, and social aspects (the amount of resources needed, the kind of structures and organisation required to implement this system, and the consequences of a basic income on the willingness of the recipients to search for a job). Political reasons and lack of resources forced to close the Mincome experiment in 1979, but the guaranteed minimum income came back to political attention in the mid-1980s, thanks to a report of the government-appointed Royal Commission on the Economic Union and Development Prospects for Canada<sup>52</sup>. The Commission purposed the implementation of a Universal Income Security Program (UISP), designed to replace some existing social programs (as Family Allowance, Child Tax Credits, federal social housing programs, etc.) in order to provide people in need with an income integration related to the number of family members and to the age of beneficiaries. The UISP proposals were ignored by the government but, after 20 years of stillness, serious policy discussions about the possibility of a guaranteed income took place in the last decade. Among these, two cases are undoubtedly of interest: the studies carried out in Québec – which resulted in the 2009 advisory opinion of the *Comité consultatif de lutte contre la pauvreté et l’exclusion social*<sup>53</sup> and in the 2017 final report of the

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<sup>51</sup> Senate of Canada, Report of the Special Senate Committee on Poverty (Croll Report) (1971), available at the following website: <http://www.albertasenator.ca/flashblocks/data/BT%20Poverty/Croll%20Report%201971.pdf>.

<sup>52</sup> Royal Commission on the Economic Union and Development Prospect for Canada (Macdonald Commission), *Report* vol. II (1985), online: <http://publications.gc.ca/site/eng/472256/publication.html>.

<sup>53</sup> Comité consultatif de lutte contre la pauvreté et l’exclusion social, *Individual and family income improvement targets. On optimal means for achieving them, and on baseline financial support (advisory opinion)* (2009), online:

*Expert Committee on guaranteed minimum income*<sup>54</sup> – and the 2016 Ontario Basic Income Pilot (OBIP), a concrete minimum income experiment directed to 4.000 residents of the Province of Ontario.

In accordance with our goals, the two field experiments (1974 Mincome and 2017 Ontario Basic Income Pilot) and the recent Québec studies will be further analysed.

Beginning with the Mincome, as already said, it was a research project, mainly financed by the Federal government, which took place in the Province of Manitoba<sup>55</sup>. The experiment involved families from two sites: Winnipeg, the capital and the largest city of the Province, and the rural community of Dauphin. The economic eligibility requirement was earning less than a poverty threshold, while – in accordance with the principle of selective universalism – being employed (or unemployed) was not relevant for the access, but only for the amount of the support. However, the income integration was not conditioned to the attendance in education, social inclusion or job placement programs: indeed, the aim of the experiment was to verify the free conduct of the recipients (in terms of job research, children school dropouts, demand of public services, etc.). In Winnipeg, the families were selected from a population of over 500.000 inhabitants and paired with other families from the same community not receiving the income support, in order to study the concrete consequences of the program. In this site, the main

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[https://www.bibliotheque.assnat.qc.ca/DepotNumerique\\_v2/AffichageFichier.aspx?idf=97213](https://www.bibliotheque.assnat.qc.ca/DepotNumerique_v2/AffichageFichier.aspx?idf=97213). For a study on its feasibility, see N.J. Clavet, J.Y. Duclos, G. Lacoix, *Fighting Poverty: Assessing the Effect of Guaranteed Minimum Income Proposal in Québec*, IZA Discussion Paper n. 7283 (2013), online: <http://ftp.iza.org/dp7283.pdf>.

<sup>54</sup> Expert Committee on guaranteed minimum income, *Guaranteed Minimum Income Québec: A Utopia? An Inspiration For Québec (final report)* (2017) online: [https://www.mtess.gouv.qc.ca/grands-dossiers/revenu\\_min\\_garanti\\_en.asp](https://www.mtess.gouv.qc.ca/grands-dossiers/revenu_min_garanti_en.asp).

<sup>55</sup> On this topic, see E.L. Forget, *The Town with No Poverty: The health Effects of Canadian Guaranteed Annual Income Field Experiment*, cit. at 5, 283 ss.; S. Frankel, J.P. Mulvale, *Support and Inclusion for All Manitobans: Steps towards a Basic Income Scheme*, 37:2 *Man. L.J.* 425 (2014). See also W. Simpson, G. Mason and R. Godwin, *The Manitoba Basic Annual Income Experiment: Lesson Learned 40 Years Later*, 43:1 *Can. Public Policy* 85 (2017) and the vast scientific bibliography cited. Finally, for a complete overview on the Mincome experiment, see the reports of the Manitoba Basic Annual Income Experiment available online at the University of Manitoba Libraries Dataverse at: <http://dataverse.lib.umanitoba.ca/dataverse/TechDocs>.

goal was to gauge work response, and therefore the disabled, the institutionalised and the retired were excluded. In contrast, Dauphin and its rural municipality, with a population of around 12,500 inhabitants, constituted a “saturation” site: all the families meeting the economic requirements were eligible to participate in the Mincome experiment. In this site, the aim was to recreate a scale model of a hypothetical national minimum income system.

Nevertheless, the Mincome had access criteria based on citizenship and residence: eligibility was restricted to people who were Canadian citizens or permanent residents. In addition, for the Dauphin site, to be eligible a person must have been residing there as of July 1, 1974, as well as when s/he applied for enrolment in the program<sup>56</sup>. However, those criteria were not able to concretely affect the experiment, especially in relation to the Dauphin saturation site. Indeed, looking at the Dauphin population, the percentage of migrants in 1974 was very limited and it did not hinder the creation of a “Town with No Poverty”<sup>57</sup>.

Coming now to the most recent experiences, the Ontario Basic Income Pilot (OBIP) was a guaranteed minimum income field experiment that took place in the Province of Ontario for about one year (April 2018 – March 2019)<sup>58</sup>. The idea was launched by the Ontario government in 2016, to test the sustainability of this kind of assistance program, and the design of the project passed through a phase of public discussion (from November 2016 to January 2017) where a first OBIP discussion paper<sup>59</sup> was submitted to the population of the province<sup>60</sup>. The

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<sup>56</sup> The citizenship and residence criteria are explicitly indicated in *Mincome User Manual Version 1*, available at: <http://dataverse.lib.umanitoba.ca/dataset.xhtml?persistentId=doi:10.5203/FK2/XLOXQF>.

<sup>57</sup> The quote is referred to the already mentioned E.L. Forget, *The Town with No Poverty: The Health Effects of Canadian Guaranteed Annual Income Field Experiment*, cit. at 5, 283. For the statistical data on Dauphin population, see: <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/page.cfm?Lang=E&Geo1=CSD&Code1=4617048&Geo2=PR&Code2=01&Data=Count&SearchText=North&SearchType=Begins&SearchPR=01&B1=Immigration%20and%20citizenship&TABID=1>. Again, on the composition of Dauphine population, see the above cited E.L. Forget, *The Case for Basic Income in Canada*, cit. at 48, 9.

<sup>58</sup> Full information on the experiment are available at: <https://www.ontario.ca/page/ontario-basic-income-pilot>.

<sup>59</sup> The Basic Income Pilot in-person discussion summaries are available at: [www.ontario.ca/page/basic-income-pilot-person-discussion-summaries](http://www.ontario.ca/page/basic-income-pilot-person-discussion-summaries).

result was an income supplement paid to the eligible couples or individuals, to ensure they enjoyed a minimum income level regardless of their employment status. In other words, in accordance with the “selective universalism” principle, everyone from 18 to 64 years old, living in one of the selected areas and having an income lower than a specific poverty line, could apply to participate at the project. The money support was unconditional, so recipients could go to school to further their education, be unemployed or continue to work. In the last situation, as said, the basic income would still have been supplied, but its amount would have decreased by \$0,50 for every dollar earned, in order to keep employment attractive<sup>61</sup>. The project involved over 4.000 people, plus a comparison group of other 2.000 people who did not receive the money supplement, necessary to evaluate the potential differences in terms of life quality generated by the OBIP.

As for citizenship and residency criteria, the program did not have any requirement based on nationality, being available to everybody legally residing in the selected site for the 12 months (or longer) prior to the application, and who still lived there at the time of the application. This represented a further extension in terms of foreigners’ accessibility, compared to the eligibility criteria required by the existing Ontarian social assistance programs (similar to the criteria requested by the other Canadian provinces and territories), which generally are: being a citizen, a permanent resident or a refugee residing in Ontario<sup>62</sup>.

Before proceeding further, one aspect deserves to be highlighted: the permanent resident status in Canada is different from the EU long-term residence permit. Permanent residence is

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<sup>60</sup> H.D. Segal, *Finding a Better Way: A Basic Income Pilot Project for Ontario* (2016), online: <https://www.ontario.ca/page/finding-better-way-basic-income-pilot-project-ontario>.

<sup>61</sup> An employed person, whose earning was lower than the poverty threshold, would have in any case took benefit from the OBIP, and the combination of job income and OBIP would have guaranteed him a higher total income than the income of an unemployed person receiving only the OBIP.

<sup>62</sup> Above all, see the requirements for Ontario Works, a program which provides people with basic financial assistance (to cover food and shelter costs) while helping them prepare for, find and maintain employment. See the Ontario Works Act (1997) and its Regulations governing the Ontario Works program. About the citizenship criterion, see art. 6 Regulation n. 138/1998.

granted to foreigners who are (generally) outside Canada and want to permanently immigrate: in order to qualify, they must meet economic or non-economic criteria and succeed in a selection procedure. Therefore, a long period of residence is not a mandatory requirement to be eligible for public support. Yet, previous temporary work experience (or study period in a Canadian institution) can be very useful in obtaining Canadian permanent residence, because Canadian work experiences/study periods are positively evaluated in the permanent residence awarding procedure<sup>63</sup>. However, temporary residents (as said, temporary workers and students) remain excluded from this system of social security.

The broader OBIP access criteria were clearly fostered by the content of the 2016 discussion paper and, also, by the opinions the population expressed during the public consultation. Starting from a deep belief that poverty is a social problem, hurting all the members of society and costing it a vast amount of money<sup>64</sup>, the discussion paper clearly affirmed that the only eligibility criteria should have been economic situation, age and residence (one year) in the designated sites. “No other criteria should be employed. For example, individuals who are not yet Canadian citizens should not be excluded from the pilot”<sup>65</sup>. Indeed, according to other

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<sup>63</sup> More precisely, one of the selection programs of permanent residence applications is restricted to the individuals who have worked in Canada for at least one year.

<sup>64</sup> H.D. Segal, *Finding a Better Way: A Basic Income Pilot Project for Ontario*, cit. at 60: “[...] The resulting damages caused to human beings’ life chances, to communities and to social and economic productivity and progress are clear, and cannot be ignored. Poverty is the best predictor of early illness, early hospitalizations, longer hospital stays and earlier death. It is a reliable predictor of substance abuse, food insecurity, poor education outcomes, and for some, trouble with the law. So, quite aside from the pain, frustration and immense pressures that poverty inflicts on individuals and families, it also imposes serious economic strain and stress on communities, their schools, hospitals, policing and judicial system, and weakens their local economy overall. Reducing poverty and its negative effects more efficiently would be a serious plus for the well-being of all individuals within a community, regardless of their own level of income and financial stability. Reducing poverty is a solid investment in stronger families, communities, and the economy overall, if done with a measure of both generosity and efficiency”.

<sup>65</sup> H.D. Segal, *Finding a Better Way: A Basic Income Pilot Project for Ontario*, cit. at 60.

sections of the document, immigrants (along with people with disabilities, single parents and First Nations) represent the part of the Ontarian population hit the hardest by poverty<sup>66</sup>. Thus, if the goal is to eradicate poverty and its negative effects on society, newcomers should be fully taken into account. Finally, according to the discussion paper, social and cultural inclusion was – also for this guaranteed minimum income project – a key result to achieve. As said, these ideas were shared by the population, expressing a culture toward migration definitively more open than the one characterizing the Italian context. The public discussion about the eligibility criteria highlighted that the project had to involve a diverse sample of the population, taking into account the groups that are more likely to benefit from a basic income, as refugees and newcomers (along with homeless people, single parents, etc.)<sup>67</sup>.

Finally, the recent studies carried out in Québec deserve some reflections. Both the 2009 advisory opinion of the *Comité consultatif de lutte contre la pauvreté et l'exclusion social* and the 2017 final report of the *Expert Committee on guaranteed minimum income* are expression of the path undertaken by the public authorities towards a concrete reduction of poverty, which finds its normative foundation in the 2002 *Act to Combat Poverty and Social Exclusion* (Bill 112)<sup>68</sup>. The two studies agree about the need to improve the social assistance system of Québec, and they suggest introducing a basic income support plan. According to the guaranteed minimum income features, it would offer a guarantee of monetary resources for all individuals living beneath a specific poverty line, employed or unemployed<sup>69</sup>.

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<sup>66</sup> The discussion paper also recalls the contents of the report realized by the Ontario Association of Food Banks, *The Cost of Poverty: An Analysis of the Economic Cost of Poverty in Ontario* (2008), online: <https://ccednet-rcdec.ca/en/toolbox/cost-poverty-analysis-economic-cost-poverty-ontario>.

<sup>67</sup> In this sense, see the report about the Basic Income consultations: *What we heard*, available at: <https://www.ontario.ca/page/basic-income-consultations-what-we-heard>

<sup>68</sup> The 2002 Act to combat poverty directly established the *Comité consultatif de lutte contre la pauvreté et l'exclusion social*, which is the author of the 2009 advisory opinion.

<sup>69</sup> In this sense, *Expert Committee on guaranteed minimum income, Guaranteed Minimum Income Québec: A Utopia? An Inspiration For Québec (final report)*, cit. at 54, 15 and *Comité consultatif de lutte contre la pauvreté et l'exclusion social*,

Looking directly at the access requirements, none of these studies explicitly take into account the citizenship issue, but both of them contain clues suggesting the need for newcomers’ inclusion. The 2009 advisory opinion uses different words to describe the beneficiaries: citizens, but also individuals, Quebecers, “all Québec households” and “persons and families living in poverty”. This suggests that the word “citizen”, when used, is used in a non-specific way, meaning resident in Québec, and this interpretation is supported by further evidence: human dignity and equity are recalled as principles to guide Québec towards its “place among the industrialized societies with the least number of individuals in situation of poverty and social exclusion”<sup>70</sup>. Moreover, the need to consider the non-citizens in the fight against poverty is highlighted by a concrete element: one of the members of the *Comité* is also a member of the *Observatoire international sur le racisme et les discriminations-Centre de recherche sur l’immigration, l’ethnicité et la citoyenneté*.

Similar observations can be made about the 2017 final report. Here too, the recipients are described as: citizens, “individuals and families living in Québec”, “all vulnerable persons”, “most disadvantaged” and households. Again, equity is listed among the three core principles (along with incentive to work and efficiency) to achieve a society without poverty, able to better integrate all its members and with no stigmatization of the least advantaged. Finally, speaking about poverty in persons over 65 years old and about incentives to work, the Committee explicitly takes into consideration migrants’ condition. On the one hand, the Committee “is concerned” by the eligibility rules for federal programs that exclude recent immigrants from receiving full support<sup>71</sup>. On the other hand, the Committee stresses the need to increase incentives to work (included vocational training) to allow for better integration in the labour market of special

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*Individual and family income improvement targets. On optimal means for achieving them, and on baseline financial support (advisory opinion)*, cit. at 53, 22.

<sup>70</sup> Comité consultatif de lutte contre la pauvreté et l’exclusion social, *Individual and family income improvement targets. On optimal means for achieving them, and on baseline financial support (advisory opinion)*, cit. at 53, p. 45.

<sup>71</sup> Expert Committee on guaranteed minimum income, *Guaranteed Minimum Income Québec: A Utopia? An Inspiration For Québec (final report)*, cit. at 54, 134.

categories such as young persons at the end of their studies or immigrants.

Beyond the studies described, the actual social assistance programs provided by Québec deserves one last thought. The Last-Resort Financial Assistance<sup>72</sup> and the other programs were considered by the Committee not sufficient to create a guaranteed minimum income system, because they leave some persons with little or no protection and because their support is not linked to an explicit minimum threshold<sup>73</sup>. Beyond their contents, their access criteria consider the nationality of the applicant, demanding Canadian citizenship, refugee status or permanent residence<sup>74</sup>. Therefore, also in this case, no long-term residence is mandatory, but it is necessary to be admitted to Canada as an individual aiming to stay.

#### 4. Conclusion

Looking back at the questions formulated at the beginning of this paper, we must recognize that Italy and Canada have different approach on foreigners' access to social services, giving different emphasis to newcomers' poverty. Indeed, even if this study is limited to the implementations of the guaranteed minimum income in the two legal systems, these hypotheses represent a specification of the broader trends existing in the two countries about foreigners' access to social security<sup>75</sup>, also communicating the different cultural and ideological bedrocks supporting the contrasting solutions.

Starting with the Italian *Citizenship Income*, the request of the EU long-term permit plus ten year of legal residence communicate that foreigners do not deserve social security rights, at least until they meet the requirements to become citizens, and

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<sup>72</sup> Governed by the Individual and Family Assistance Act and the Individual and Family Assistance Regulation.

<sup>73</sup> Expert Committee on guaranteed minimum income, *Guaranteed Minimum Income Québec: A Utopia? An Inspiration For Québec (final report)*, cit. at 54, 55.

<sup>74</sup> In this sense, Art. 26 of the Individual and Family Assistance Act.

<sup>75</sup> In this sense, see the above-mentioned decisions of the Italian Constitutional Court, which have held unconstitutional numerous laws excluding newcomers from different forms of public support during the last twenty years, *supra* notes 44-45. On this topic, see e.g. C. Corsi, *Peripezie di un cammino verso l'integrazione giuridica degli stranieri. Alcuni elementi sintomatici*, 1 Rivista AIC 1 (2018).

so their poverty should be allowed in our society since they are not fully perceived as a part of the national community and they are strongly distinct from citizens. Moreover, “social security tourism” is easily avoided: the need to wait for ten years is hardly compatible with the decision to move to a country only to take advantage of its guaranteed minimum income. Finally, citizenship becomes – more or less explicitly – a quantitative access criteria to social security. If the economic resources are scarce and “first come, first served” rule is valid to choose the limited number of recipients, the newcomers are always second to the citizens and do not deserve assistance.

Looking now at the Canadian studies and projects on guaranteed minimum income, the Ontario Basic Income Pilot – although it was only a limited field experiment – clearly provides different answers to the above-mentioned questions. On the one hand, after a short term of residence (12 months) foreigners were admitted to the project: they were conceived as part of the society from which poverty must be eliminated. On the other hand, 12 months were supposed to be enough to avoid “social security tourism”; this because, also considering the access conditions to other social security schemes (as Ontario Work and Québec Last-Resort Financial Assistance), it seems that Canada intends to prevent “social security tourism” through the selection of migrants’ entry applications, and not with the requirement of long periods of residence. Finally, as highlighted by the public consultations that preceded the OBIP, there is a widespread social perception that foreigners should benefit from social assistance because they are members of the Canadian population.

Reflecting on the two different approaches, the answers provided by the Canadian system seem more appropriate under several profiles, not only because they appear fairer. Poverty, indeed, is ordinarily perceived as an issue to be solved, a condition of disadvantage, an obstacle to the satisfaction of individual needs and aspirations<sup>76</sup>. Therefore, our morality – which suggests that ignoring this problem is unjust, regardless of whether it affects citizens or newcomers – answers the first

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<sup>76</sup> See B.G. Mattarella, *Il problema della povertà nel diritto amministrativo*, cit. at 4, 359.

question asked in the opening section<sup>77</sup> differently from the Italian legislator: poverty matters for everybody. Anyway, even without considering the concept of justice and the rights of the foreigners, the Canadian solutions are more in consonance with the principles regulating the actions of public authorities and with the nature of the guaranteed minimum income. At this point, it is useful to recall that guaranteed minimum income is not a basic income (or a citizens' income), so it is not a tool directed to improve the wealth of all the citizens (and only them). As described, the minimum income is a universal and selective tool, addressed to prevent and eliminate the negative effects of poverty, both individual and social: this means eliminate poverty from the entire social context. Therefore, this social assistance scheme risks being inefficient if it ignores a part of the society where poverty may hit harder, exposing the entire population (even citizens) to the negative consequences listed in the second section of this essay (higher health-care costs, higher rates of criminality, etc.). Moreover, the other central aim of the guaranteed minimum income is to foster social integration, especially if the conditionality principle is respected. Also under this profile, excluding foreigners means making this social assistance scheme inefficient. Indeed, it is logical that foreigners may need – more than citizens – to be introduced in the labour market and society, in order to help them become a resource able to reward the public support previously received.

However, if we agree on the need to include foreigners, we must agree also on the need to avoid “social security tourism”. In any case, asking for a long-term residence does not seem the best fitted solution, first of all as per the consideration of the proportionality principle. The commitment of a foreigner to the local community can be demonstrated in other ways, that do not ask him to “survive on his own” for several years. Public help can be fundamental for foreigners in situations of need: we cannot underestimate that they might be alone, without their families (still in their countries of origin), and so lacking a concrete network of social support. More relevance should be given to the selection of entry applications: being legally admitted should already be considered a sign of the capacity to integrate into the

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<sup>77</sup> “Do poverty matter only for citizens?”.

national community. Hence, a shorter period of legal residence (for instance, one or two years), plus the ownership of a residence permit which ensures the stay for another reasonable term (one or two years more) may be sufficient and more proportionate. At this point, a change of perspective is mandatory: the question should not be “what happens if, after all, the foreigner decides to leave?” but, thinking at the foreigner as a resource, “how can we make sure he will stay for long enough, after receiving the support?”.

Finally, the question about the feasibility of ensuring social security rights to foreigners, also in a situation of economic recession, seems better fitted for an economist than a lawyer. Surely public funds are not limitless, and in case of lack of resources it is harder to redistribute them. Moreover, a balanced budget is fundamental, today, for the credibility of a country, especially if financial stability has been included as a rule in its constitution. But other principles are also included in the fundamental norms: principles such as human dignity and human rights protection, strictly connected to the provision of social services. Equality is another fundamental principle, that must govern the action of the public authorities. Thus, crises cannot be the indisputable justification for every sacrifice imposed upon the population, especially to that part of the population already in marginal conditions.

Public authorities have the duty to correctly use the tools of social services at their disposal, without automatically considering them as a “moneybox” from which to withdraw funds in case of emergency. Removal or limitations of a social security scheme must be evaluated keeping in mind not only the scarcity of resources but also the public interest pursued by the social assistance measure. It should be fundamental to verify the capacity of the “reduced” measure to satisfy its goals and, if not, to reflect on the opportunity to cut other components of public expenditure.

For these reasons, beyond any hypothesis on the feasibility of a guaranteed minimum income including also non-citizens, a “first come, first served” rule does not seem compatible with this kind of public intervention, because it does not appear compatible with the aim of poverty eradication, social inclusion and equality enhancement that characterize it.

### 5. One last thought

As said at the beginning of this reflection, Italy and Canada are different under several aspects (economic, political, social and geographical).

Migration has always been an essential element of Canadian history, society and economy and Canada has a solid tradition of multiculturalism, which became a legally recognized principle<sup>78</sup>. However, Canada enjoys a privileged geographical location (being surrounded by oceans and bordering only with a wealthy state, which filters the migration coming from the south-American countries), which has facilitated the development of an efficient migration policy mainly conducted through the selection of migrants whose characteristics facilitate their integration and beneficial contribution to national economy. Finally, Canada has a large territory with a limited population (37,5 million inhabitants) and 21,9% of this population is made by migrants (7,5 million), with an increase of more than one million foreigners from 2011 to 2016<sup>79</sup>.

Italy, instead, has been a country of emigration for most of its history, becoming a destination of immigration only in the last three decades. Even if 30 years sounds like a sufficient amount of time to become aware of a new trend, the Italian legal system has not yet rationally faced the migratory phenomenon, which keeps on being managed as an emergency. Looking at immigrants' percentage on population, it is limited to 8,5% (5 out 60 million), with an increase of about 300 thousand individuals just in 2018<sup>80</sup>. Finally, Italy is geographically located at the centre of Mediterranean Sea, naturally making it a pivotal location in the current mass migration from the developing countries to the developed ones that, on the one hand, limits the possibility to easily select the entry flows of immigration, but on the other hand, makes the need for a rational management of migration more and more evident. This is a reality that cannot be changed. Instead, what needs to be done is changing our mentality, our social

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<sup>78</sup> Above all, the 1988 Canadian Multiculturalism Act.

<sup>79</sup> See the 2016 Census of Canadian population, online: [www12.statcan.gc.ca/census-recensement/2016/dp-pd/hltfst/imm/Table.cfm?Lang=E&T=11&Geo=00](http://www12.statcan.gc.ca/census-recensement/2016/dp-pd/hltfst/imm/Table.cfm?Lang=E&T=11&Geo=00).

<sup>80</sup> This data are available on ISTAT website: [www.istat.it/it/files//2019/02/Report-Stime-indicatori-demografici.pdf](http://www.istat.it/it/files//2019/02/Report-Stime-indicatori-demografici.pdf).

culture, our approach toward migration: as we said since the beginning, this crisis may offer the occasion to do it. We must understand how crises change the world and acknowledge that, in order to deal with the new circumstances, new solutions are needed; solutions that cannot correspond to an irrational strengthening of old policies and beliefs which appear more and more inappropriate.

Unfortunately, this is not what seems happening in Italy. Words count, and the transition from Inclusion Income to Citizenship Income is clearly meaningful. Citizenship and its benefits keep on being a wall “protecting” the citizens from the “strangers”, until they demonstrate to be identical to us and so tolerable in our society. In this sense, citizenship becomes the end of multiculturalism, instead of being the starting point of a mutual understanding. Anyway, keeping on comparing citizens and foreigners in relation to social services leads us to a distorted image of reality that does not consider the correct terms of comparison. Individuals asking for social services are all members of marginalised communities. Therefore, the other terms of comparison should be the part of the population which is far from a situation of need. These individuals must reconsider their prerogatives when their sacrifice is the key to a more equal society. These individuals are called to reflect on their social role, in order to avoid that solidarity and redistribution keep on being a burden only for the underprivileged.

In conclusion, crisis cannot be the main word audible during an emergency: words as equity, solidarity and social justice must become part of our daily vocabulary and, more importantly, they must become the concrete goals of our actions.