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# Malta and Immigration

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Sovereignty, Territory and Identity

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# Abstract

In November 2001, Malta experienced the first larger arrival of irregular immigrants when a boat carrying 57 people landed on its shores. Since then, the influx of immigrants has continued which constitutes a new phenomenon for this small country situated in the middle of the Mediterranean Sea - it has become the destination for immigrants seeking a better life in Europe. These so-called 'boat people' arrive under difficult conditions in often un-seaworthy vessels to a small island country that historically has been one of emigration rather than immigration, and it has therefore experienced what is perceived as problems in dealing with the situation.

The aim of this thesis is to discuss and analyze the impact of increased immigration upon the Maltese state and society. By developing a theoretical understanding of political sovereignty, I will analyze (1) the way that the state has framed immigration as a problematic and how it has acted to deal with the situation on both unilateral and multilateral levels, and (2) how continued immigration triggers state responses 'internally' in terms of control measures, but also in terms of the analytical relationship between a challenged sovereignty and perceptions of territorial boundaries and national identity.

In relation to the first objective, I argue that the (liberal) Maltese state has found itself restrained by outside sources in its claim to act by externalizing immigration control both in restricting entry and in 'getting rid' of irregular immigrants who have made it into national state territory. This has prompted the government to seek forms of multilateral co-operation in various international forums - chiefly the EU, but also in the context of a developing Barcelona process - in a developing post-nation-state form of governmentality.

In relation to the second objective, I first argue that unwanted immigrants have become a constitutive part of the Maltese society through their exclusion as 'outsiders inside'. Here, I have first analyzed how the state in a claim to sovereignty has imposed internal restrictions, mainly in the form of a strict detention policy, and how this phenomenon raises questions of the relationship between state and territory. Second, I have analyzed the way in which immigration has ignited two main opposing discourses on immigration that both share the same assumption of a strong state sovereignty in the realm of immigration control, which has put the state and its actions at the centre of public attention and ignited an interest new forms of national identity and perceptions of belonging.

*Key words:* Irregular immigration, immigration policy, sovereignty, Malta

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# List of abbreviations

AD	Alternattiva Demokratika
AN	Azzjoni Nazzjonali
ANR	Alleanza Nazzjonali Repubblikana
EU	European Union
FRONTEX	Frontières extérieures - the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
JHA	Justice and Home Affairs
MLP	The Malta Labour Party
NP	The Nationalist Party
UNHCR	Office of the UN High Commissioner for Refugees

# 1 Introduction

## 1.1 The Arrival of 'Boat People': an Immigration Crisis

In November 2001, Malta experienced the first larger arrival of immigrants when a boat carrying 57 people landed on its shores. Since then, the influx of immigrants has continued which constitutes a new phenomenon for this small country situated in the middle of the Mediterranean Sea - it has become the destination for immigrants seeking a better life in Europe. These so-called 'boat people' arrive under difficult conditions in often un-seaworthy vessels to a country that historically has been one of emigration rather than immigration, and it has therefore experienced what is perceived as problems in dealing with the situation.

This new inflow of people into the territory has had a number of effects upon the Maltese society. The government, led by the Nationalist Party, has adopted a number of protectionist policies to stop immigration such as intensified border controls and a restrictive, and also highly criticized, detention policy – efforts that so far have proved to be inefficient in deterring further inflows.

As irregular immigration has continued during these years, the issue has increasingly become a key social and political problem to be dealt with. As the government has sought to develop deepened forms of multilateral co-operation both in relation to the European Union, and through police and readmission co-operation with so-called sending countries in North Africa, the public awareness of the presence of foreigners in society has increased, resulting in an alarmist discourse of exclusion and the rise of a number of anti-immigrant political movements and intensified racially motivated violence.

## 1.2 Aim of this Thesis

The aim of this thesis is to discuss and analyze the impact of increased immigration upon the Maltese state and society. By developing a theoretical understanding of political sovereignty, I will analyze (1) the way that the state has framed immigration as a problematic and how it has acted to deal with the situation on both unilateral and multilateral levels, and (2) how continued

immigration triggers state responses ‘internally’ in terms of control measures, but also in terms of the analytical relationship between a challenged sovereignty and perceptions of territorial boundaries and national identity.

## 2 Methodology and Material

### 2.1 Methodology

In recent decades, immigration studies have developed into a broad field in academia, ranging from sociology and anthropology to demography and political science with all of them using a range of methodological tools in conducting their respective research. Given the broad nature of the aim of this case study, I will attempt to take a holistic approach and will thus employ a number of these methodological tools such as historical contextualization and discourse analysis to help me develop my argument.

Throughout the text, I will treat the nomadic imperative of recent population movements into the Maltese territory as an independent variable, in the sense that my chief purpose will not be to try to explain the specific causes of migration movements in the Mediterranean, but rather to develop an understanding of (1) in what way the increased influx of people have triggered state policy in this area, (2) how immigration impacts upon the whole of the social order.

To achieve my first objective, I will work with a general assumption that state and politics matter in analyzing immigration, and will therefore take the state as the unit of analysis. To do this, it is an essential first step to determine exactly how the state matters (Hollifield 2000: 142). I will do this by developing a theoretical framework that will serve as a key tool in conducting my analysis of power, politics and the state in the realm of immigration. Furthermore, I will follow a central proposition made by Hollifield, that the exercise of power takes place in the ideational, legal, and institutional confines of political systems (2000: 143). Methodologically, this entails the view that language and discursive practices shapes reality and the perception of what is considered socially and politically acceptable, what is of importance, what needs to be done, and so on (see Esaiasson et al. 2003: 235). In analyzing state action to understand the nature of its objectives and capacities, I will thus focus on how immigration is framed in discursive practices in key policy documents and by state officials, but also interpret these findings on a concrete level of action (see Alvesson and Sköldbberg 1994: 286), i.e. the specific policy as implemented by the Maltese state through legal and other control measures.

The conclusions that I draw from my analysis of state power will then serve as a dependent variable and a theoretical and empirical background to my second objective - understanding how immigration impacts upon the whole of the social order. In analyzing the key discourses on immigration in Maltese politics, I will

try to (1) understand state control by relating its practices to a theoretical conception of spatiality, and (2), relate this to an understanding of how the different perceptions of immigration as a phenomenon is broadly represented in social discursive practices. Hopefully, this methodological set-up will be useful in achieving my general goal to, in line with the reasoning of Bigo: “rethink the relations between frontiers and state formation, coercion and security, friendship and enemy, as well as otherness and self-identification” (2005: 51).

## 2.2 Material

Due to the theoretical nature of this thesis, I will use a range of theoretical sources in analyzing the empirical conditions of the Maltese immigration issue throughout the text. In the two main parts of the thesis analyzing the specifics of the situation in Malta, chapter 4 and 5, the main empirical material will consist of primary sources in the form of official policy documents published by the Maltese state, official statistics and public speeches by state officials, but also secondary sources such as academic literature on the Maltese society, newspaper articles and reports.



### 3 Theoretical Framework

In the traditional understanding of the post-Westphalian international system, the narrative of state sovereignty has been of central importance. In this vein, Zolberg has noted in his realist analysis of the state (as a part of a global anarchic system) and its relation to international migration that “every state has the right to restrict the entry of foreigners”, which is “an essential attribute of political sovereignty”, and “a necessary mechanism whereby societies maintain their integrity” (2006: 66). As it easily catches the imagination, this Weberian analysis of sovereign state authority with its focus on the ability or inability of a state to control its borders (and hence its population) has been very pervasive and has, in light of current migratory processes, led numerous theorists to either declare the waning of state sovereignty in managing immigration, or to the abandonment of sovereignty as a useful concept for analyzing contemporary politics altogether<sup>1</sup>. These theorists can be broadly categorized as ‘globalists’. According to them the state’s inability to manage, control or stop immigration into their territories is understood as a sign of an incapacitated nation-state whose contemporary political power is badly characterized using a traditional concept of sovereignty.

As a general theoretical assumption of this thesis, I will rather work with Joppke’s claim that “globalists operate with a hyperbolic notion of strong sovereignty that never was”, and that “the capacity of states to control immigration has not diminished but increased” (2006: 528-529). A vast body of literature critical of the ‘globalist’ conception of declining sovereignty has appeared in the last ten to fifteen years that argues that the world is still very much divided into geographical units that national states continue to have considerable control over (see Krasner 1999). So, if the ‘strong sovereignty narrative’ (and hence also the theory of declining state power) is an, at best, analytical construction that can not be used in a meaningful way to understand contemporary state power in the realm of migration, how then should we understand the concept of political sovereignty and the migratory movements that allegedly threatens it?

To answer this question and to provide useful theoretical tools for understanding the Maltese context, I would first like to approach the philosophical concept of sovereignty on a theoretical level in an analysis that will serve as a foundation for the rest of the discussion in this thesis. I will do this by first analyzing two interpretations of the political concept of sovereignty, those of Ojakangas (2001) and Kalvyas (2000), and second, by doing a theoretical juxtaposition with Foucault’s analysis of power as one of plebeian resistance to show how sovereign power, as well as resistance to it, can be understood as borderline concepts that constitute the social and political order.

### 3.1 State Sovereignty on a Conceptual Level

In his article “Sovereign Plebs: Michel Foucault meet Carl Schmitt” (2001), Ojakangas makes the famous definition by Carl Schmitt, who understood the sovereign in terms of a *decision* as “he who decides in the state of exception”, the point of departure in his analysis. For Ojakangas, this faculty is what makes sovereign power “by nature unpredictable and unexpected [...], the sovereign is at the same time he who decides when and if there is a state of exception”. He thus interprets the decision as analogous to the miracle of divine intervention, although pointing out that this is not a theological concept, but a decision that emanates out of the nothingness of ‘real life’. The miracle of the sovereign decision is only a miracle from the viewpoint of the rationalistic order it seeks to disrupt. Ojakangas here points out, with reference to Schmitt, that “even though the sovereign is 'outside the normally valid legal order,' he still 'belongs to it.'”, but, “in relation to its totality”. For Ojakangas, the sovereign is part of the order as creator and thus included, but only through its exclusion.

Kalvyas does a reading of Schmitt that differs from that of Ojakangas in his article “Hegemonic Sovereignty: Carl Schmitt, Antonio Gramsci and the constituent prince” (2000), in that it refutes the sovereign’s power to decide upon the state of exception as a *core* of the concept, or, as he puts it: “the exception [...] is the condition of possibility of sovereignty, not its essence”. The state of exception here becomes one of the ‘fundamental social and political presuppositions’ of sovereignty rather than its core. Contrary to the logic of Ojakangas’ analysis, Kalvyas argues that “the exception is a reminder that while the old system is abrogated, the new one is not yet in place”, and so he puts his finger on the creative aspect of sovereign power, where “the sovereign subject ignores the law but only to make possible the 'instauration' of a new one”. This reading of the concept makes the exception something that describes “this moment of crisis, this openness and contingency that provides the available space for the re-activation of the constituent power that up to this moment remained in a dormant and subterranean form”. In Kalvyas, sovereignty thus has an, as he puts it, “instituting power to set new systems of fundamental laws, to instaurate new political and social orders, and to bring into being novel constitutions”.

Kalvyas therefore warns us against confusing what Schmitt called ‘*commissarial dictatorship*’ (which is, as he puts it, “appointed to suspend, if necessary, the existing legal order, to eliminate the threat, and to restore the previous normal conditions”) with the more creative concept of ‘*sovereign dictatorship*’ (which refers to the capability to instaurate rather than preserve political orders). I believe that this reading has its merits over that of Ojakangas who, although the two authors reach rather similar conclusions in the end, risks ignoring the ‘creative moment’ as the defining feature, or essence, of sovereignty.

In sum, I thus understand sovereignty, in line with Ojakangas, as a *borderline concept* and, following Kalvyas, as a *claim* (rather than a capacity) to *instaurate* (rather than preserve) political orders, which, in the context of this thesis refers to

the state's claim to create a political order in which it can manage immigration as it see fit.

## 3.2 Plebian Resistance

But the realm sovereign power is not my only objective in this essay, as it is paramount to theoretically understand the forms of resistance that immigration as a phenomenon poses to state power. In his effort to conduct a concrete analysis of power relations, Foucault stressed that one must abandon the juridical notion of sovereignty and instead look:

“[...] for the single form, the central point from which all the forms of power would be derived by way of consequence or development, one must first let them stand forth in their multiplicity their differences, their specificity, their reversibility: study them therefore as relations of force that intersect, interrelate, converge, or, on the contrary, oppose one another or tend to cancel each other out.” (1997: 59)

Foucault sought, in other words, to analyse power not as the juridical form in the constitution of sovereignty but rather to ask the question how “relations of subjectivation can manufacture subjects” (1997: 59) in a ‘historico-political discourse’ rather than a ‘philosophico-juridical’ one (1997: 61). Ojakangas notes this when he writes that “Foucault's analysis of power was the radical exclusion of sovereignty”, where the operator is not the interesting unit of analysis as it is in Schmitt's notion of “[w]hat matters for the reality of legal life is who decides” (quoted by Ojakangas). Although Ojakangas notes certain similarities between the two authors (their view of disciplinary power for example), he states that (with his concept of the plebs) “Foucault does not approach modern politics from the top down, but from the bottom up- not from the perspective of the prince, but from that of resistance”. This refers, in Ojakangas' view, to a sort of “'centrifugal movement,' an 'inverse energy,' or a 'discharge'”, something that can be found in “bodies, in souls, in individuals, in the proletariat, in the bourgeoisie, but everywhere in a diversity of forms and extensions, of energies and irreducibilities”. The plebeian resistance in Ojakangas' understanding of the concept is necessary “not only for an analysis of the apparatus of power, but also for power itself”. He writes that:

“Foucault's plebs (political resistance) occupy the same place as Schmitt's sovereign (political decision), who is 'outside the normally valid legal order,' but 'nevertheless belongs to it' as a constitutive element. The plebs are outside networks of power, yet they belong to them, not as integral parts, but actually in relation to their totality.' 'Where there is power, there is resistance.’” (Ojakangas 2001)

Ojakangas' rather interesting argument is hence that although Foucault and Schmitt take radically different points of departure in their respective analysis,

they are both using the same basic structure of thought by creating ‘borderline concepts’, where the plebs and the sovereign decision serve the same liminal and constitutive function in a political network of power. This juxtaposition creates the opportunity to gain a deeper understanding of the concept of sovereignty by doing a parallel reading with Foucault’s ‘anti-sovereignty’, as it, in the context of this thesis through its focus on political resistance, has the potential to shed light upon (1) how immigration currently affects the whole of a social and political order, and (2) how theoretical concepts such as sovereignty, space/territory and identity can be analyzed as interconnected concepts in a holistic approach to political power.

## 4 The Maltese State and Immigration

In this section I will analyze how the Maltese state has reacted to the ‘new’ phenomenon of immigration by using the analytical concept of sovereignty that I presented in chapter 3. After contextualizing the current rise in immigration historically, I will do this by analyzing: (1) how the immigration problematic is commonly framed by the government, (2) the main recent legal developments in this policy area in the context of the accession of Malta to the European Union (EU), and, (3) the attitude of the Maltese government to policy and control co-operation in the EU context.

### 4.1 The Maltese State and Migration in Historical Perspective

From a historical perspective, Maltese demographic conditions have, unlike many other European countries, mainly been characterized by emigration rather than immigration. The small islands’ scarce natural resources coupled with its dense demographic conditions, made it dependent upon external sources of wealth to make up for its limited productive capacity as early as during the rule of the Knights of St. John (1630-1798), a dependency that continued in a deepened fashion under the British colonial rule in the 19<sup>th</sup> and 20<sup>th</sup> centuries (Jones 1973: 101). Although the island managed to produce fairly high standards of living as the population increased threefold between 1800 and 1950, people were spontaneously emigrating to find employment opportunities in other parts of the Mediterranean during the 19<sup>th</sup> century. Due in part to failed attempts during this period to promote emigration (a policy that lacked financial support from the British government) and substantial return rates, the net effects on the population were not that big during this period (Jones 1973: 102).

It was not until the advent of the 20<sup>th</sup> century that migratory movements became effectively supported by the Maltese state. An economic collapse in 1907, associated with major construction work at the harbour and dockyard, spurred a new wave of emigration which marked the first time that an economically difficult situation gave significant rise in movements to areas outside the Mediterranean, most notably to Canada, Australia and the United States. The state now became increasingly involved in the management of the situation and in 1912 the Royal Commission named the promotion of emigration the most important objective of the Maltese Government. An Emigration Department was instituted to control and promote migration and over the course of the two years following WWI some 10.000 people left Malta, mainly for the United States (Jones 1973:

102). Although the movement was halted during the years of the Great Depression (due to decreasing employment opportunities in receiving countries) and imposed restrictions of entry in destination countries, and later by the security situation during WWII, the policy to promote emigration was again intensified after the war due to labour shortages and new immigration policies in the receiving countries (Canada, Australia and United Kingdom), a process that continued throughout the post war period (Svanberg 2004: 127). The demographic effects between 1948 and 1967 were far greater with a net emigration of about 90.000 persons amounting to 30 per cent of the 1948 population (Jones 1973: 103). Today, people of Maltese origin allegedly amounts to 70.000 in the USA, at least 50.000 in Canada and over 50.000 in Australia, amounting to some 400.000 people world-wide (Svanberg 2004: 128), which gives a crude idea of the extent of 20<sup>th</sup> century emigration compared to the islands small population. By the 1980s the emigration from Malta had slowed down considerably, a process that coincided with growth in the service sector, most notably when it comes to tourism (Thomson 2006: 2).

My main point with this historical contextualization is to show that the history of population movements and the Maltese state policy has, up until very recently, been one of emigration, which is important to realize in order to understand more recent dynamics that have resulted from the island becoming a destination for migration.

#### 4.1.1 Malta Becoming a Destination for Migrants

During the second half of the 20<sup>th</sup> century, there was return migration of Maltese that had been living in diaspora for decades, which basically was the only form of non-European, legal immigration that Malta experienced during this period (Svanberg 2004: 127)<sup>2</sup>, except for some Albanians during the 1990s, especially following the bombings of Kosovo in 1999. But it was not until around late 2001 with the arrival of 57 people that immigrants started to come to Malta in larger numbers.

This is a table of official statistics on the number of arriving irregular immigrants post-2000:

*Table 1. Boats arriving in Malta with irregular immigrants: 2002-2005*

<b>Year</b>	<b>Number of boats arriving</b>	<b>Number of people on board</b>
2002	21	1686
2003	12	502
2004	52	1338
2005	47	1822

*(National Statistics Office 2006: 2)*

These figures may seem low in comparison to the total number of people crossing the border irregularly into the EU each year, but taking Malta's population total of around 400.000 inhabitants into account, the increase has been substantial in

statistical terms. Even though most of these undocumented migrants arrive by boat from Libya, very few are actually Libyan. The greatest numbers are from East Africa, with Eritrea, Somalia, Egypt and more recently Sudan being the main countries of origin. Most of these immigrants do not consider Malta their preferred destination (Thomson 2006: 5).

## 4.2 State Policy Response - Securitization and Liberalization

During the years following this increase in what is popularly termed ‘boat people’ reaching the Maltese shores, the issue of irregular immigration, or ‘illegal immigration’ as some commentators choose to call it<sup>3</sup>, has become highly politicized as a key issue to be dealt with. For example, in a public speech made by Deputy Prime Minister Tonio Borg in 2006 headlined “How Malta is dealing with immigration issues”, he stated that “[f]or Malta it is, I dare say, probably the most important social and cultural challenge it has faced for a very long time” (Government of Malta 2006: 1).

Since Malta has historically been a country of emigration rather than immigration, this rise in irregular immigration has caught the state off guard in dealing with the situation. The immigration issue has thus come to centre stage in a public state discourse where it portrays an image of itself as being small, vulnerable and economically underdeveloped, and thus unable to deal with the consequences of the recent irregular population movements into its geographical space. In the most developed state policy document so far, published in 2005 under the Ministry for Justice and Home Affairs, it states that:

Owing to its strategic position, exposed coastline and size, Malta is definitely much more vulnerable than other European countries when it comes to irregular migratory flows. Moreover, the Maltese islands are characterized by size (316 km<sup>2</sup>), a high population density of 1200 person/km<sup>2</sup> and a build up area of 23%. These characteristics not only reflect the country’s physical restrictions but result in a range of social, cultural and environmental challenges. (Government of Malta 2005: 6)

In this discourse of vulnerability and inability to manage the situation at hand, which is typical for the way the government portrays its situation, the issue of irregular migratory flows is made a priority issue in the document:

Malta considers the fight against irregular migration as a priority issue, not only because such migration patterns undermine national stability and pose challenges to the labour market but also because it considers itself legally and morally obliged to combat human trafficking. (2005: 7)

Here, the issue of irregular immigration is not only seen as an unmanageable logistical problematic, but is framed as an issue in the realm of public order and national security. The quote nicely exemplifies a broader discourse of exclusion and securitization in Malta, where the ‘challenge’ of immigration is always framed as being prior to the policy response of the state. The problem comes first and the policy is an instrumental reaction to it. Although the state of Malta may perceive itself as currently unable to do so (as we will see later), the objective is to stop the inflow of people and the policy is motivated in terms of security and restriction.

But to gain a proper understanding of this kind of discourse in liberal democratic states such as Malta<sup>4</sup>, I find it important to not analyse immigration policies in the light of simple dichotomies of restriction and expansion. Instead, I suggest in line with Geddes that “it is the co-existence of restriction and expansion tendencies that is a central feature of contemporary European immigration politics” (2000: 23), and so also in the Maltese context. The political process of the state attempting to gain sovereignty in controlling its borders, both discursively in public rhetoric and in concrete political action, must be analyzed in the light of parallel, and often somewhat contradictory, processes in policy implementation during recent years. In the following analysis, I will thus focus not only on the domestic legal (and other) instruments designed and currently employed to control immigration, but also on the accession of Malta into the European Union (EU), as the discourse of securitization and restrictive measures of the Maltese state must be understood in a broader European political context.

#### 4.2.1 State Border-Making

In the absence of a coherent EU immigration policy towards the Mediterranean, Malta has taken a number of unilateral actions (and bilateral through co-operation with sending and transit countries) to restrict access to its territory. These actions have essentially been designed to externalize immigration regulation, i.e. to attempt to stop the perceived problem of irregular immigration at the border through further militarization of border control and through co-operation with sending countries through readmission agreements and joint border policing.

With militarization, I refer to the process by which police forces gain a military status through the increased deployment of military-type hardware (Lutterbeck 2006: 65-66). In recent years, the Maltese government has upgraded its control capabilities by instituting retraining programmes for all officials involved with border control in The Armed Forces of Malta (EC 2003: 25), which is the governmental agency responsible for guarding the vas maritime borders, and also by complementing its patrol boats and the microwave system of the Maltese Army by investing in additional boats equipped with ultramodern instrumentation used for the detection of vessels in its search and rescue area (EC 2003: 24). In the international realm, Malta signed bilateral co-operation agreements with Libya in the year 2000, which are mainly framed in the fight against terrorism, drugs, organized crime and illegal entry. These agreements



were substantiated in 2003 through instituting co-operation in financial assistance and police co-ordination (EC 2003: 26-27). In 2002, a readmission agreement with Italy, originally signed in 2001, became effective. Similar agreements with Morocco, Algeria, Egypt and Tunisia have since also come into force (EC 2003: 16).

These are but a few examples of how the Maltese government has put its discourse of securitization into concrete action in an attempt to manage the inflow of people. Although the effectiveness of the implementation of these policies has been questioned, mainly on the grounds of the non co-operative nature of the Libyan regime, the objective remains clear: the state has taken certain steps in *an attempt* to try to claim its sovereignty and authority in the realm of immigration by restricting entry through an externalization of control measures. It thus deals with the nomadic migrant imperative to resist state control through the political exclusion of them as a category.

#### 4.2.2 Legal Developments in the Realm of Immigration Regulation

Given the restrictive rhetoric on the part of the government, one could expect that the logic of externalizing control measures exemplified above would have been dominant also in the domestic legal realm of immigration in recent years. This has not been the case though, and the reason is that the state has found itself restrained by outside sources in controlling and restricting immigration. First of all these include Malta's adherence to international human rights regimes such as the Geneva Convention signed by the country in 1970 (EC 2003: 15), but also, and more recently, by a number of laws and provisions that the country has been obliged to implement upon entry into the EU.

The main legislation regulating the movement of non-nationals to the Maltese island is The Immigration Act (Chapter 217 of the Laws of Malta), which until recently has been the only developed set of laws in this policy area. According to the "Country report Malta" published by the European Commission, the main strategy of this legislation has been to generate foreign income into the Maltese economy (2003: 9). Regardless of the nationality of the applicant for permanent residence, he/she must, according to this legislation, satisfy a certain economic status as demanded by the Maltese immigration authorities. The background to this policy is probably either to attract high-skilled labour immigration, or, as in the case of British immigrants, for historical reasons regarding Malta's connection to Great Britain as a former part of its colonial empire until 1964.

Malta must, like other European countries that have recently become destinations for migration, be understood in a broader context of EU integration. Baldwin-Edwards has noted that "with little experience of immigration control and regulation of resident aliens, southern policy initiatives inevitably have been influenced northern European norms" (1997: 498), and this, I would say, has in the Maltese context been especially clear in recent legal developments.

Before entry into the EU, Malta ratified the Dublin Convention, which determines which European country is responsible for asylum applications, and

more recently in December it joined the Schengen area in (working on measures for a second edition of this system, the SIS II). Adherence to the provisions of these two international regulations has had a number of effects restraining the ability of the Maltese state to gain control over the inflow of irregular immigrants (who often arrive without valid documents of identification). From the point of view of the Maltese state's granting of official status, the liberalizing implication of the Dublin Convention when it comes to immigration control is of course a higher number of asylum-applicants, or more importantly, greater difficulty to get rid of unwanted applicants as the first country the migrant arrives to is the one that must handle the application. Before ratifying the Dublin Convention, immigrants generally passed through the Maltese territory on their way further north. This process is what is often termed 'asylum-shopping', and its prevention is the main objective of the convention. Due to this, and of course the fact that Malta is a border state in the periphery of the EU, the convention is often criticized by the Maltese government who generally wants the whole arrangement to be revised as it creates what they consider too great a burden for the country (see Government of Malta 2006: 5).

The implication of joining the Schengen area has both liberalizing and restricting effects as it both opens up the country to the 'open space' of EU/Schengenland making it a possible destination for migration, and restricting as Malta being a border state of the union will bear a brunt of the burden of policing a part of its southern border to restrict entry to the union as a whole (this last point will be further dealt with in the next subchapter).

Although Malta, of course, respects the central tenets of the Schengen agreements, it has acted cautiously in certain ways, chiefly by negotiating a 7-year moratorium on free entry of EU-workers prior to joining the EU, which was mainly motivated by a fear of uncontrolled immigration from Sicily (Thomson 2006: 5) and of an outflow of highly-skilled Maltese citizens seeking employment in other EU countries (EC 2003: 11). The result of these negotiations, which were closed in June 2001, was that Maltese citizens could move freely to other EU countries to seek employment from the first day of membership, but the state was allowed to restrict entry in case of large streams of EU workers coming to the island, with a right to withhold work permits in the case of a disruption of its labour market (EC 2003: 11). Malta also remains restrictive in granting work permits, which can only be obtained for a limited period of time (usually one year) where the applicant must show specific employment purposes, and employers must demonstrate that they have made fruitless efforts to employ a Maltese national (Thomson 2006: 5).

As for legislation to deal with asylum applicants, Malta has until recently lacked a functioning system of its own. Upon accession to the EU, Malta was obliged to draft a Refugee Act, which was enacted in 2000 and finally came into full force in 2001. Before that, asylum applications were processed by the Emigrants Commission as UNHCR's operational partner in Malta, an institutional arrangement that was in use for over 30 years (EC 2003: 15). The Refugee Act essentially allows two forms of protection: either *refugee status* for people who fulfil the criteria based on the 1951 Geneva Convention, or *humanitarian*

*protection*, a category applied to people coming to Malta from war-torn countries for whom repatriation is not an alternative due to their countries of origin not being defined as safe third countries by the authorities in their interpretation of the definitions of ‘safe third countries’ in the Refugee Act. A convention status grants the applicant a temporary residence permit in addition to a permit of employment, education and health services and the issuance of travel documents, whereas humanitarian protection does not grant the applicant permission to work or freedom of movement, but does grant a renewable temporary visa for one year at a time that can be renewed as long as protection is deemed necessary (EC 2003: 17).

The vast majority of positive decisions in 2003 were found in the category humanitarian status. Hence, these persons can neither participate in the legal Maltese job market, nor can they move freely on the island or abroad (Country Report 2003: 17). In 2003 for example, 206 applicants received a positive decision on their application, of which 226 were granted humanitarian status while no more than 34 received Geneva convention status, a distribution that amounts to that of 2002 (EC 2003: 14). Although Malta has been fairly restrictive in granting Geneva Convention status, it has actually been fairly non-restrictive on the whole, especially in later years. For example, in 2003, a total of 471 decisions were made in 2003 by the Maltese authorities, of which no less than a majority of 260 decisions were positive in contrast to 211 negative ones. This constitutes a clear difference with 2002, when only 111 applicants were allowed to stay in Malta (EC 2003: 14).

In sum, as Baldwin-Edwards has argued, “[...] the relationship between national policy-making and the EU policy process is neither one-way or straightforward” (1997: 506), and this has most certainly been the case with Malta as the policy that has been developed in the context of EU accession should be characterized by parallel processes of liberalization and restriction. To understand Maltese legal developments, the EU should not be seen as just an external issue, as Geddes have argued, but rather that “compliance with EU obligations is an issue that goes to the heart of domestic politics” (Geddes 2001: 5).

#### 4.2.3 The External Dimension of EU policy

The fact that, as I have argued, the realm of immigration policy in Malta can be characterized as parallel processes of securitization and liberalization where the government attempts to gain control while being restrained by outside sources, is, as Boswell has put it, “a basic ambiguity in the logic of liberal democratic welfare state, as both an inclusive, equal rights-based project; and an organization for protecting a delimited group” (Boswell 2005: 7). To maintain territorial closure is essential to the maintenance of the social contract and the rule of law by avoiding internal control of society, and people defying state authority by crossing its borders thus questions the authority of the state itself. Migrants in Malta have gained a legal status in a post-national regime for human rights that surpasses the nation-state’s institution of citizenship. So, the Maltese sovereign *claim* to

*instaurate* a new political order by unilateral measures to externalize control measures have proved inefficient, and the government has therefore tried to find ways to develop and promote co-operation and burden-sharing on a European level.

EU policies on this so called ‘external dimension’ of Justice and Home Affairs (JHA) are still in their infancy, and no clear pattern of co-operation has emerged despite the union’s attempt to speed up the process through what Caviedes calls an ‘open method of co-ordination’ characterized by a non-binding process to develop efficient international co-operation (2004: 295ff), although methods of externalization has dominated over preventive ones aimed at dealing with the root causes of migration (Boswell 2003: 620). Maltese state officials and politicians have been very vocal about the necessity of European co-operation in immigration policy, especially the forms of co-operation that essentially externalize traditional tools of domestic or EU migration control, and has lobbied for a (in some cases) more co-ordinated and unified approach in various EU forums and in international ones such as the Barcelona process (Government of Malta 2005: 32). For example, they have on various occasions been granted funds from the EU for a range of projects from financing and building new migration reception facilities to the financing of flights to return immigrants to their country of origin (Times of Malta 2007b) to funding of NGO:s that co-operate with the state in immigration management (Times Of Malta 2007a). Malta has also repeatedly sought help from other EU countries in taking some of the asylum-seekers (BBC News 2005).

Maybe most importantly though, the Maltese government has been in favour of a deepened co-operation under Frontex, the Warsaw-based EU agency for external border security responsible for co-ordinating activities of the national border guards patrolling the borders to non-EU states. The main form of co-operation under Frontex, the so-called Operation Nautilus, was initiated as a pilot scheme in 2006 and has since finished two rounds of border control mission (The Economist 2007), and the third phase started in May this year and is scheduled to last 23 weeks and thus covering the entire migration season from May to October without any interruption (Times of Malta 2008). It is still too soon to assess the impact of these joint naval missions, but this year’s round is better funded and includes the co-operation of Italy, who has previously refused taking part arguing that it is pointless without the involvement of Libya, who will probably continue its policy to refuse to accept migrants saved in the Libyan search and rescue area (The Economist 2007).

One thing seems clear though, the EU is stepping up the efforts to better its naval co-operation and Malta is moving along<sup>5</sup>. Here, the Maltese state and its sovereign claim to authorize itself must be understood as being part of a network of power aimed at managing the inflow of people through a form of governmentality and what Bigo has called the “transnationalization of the bureaucratic systems of control” (2005: 55) through which one hopes to deter and halt further transgression of the common external border of the EU through policy co-operation.

# 5 Immigration and ‘Internal’ Dynamics: Sovereign Power, Territory and Identity

As I have argued in the first part of this thesis, the Maltese state has been unable to halt the imperative of people’s desire to move, both through unilateral and multilateral action. It remains to be seen if the direction the EU policy will turn towards further restriction or a more open approach, and what consequences any trend will have for Malta in the coming years. But as flows of immigration continues, due to the factors connected to the internal logics of the liberal state discussed in chapter 4.2.3, it seems to me that Foucault’s analysis of the historical move from the ‘territorial state’ to the ‘population state’ becomes useful (Bigo and Guild 2005: 3). Rather than understanding the migration of people by attaching them to a clearly defined territory, the analysis must be more concerned with a complex relation between territory and border and the ways in which the state follows and traces the movement of people.

## 5.1 Border-Making and Territoriality

As Bigo has noted, we generally understand the concept of the ‘border’ in the traditional analysis of the territorial state as a materialized line that differentiates between an inside and an outside, with control over who crosses the line (2005: 52). In analyzing the population state, Bigo here makes a distinction between the concepts of the ‘boundary’ as an act of drawing a line, and ‘frontier’, which rather than being a result of an act, or a given fact, is a form of institution that connects space and population and defines the limit of a territory (2005: 52). In Bigo’s view, the underlying concept of the ‘frontier’ thus defined, is that it describes the possibility to consider a territory a space one belongs to. Therefore, in Bigo’s analysis, “a frontier describes the relation between forces, between powers that must struggle for delimitation in a competitive way whereas a border is the materialization in space of this struggle through time” (2005: 52).

When applied in the Maltese context, this kind of analysis creates confusion as for the location of the Maltese state frontier, of what/who is inside and outside. The contradictory nature of both EU and Maltese policy with their parallel processes of restriction and liberalization that I discussed in chapter 4, and the fact that liberal states such as Malta do impose internal restrictions – or ‘internal frontiers’ if you will - raises questions about who a migrant is and why a migrant

defined as an ‘outsider inside’ is breaking the traditional division between citizens and foreigners. In analyzing the ‘population state’, it is not only relevant to discuss state border making as I did in chapter 4.2.1 and 4.2.3, but also to analyze, as Bigo puts it, “where the frontier runs for the individual, what the relationships between state and frontier, political authority and collective identity are, and how one can develop a framework that gives rights to the individuals” (Bigo 2005: 53).

When people enter into the Maltese territory and the state is unable both to stop them through its control instruments, and remove them through expulsion, their nomadic desire effectively restructure the relations of power. Immigration thus becomes a problematic that is not only addressed through the preferred external control measures, it also becomes: (1) an attack on state sovereignty giving rise to the state implementing internal control measures, and (2) an attack on society itself, raising questions of belonging and identity (as immigrants in society threatens the coherence of the national identity).

My objective with the remainder of this thesis is therefore to analyze state sovereignty in relation to both the problematic of internal control and Maltese identity politics in order to understand both the connection between the state and the frontier, and the dynamics of power that determine the relations of internal state control and resistance to its measures.

## 5.2 Internal Control Measures and the Liberal State of Malta

As I have argued, closure and externalization of migration control is a central logic of the liberal state, as domestic control threatens to disrupt the legitimacy of the rights-based state. Therefore, it is important to not overstate not only the capacity, but also the will of the national state to monitor and control people inside its territory. The analysis of how the Maltese state deals with this problem is the topic of this chapter.

### 5.2.1 The Detention Policy

As states fail to restrict access to their national spaces, they do impose restrictive measures of different kinds such as security checks and surveillance in the public space, in welfare systems etc. In this context, the Maltese government has chosen to adopt an automatic detention policy for all asylum seekers after apprehension by the immigration authorities. Until not too long ago, the duration of detention was indefinite as it lasted as long as it took for an application to be examined and to make a final decision, but since 2003, the government has adopted a maximum length of 18 months in detention (EC 2003: 18) after which the applicant is transferred to an open centre if the processing of his/her application has not been

finished (Amore 2005: 21). Immigrants are thus detained on the basis of an administrative decision as required by the Immigration Act.

This policy, the strictest in Europe, has received heavy criticism for the extensive duration of detention by the UNHCR (Amore 2007: 240), and in 2004, it was also criticized by the Commissioner for Human Rights of Council of Europe at the time, Mr Álvaro Gil-Robles, in a report on his visit to Malta in October 2003. In this report he criticizes the detention policy for not being in line with the recommendation and measures of detention of asylum seekers adopted by the Committee of Ministers in 2003, as incarceration according to these recommendations is only permitted after cautious and individual examination of each case and should be subject to proper legal checks, which, according to this report, is clearly not the case in Malta (Gil-Robles 2004: 5).

Moreover, a good number of reports critical of the living conditions in the detention centres have been published<sup>6</sup>, including the Gil-Robles report, in which he claims, with reference to an investigation conducted by the EU Committee on Civil Liberties of Justice and Home Affairs, that four of the administrative detention centres were in deplorable conditions and thus failed to live up to legally binding international standards (Gil Robles 2004: 20).

Despite these pressures, the government has stayed with this policy. In the policy document published in 2005 under the Ministry for Justice and Home Affairs, detention is motivated as follows:

“It is therefore in the national interest, and more specifically, for reasons concerning employment, accommodation and maintenance of public order, that a detention policy be adopted in cases concerning the arrival of irregular immigrants. Such a policy has actually been in force since the enactment of the Immigration Act in 1970.” (Government of Malta 2005: 6)

The policy is thus motivated not only in terms of practicality, but in terms of ‘public order’, which is a part of the tendency to bring immigration issues into the realm of national security as discussed in chapter 4. To determine the actual motivation for such policies is difficult, as a range of reasons may be of importance, but I am tempted to analyze it in the light of the ‘liberal state thesis’ as a continuation of the state’s attempt of closure. As the state finds itself unable to restrict entry to its territory due to the difficulty to control its maritime borders, or expulse irregular immigrants due to being restrained by outside sources, the detention policy can be understood as a way to avoid internal security measures that may infringe upon the rights of its own citizens. Here, to use the reasoning of Bigo, the frontier for these detained people runs inside the very territory they have entered, and therefore complicates the traditional way of understanding the connection between state and territory. The Maltese state’s sovereign claim should not be understood as (a failed) ‘power container’ whose frontier simply runs along its external (‘materialized’) borders. Rather, in an act of closure it sets up ‘internal’ bodily restrictions through its policy of strict detention.

It is important to stress that immigrants are not just objects to this sovereign claim to bodily control, but must also be understood as actors capable of a

(plebeian) resistance that defines the logics of power at hand. For example, there have been instances of detainees going on hunger strike to show discontent their situation (Malta Today 2005), and more importantly, through the protests that were organized by the detained immigrants at the Hal-Safi centre the 13<sup>th</sup> of January 2005 when some 90 people conducted a peaceful protest by refusing to re-enter the centre at the end of an exercise period. The military intervened and a riot ensued, leaving 26 detainees wounded. What actually happened is a matter of controversy; human rights organizations such as Amnesty International have been very critical of the investigation conducted by the Maltese Board of Inquiry headed by the retired judge Lusice Franco Depasquale, arguing that contrary to the conclusions of his report the violence was not justified (AI 2005).

No matter the details of these incidents though, the overall logic of the policy of detention that Malta has adopted exemplifies the way in which sovereign power operates by imposing bodily restrictions and frontiers inside (national) state territory through what Agamben would call the ‘camp’<sup>7</sup> - an administrative space in which people who have not formally committed any crime but challenges state authority are denied their mobility, which results in a dialectic of exclusion and inclusion being set in motion. Subjects caught inside these camps are not recognized by the legal order in the normal sense, but are at the same time included in that order through the exclusion from the very political order they constitute.

## 5.3 Identity and the State – Immigration and the Politics of Identity

With continued irregular immigration despite state efforts to stop it, the increased awareness of foreigners in the Maltese society has raised questions of belonging and identity as immigrants upsets the coherence of national identity. In this chapter I will briefly discuss the main discourses on immigration in Maltese political life, to gain an understating of the relations of identity, territory and sovereign state power.

### 5.3.1 Maltese Nationhood

Although Malta has enjoyed sovereign statehood since 1964, it has traditionally had an elusive sense of nationhood for a number of historical reasons. In his article “A Nationless State? Malta, National Identity and the EU”, Baldacchino argues that since independence there has been a disequilibrium between the state and the nation in Malta due to the absence of a struggle with a clearly defined external ‘other’ as “a sovereign island state may have little inducement towards developing a territorially based nationalism” (2002: 194). In fact, as in other former overseas island territories of the British colonial empire, there has been an



upside-down form of decolonialism where Malta has wished to remain part of the British sphere of power, rather than struggling through armed insurrection against the colonial master which has been the case in many other colonial settings (Baldacchino 2002: 199). Furthermore, the weak sense of nationhood has been shaped by factors such as (1) Malta, through the insularity of islandness and its history, being well defined territorially, (2) the speaking of a unique language, (3) the historical absence of racial tensions, and (4) the unifying effect of the Catholic faith (Baldacchino 2002: 194), of which the latter is the closest to a national symbol of the Maltese as you can get as a factor in moulding a Maltese sense of national identity, albeit in a non-secular fashion (Baldacchino 2002: 196).

This effect has been reinforced by the institutional settings of the Maltese political system with its unicameral and proportional system with only two political parties, the Malta Labour Party (MLP) and the Nationalist Party (NP) represented. Since partisanship in the polity is so pervasive, the political party takes on, according to Baldacchino, the characteristics of an 'etnie', a moral community similar to that of a family (2002: 197). According to Baldacchino, this loyalty to the political party may, whether real or imaginary, "easily override any sense of national patriotism to the larger civic and territorial whole (2002: 198). In modern history, the two main political parties and the Catholic Church has thus constituted the main anchors of identity, and the 'national interest' has been overridden by frenzied partisanship internally and replaced by integrationism externally in its colonial past.

Baldacchino argues that Malta in its sceptical and rather ambivalent relation to the EU, may suddenly have found an external 'other' that could serve as a precondition for a Maltese nationalism, since questions of Maltese identity were widely discussed in the debates concerning the accession (2002: 200) especially by the 'no' side of the campaign (Cini 2008: 590). These concerns with belonging in the pre-accession phase were neither partisan political nor religiously defined: they cut across party and ideological lines.

I think that the 'immigration problem', and the various social and political dynamics that it has been connected to, is another issue that has fostered a reflection among the Maltese concerning the national identity and what it means. This process can not be understood as an objective or instrumental reaction to an increase in irregular immigrants coming to the island, but rather as an actively created discourse that channels what Boswell called "diffuse socioeconomic and cultural concerns" (2003: 623) into a 'migration problematic' in a security practice that develops in response to what is perceived as an existential threat – the threat of uncontrolled immigration. Huysmans has argued that:

"Security policy is a specific policy of mediating belonging. It conserves or transforms political integration and criteria of membership through the identification of existential threats". (2000: 757)

It is thus an internal logic of the securitarian reasoning that I have discussed in this thesis that the tendency of a political and social identification of a Maltese national community develop in response to an existential threat, whether it be

liberal values and competition in the work-market that may result from EU membership, or in the form of an increased presence of ‘illegal immigrants’ in society.

As for the immigration issue, the intensified concerns over identity can be most bluntly exemplified with the rise in recent years of a number of political movements that criticize the presence of foreigners and the government’s, as they see it, soft approach to curb irregular immigration. In 2005, a pressure group was created on a religiously inspired conservative/nationalist platform, the *Alleanza Nazzjonali Repubblikana* (ANR). The ANR organized two controversial demonstrations in Valletta against ‘illegal immigration’, one on September 5th 2005 (*Times of Malta* 2005) and another on June 8th 2006 (*Malta Today* 2006). In June 2007 a new political party was formed, the *Azzjoni Nazzjonali* (AN), that does not embrace a right-wing or left-wing ideology but is set to work for the benefit of Malta at large. The AN policy on immigration is highly restrictive, arguing for example that illegal immigrants reaching Malta will be hosted for one month and subsequently resettled in other member states (*Malta Media* 2007).

The AN and the ANR are often careful to disassociate themselves from any notion of racism, but these movements share an argumentation on immigration issues that is rooted by reference to invasion and inassimiliability. For example, during the first protest against immigration in Valletta, the leader of the ANR, Mr Phillip Beattie, that: “We appeal to all those against us not to call us racist. We are proud to be Maltese and we just don’t want to become the toilet of the Mediterranean” (*Times of Malta* 2005).

Although movements such as the ANR and AN are tiny and lacks wide popular support<sup>8</sup>, they must be understood in a context of increased public criticism of immigration and racially motivated violence that peaked in 2006 with a number of attacks targeted at individuals or organizations working for migrant and refugee rights<sup>9</sup>. The discourse of inassimilability and exclusion by the ANR and the AN has intensified in this context and is an extreme form of what Bigo calls ‘Sieve Europe’ (Bigo 2005: 67), a discourse of exclusion on immigration that “raises identity questions in an essentialist manner and opposes block against block, cultures and civilizations whose values are seen as antagonistic” (2005: 69).

### 5.3.2 Mainstream Political Parties – a ‘Sieve Europe’ Discourse

The main political parties, the NP (who has been in government all the years subject to this study), the MLP, and even the green party, the *Alternattiva Demokratika* (AD), all denounce the discourse of movements such as the AN and ANR, but their own rhetoric on immigration remains in the framework of the ‘Sieve Europe’ discourse, albeit in more moderate forms.

As I argued in the first part of this thesis, the NP-led government has focused heavily upon trying to hinder immigration by sealing off the southern border through increased surveillance and externalizing co-operation with sending countries, and maintaining the strict detention policy, in their rhetoric. The MLP

has by and large been in favour of the NP policies, sometimes even trying to outdo them in securitarian reasoning. For example, in 2005 when MLP leader Alfred Sant was asked by Malta Today whether a future Labour government would honour United Nations conventions protecting irregular migrants from automatic repatriation, he said that “although human rights are important, ultimately the national interest should prevail over any other consideration” (Malta Today 2005). In other instances, MLP officials have deployed a discourse that many have been surprised hearing, such as when Joseph Sammut, Labour member of parliament for Zurrieq and B’Bugia, addressing the House of Representatives during adjournment, according to Malta Today said the following:

“It’s become impossible to get on the bus.... Literally, any bus numbered 13, which is there for the benefit of B’Bugia residents, is always packed with these ‘klandestini’. (The government) must either increase the service on this route or come up with something else. Introduce a bus service just for them, but our citizens cannot be ignored...” (Malta Today 2007)

Although disagreeing with the government’s policy for example on details of the detention policy, even the discourse of AD, the green party, can be described as following the logic of ‘Sieve Europe’ rhetoric. In its position paper on irregular immigration, it approves of the central tenets of the government policy, including the focus on external border police co-operation, the detention policy as ‘a necessary evil’, and proposes further state activity in the area of integration and social inclusion such as immigrants being assisted by trained professionals during their ‘first months of freedom’ and language and cultural education during the time of detention (see Alternattiva Demokratika website).

In sum, the ‘Sieve Europe’ discourse takes different forms ranging from securitarian reasoning of ‘national interest to blatant xenophobia is clearly dominant in Maltese society, and crosses party and ideological lines, which I think reflects the decline of traditional partisanship (Cini 2008: 594) in favour of an emerging prominence of a new identity discourse of nationalism that creates ‘strange bedfellow’ coalitions in the realm of immigration discourse.

### 5.3.3 Counter-Discourses: ‘Fortress Europe’

In relation to this intense public ‘Sieve Europe’ discourse of exclusion, a counter-discourse can be identified, mainly represented by pro-immigration movements such as Moviment Graffiti, and human rights NGO:s such as Amnesty International and the Jesuit Refugee Service.

In an interview with the Malta Star this year for example, a representative of the Moviment Graffiti stated, in a critique of the governments supposed effort to build a ‘Fortress Europe’ through its policy, the following:

“Frontex is the most recent step in the strengthening of the “Fortress Europe”. It is clear that the aim of this mission is to send migrants back to Libya, irrelevant of the fact that here they cannot apply for protection and that they can therefore be sent back to countries where they will face persecution. Europe also seems to turn a blind eye to the continuous harassment, even by the Libyan institutions, of migrants in this country.” (Malta Star 2008)

A similar critique of the ‘Fortress Europe’ is to be found in the movement’s position paper on asylum seekers (see Moviment Graffiti webpage).

This discourse can of course be further exemplified with the various critiques of the Maltese state’s asylum management and detention policy by human rights organization such as the Jesuit Refugee Service and Amnesty International that I referred to above, as well as various public statements by human rights organizations opposing the EU’s immigration control policy towards the Mediterranean such as Statewatch’s critique of the securitizing discourse and Frontex co-operation resulting in the death of immigrants in Maltese search and rescue waters (Statewatch 2006), and the critique of EU policy towards Libya as an effort to attempt of “exporting Fortress Europe” (Statewatch 2005).

As the ‘Sieve Europe’ discourse excludes immigrants from the normal fabric of society as an ‘outsider inside’, they become constitutive, through their very exclusion, to the Maltese society in the production of a myth of national homogeneity. In the context of the (liberal) Maltese state’s largely liberal policy on immigration and inability to enforce efficient restrictions, the ‘Fortress Europe’ discourse must be understood not as an accurate description of actual events, but rather as a propaganda discourse that serves as a reaction to the dominant discourse of restriction. Both discourses share the same assumption of a ‘strong sovereignty’ that is actually able to implement the restrictive and excluding measures it advocates in public rhetoric.

## 6 Conclusion

In this thesis I have discussed the impact of increased immigration upon the Maltese state and society. In an understanding of the concept of sovereignty as a *claim to instaurate* political orders, I have analyzed how the Maltese government has acted to deal with a perceived immigration problematic, both in the discursive realm and on a concrete level of political action. I have argued that the (liberal) state has found itself restrained by outside sources in its claim to act by externalizing immigration control both in restricting entry and in ‘getting rid’ of irregular immigrants who have made it into national state territory. This has prompted the government to seek forms of multilateral co-operation in various international forums - chiefly the EU, but also in the context of a developing Barcelona process - in a developing post-nation-state form of governmentality. The outcome of this policy development remains to be seen.

In the second main part of the text, I have taken the fact that unwanted immigrants, due to the state’s inability to restrict entry as discussed in the first part, have become a constitutive part of the Maltese society through their exclusion as ‘outsiders inside’. Here, I have first analyzed how the state in a claim to sovereignty has imposed internal restrictions, mainly in the form of a strict detention policy, and how this phenomenon raises questions of the relationship between state and territory. I have argued that current dynamics are best understood in the context of the Foucauldian concept of the ‘population state’, in which immigrants and their plebeian resistance to state authority is not to be analyzed by associating them with a specific territory. Second, I have analyzed the way in which immigration, and the presence of immigrants in Maltese society has ignited two main opposing discourses on immigration that both share the same assumption of a strong state sovereignty in the realm of immigration control, which has put the state and its actions at the centre of public attention and ignited an interest new forms of national identity and perceptions of belonging.

## 7 Notes

<sup>1</sup> For an example of theorists proclaiming the latter view, see Laffey and Weldes (2004).

<sup>2</sup> In this period, there was actually a limited immigration of people from countries such as India and Nigeria (Amore 2005: 25).

<sup>3</sup> In December 2002, the Maltese parliament decriminalized entrance without permission for all migrants without valid documents (Gil-Robles 2004: 4).

<sup>4</sup> In my use of the concept of ‘liberal democratic state’, I follow the definition provided by Freeman as “systems characterized by free constitutions founded on individual rights, competitive party systems, and regular elections” (1995: 883).

<sup>5</sup> In fact, the strategy of the Maltese government must be understood in the context of other European countries in the Mediterranean, as southern Europe seems to have been supportive of all measures passed under the third pillar dealing with detection and expulsion of illegal immigrants and the employment of such (Baldwin-Edwards 1997: 510).

<sup>6</sup> These investigations usually point to the insufficient supply of some basic needs, such as lacking sanitary conditions, limited community space, poor quality of buildings, lack of privacy, intense psychological pressure due to a lack or absence of contact with the outside world and so on. For more information, see for example the reports issued by the International Federation For Human Rights (2004), the Jesuit Refugee Service (2007), the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (2005) and various public statements and reports by Amnesty International (2005; 2007) and the Jesuit Refugee Service (2003; 2005).

<sup>7</sup> For a discussion of the concept of the ‘camp’, see Wadiwel (2002).

<sup>8</sup> Azzjoni Nazzjonali took part in the 2008 general elections but gained a mere 0.50% of the votes. The peculiar racist party Imperium Evropa gained 0.03% (Government of Malta 2008).

<sup>9</sup> In early March 2006 the house of a poet was subjected to arson a few days after he launched a book of poetry promoting tolerance and refugee rights (AI 2007) and seven cars belonging to the Catholic Church’s Jesuit Community were destroyed by fire at night before publication of a report on racism and xenophobia (Malta Today 2006). In May, the house of the editor of Malta Today had his house torched shortly after the publishing of an editorial on racism and immigration (AI 2007) and a journalist from the daily newspaper The Malta Independent, who had denounced the extreme right and written about racism and immigration, had her house attacked by arsonists.

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