

POLICY COMMENTARY

Modern Slavery Made in Italy—Causes and Consequences of Labour Exploitation in the Italian Agricultural Sector

Ruggero Scaturro

GI-TOC, AT

ruggero.scaturro@globalinitiative.net

Through this paper, the author emphasises the importance of the role that migrant women and men play in the Italian agricultural sector, and the need to better protect them from forms of labour exploitation. Italian products are well known all over the world and represent the excellency of an entrepreneurial fabric made of thousands of family-run small and medium enterprises which from the Alps to Sicily produce unique fruits, vegetables, food, and wines. But a long history of illegal recruitment and labour exploitation, known in Italy as *caporalato*, tarnish the long supply chain which brings Italian agri-food products to dining tables and market shelves across the globe. In addition, to cope with the forms of exploitation occurring in the Italian countryside, this the paper points out the need to harmonise norms and regulation on labour, migration, and human rights. In doing so, it also argues that both the mens legislatoris and law enforcement authorities modus operandi should progressively move from an approach which is based on a relentless pursuit of the organized crime component for criminalising the acts of labour exploitation and illegal recruitment as defined in the criminal code, to a more comprehensive and holistic approach which puts the rights of migrant agricultural workers as the agenda's top priority.

Keywords: forced labour; labour exploitation; organized crime; Italy; migration

The 2020–2021 biennium marks a memorable break in historical memory, as the COVID-19 pandemic further undermines the already existing socio-economic inequalities and fragilities that affect the most vulnerable groups of Italian society.

In agriculture, for instance, there are many Italian and foreign women and men who tirelessly work in precarious conditions for a sector that has probably never been as indispensable except during war times.

Especially in pandemic times, agricultural workers provide substantially for society, and their support is often underestimated: it guarantees food supplies, which, especially in a situation of uncertainty and fear for the future, fundamentally contribute to maintaining a certain reassuring degree of apparent normality. During such hard times, therefore, it is worthwhile to shed light on both what and who are really behind the long agri-food supply chain, and who benefits from enjoyment of Italian products both in Italy and overseas.

The 'Made in Italy' brand is considered a guarantee of quality all over the world, and EU-certified products promote the excellence of Italian agri-food products. Italy is, in fact, the country with the highest number of Protected Designation of Origin (PDO) and Protected Geographical Indication (PGI) food products recognised by the European Union: *Parmigiano Reggiano*, *Bresaola della Valtellina* or *Chianti* are just 3 of the 295 PDO food products and 523 PGI wines certified.¹ Family-run farms produce top-quality fruits and

¹ The Protected Designation of Origin (PDO) is a European mark of origin that is attributed to those foods whose peculiar characteristics depend essentially on the territory where they are produced. The geographical environment includes natural factors (i.e., climate, environmental characteristics) and human factors (i.e., technical production handed down over time, mastery of production, know-how), which, when combined, allow to obtain an inimitable product outside of a particular area of production. The Protected Geographical Indication (PGI) indicates a mark of origin that is recognised for those food products for which the specific quality, reputation or other characteristics are closely dependent on the ability of production, processing and/or preparation developed in a specific geographical area. Source: <https://www.authentico-ita.org/classifica-prodotti-dop-igp/>.

vegetables desired across the globe, but all that glitters is not gold: from the southern *latifundismo* systems that emerged after World War II to modern schemes of forced labour throughout the country, Italian 'excellencies' have often counted on crime perpetrated against rural and agricultural communities.

Starting with an analysis of labour exploitation instances, this paper offers a cross section of the Italian agricultural system and highlights the importance of the role played by migrant workers in terms of not only their relative contribution to the total agricultural workforce, but also the support they seasonally guarantee to Italian entrepreneurs for the production of their excellencies. Second, it sheds light on some of the many forms of labour exploitation taking place in Italian agriculture, which are part of a phenomenon of modern slavery known in Italy as *caporalato* and that affects thousands of migrant workers every year. Third, by analysing the phenomenon from a supply-demand perspective, and then illustrating how the Italian legal system regulates labour and migration with an emphasis on the newly introduced law on labour exploitation, this contribution argues that *caporalato* takes place in the Italian countryside for a number of different reasons ranging from the lack of a human rights-based approach (HRBA) in the Italian legal instruments, to the role that large international retail groups play in ensuring price stability. Finally, it concludes with a few recommendations aimed at promoting a more holistic approach to the phenomenon, while arguing that a persistent search for an organized crime component in labour exploitation might often result in misrepresenting the seriousness of single and isolated cases of exploitation.

The Italian Agricultural Sector at a Glance

According to the Italian National Statistics Institute (ISTAT), the agricultural sector represents 2.1% of the entire Italian economy, and, if considered together with the food industry, they collectively account for 3.9% of the national GDP (ISTAT 2020). In absolute terms, the annual value of agricultural production in Italy stands at 57.8 billion EUR, and, in a cross-country comparison, Italy ranks third among its main EU partners after France (77 bln EUR) and Germany (58.2 bln EUR) and before Spain (51.7 bln EUR), while, in terms of added value, it ranks first in the European Union (EUROSTAT 2020).

With regards to employment, according to most recent estimates in Italy there are 1,060,000 workers involved in agriculture and 188,000 registered farms, which, in addition to workers, employ around 37,000 white-collar employees, managers and executives (EBAN 2019).

In line with other national dynamics in Southern and Western Europe, agricultural employment in Italy is characterized by a high degree of seasonality: short-term workers account for 90% of the total workforce employed in agriculture, compared to 32% in the economy at large (EBAN 2019).

Data show a clear prevalence of small and medium-sized enterprises (SMEs) having an average output of 45,000 EUR, with strong variations between northern regions, with particularly high outputs in Lombardy, Emilia-Romagna and Veneto, and less economically developed southern regions, such as Apulia, Campania, Calabria and Sicily (CREA 2020).

Agricultural SMEs can annually count on around 840,000 agricultural workers, and out of these, 400,000 or 48% are migrant workers coming from more than 120 countries, but mainly from Romania (EU member), Morocco, India, Albania, Poland (EU member), Bulgaria (EU member) and Tunisia (Coldiretti 2018).

Both Italian and migrant agricultural workers constitute a substantial part of the manpower seasonally needed more or less equally across Italy (Coldiretti 2018), but out of these, more than 50% are employed informally, and 38.7% are underpaid (Osservatorio P. Rizzotto 2020).

Migrant Workers, Modern Slaves

Italy's most famous tomatoes, grapes or rucola abundantly laden dining tables and supermarket shelves in Europe and overseas, and large-scale exports rely on considerable levels of production both in terms of market volumes and wealth produced (Carbone, Henke & Pozzolo 2014). Landlords and farm owners annually benefit from a stable supply of migrant workers who are, in turn, highly exposed to exploitation. For instance, in the historical Italian region of *Capitanata* alone (an area of 7,002 km² in the southern province of Foggia), farmers can count on the presence of more than 7,000 migrant workers employed during the tomato harvesting season every year (MEDU 2019), but migrant workers are generally available across the country in considerable numbers and, according to D'Auria, thousands of them experience some form of *caporalato* (2019).

Caporalato is the Italian term for the exploitative system of recruitment practices that disproportionately affect migrant workers and which often lead to forced and bonded labour situations (Di Martino 2015).

These practices are part of an elusive and multi-offensive phenomenon, operated by *caporali* (illegal recruiters) and facilitated by many irregularities of a long and unethical supply chain (De Martino et al. 2016). According to data elaborated on by the Osservatorio P. Rizzotto, around 400,000 farmworkers are informally employed through *caporalato*—or by *caporali* (2020). Out of these, it is estimated that one fourth (around 100,000) are subject to labour exploitation varying from inadequate housing to lack of access to potable water (Osservatorio P. Rizzotto 2020).

Migrant workers face circumstances of labour exploitation (or forced labour when workers have to pay off inflated recruitment, accommodation, transportation or meal costs) as these practices are defined by the International Labour Organization (ILO) (ILO 2009), because farmworkers employed by the *caporali* earn a daily wage that is about 50% lower than those paid according to either nationally or regionally agreed collective contracts. In practical terms, that means a wage of about 25 EUR for a working day of up to 12 hours with no breaks, but there have been reported cases of more serious exploitation, where migrant workers received a wage of 1 EUR per hour (Osservatorio P. Rizzotto 2020: 60).

Caporali force migrant workers to exclusively rely on them for any sort of basic need: 5 EUR for transportation to the fields packed in trucks, 1.5 EUR per bottle of potable water, 3.5 EUR for a sandwich and various extras for other basic needs, including health.

With regards to housing, especially in southern regions, workers are forced to pay rent for one of the many hovels made of metal sheets in the *baraccopoli* (slums) in the surrounding fields, and in addition to that, more than 70% of exploited labourers develop illnesses that were not detected before entering the seasonal agricultural working cycle (Osservatorio P. Rizzotto 2020: 65).

Nationally, approximately 25% of SMEs in the agricultural sector benefit from the services of *caporali*: there are roughly 30,000 companies that use the services of such recruitment intermediaries. Out of these companies, 60% hire what the Osservatorio Placido Rizzotto terms *caporali capi-squadra* (foremen): migrant workers with a 'special status', who find themselves in the position of actively exploiting other migrants while they themselves are exploited (2020). Throughout Italy, there have also been reported instances of Italian *caporali* who are affiliated with organized crime groups; one such case involved a *caporale* working for the 'Ndrangheta clan Grande Aracri operating in the northern region of Emilia Romagna (Osservatorio P. Rizzotto 2020).

For years, however, *caporalato* has been profoundly underestimated and misunderstood by both the general public and law enforcement authorities as a 'southern issue': in other words, it was deemed to be one of the many manifestations of extortion by southern organized crime actors. As a result, the many cases of labour exploitation in central and northern Italy that do not appear to involve affiliates of southern organized crime groups have been given relatively little attention. Moreover, local court judges display a tendency to dismiss cases that lack a nexus to organized crime as a 'moral obligation' to respect entrepreneurs who 'create jobs' and produce wealth in the territory (Osservatorio P. Rizzotto 2020: 415).

However, because the legal framework regulating the phenomenon was reinforced in 2016 (Maccarrone 2018), around 355 *caporali* have been either reported or arrested in more than 80 different locations, with a total of 163 cases throughout the country (Osservatorio P. Rizzotto 2020: 129).

Figure 1 illustrates the distribution of *caporalato* cases identified in Italy and shows that the phenomenon is present throughout the country, irrespective of the region of influence/origin of major organized crime groups. Furthermore, **Figure 1** also confirms that, in the years since the new law was introduced, progress has undoubtedly been made as prosecutors have started investigating not only the presence of organized crime networks behind local agribusiness supply chain of northern regions, but also single and isolated cases without linkages to organized crime (CIDV 2020).

Enablers of Forced Labour in the Italian Agricultural System

Because there are a number of dynamics to be taken into consideration when trying to comprehend the causes of exploitative recruitment systems such as the *caporalato*, the following section aims at listing some of its enablers and attempts to situate them within a sort of supply and demand framework. From this angle, the supply of migrants into the agricultural workforce is enhanced by three elements: wage differentials between the low-income countries from which migrants originate and higher-income countries, such as Italy; bureaucratic barriers to obtaining work permits; and geographical proximity.

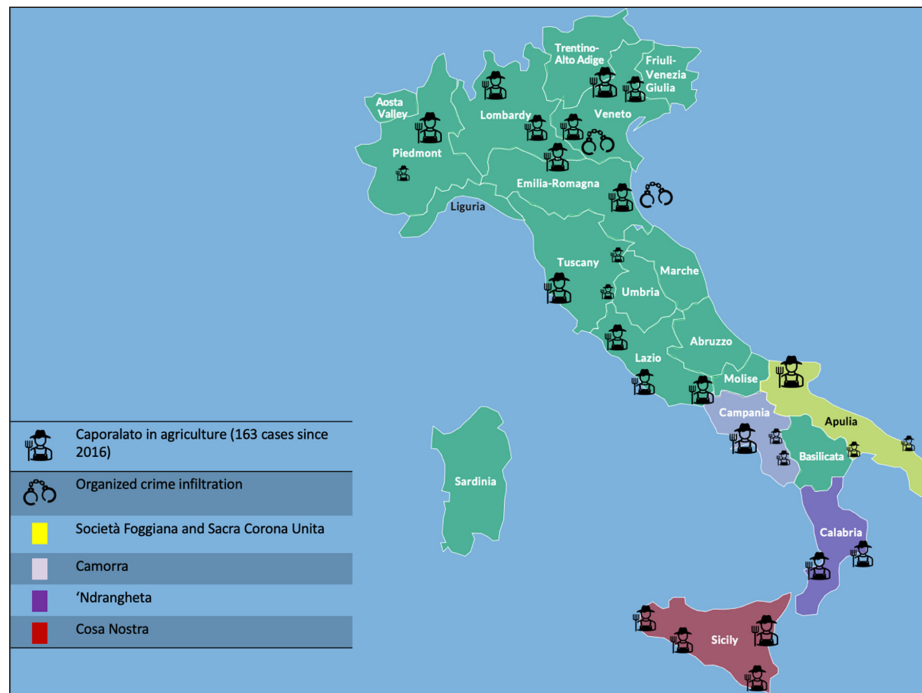


Figure 1: Distribution of forced labour cases in agriculture in Italy (source: author).

From a socio-economic perspective, wage differentials are an opportunity to earn relatively more than what migrants might in their country of origin and to provide additional financial support to their family in the form of remittances.

Regarding bureaucratic barriers, as complex regulations make legal entry in Italy and in the job market rather difficult, the procedures for obtaining a work permit in Italy can take years to complete. It is often the case that the visa applications of migrants who arrived in Italy in the 2000s (especially those from Bangladesh, India, Pakistan and Sri Lanka) are still pending. Individuals might then tend to look for alternatives, such as undocumented entry and help from recruitment intermediaries who know the legal system and can misuse it; relying on intermediaries may be their last resort in order to survive.

Third, geographical proximity necessarily plays a role as, over the years, the central Mediterranean route has acquired significant importance for irregular migration flows from West Africa and the Sahel, then through Libya to Italian shores.

On the other hand, the prevalence of SMEs in the Italian market, a buyer-driven agri-food supply chain, and historical reasons are the main components of the demand side.

The Italian agri-food industry is characterized by the prevalence of SMEs that sustain themselves on small-scale and targeted investments, low levels of mechanization and, relatedly, considerable need for manual farmhands (Corrado 2018). As the local Italian population is generally uninterested in heavy and unskilled work, owners rely largely on migrant workers (Garrapa 2019).

Third, SMEs and landowners are often subject to the will of large retail organizations' economies of scale that benefit from considerable market and purchasing powers allowing them to out-price smaller players (the SMEs) with narrower cost margins.

Finally, from an historical perspective, the informal economy has always been deeply rooted in Italian agriculture. The phenomenon of *caporalato* characterized the Italian countryside in the period after World War II, and while the phenomenon has remained similar, the subjects of exploitation have changed over time: in the past, *caporali* facilitated producers' access to local manpower from Italian rural communities; today, they rely mostly on a migrant workforce.

The Legal Framework

The following section aims at briefly illustrating the legal framework as it applies to the broader environment in which *caporalato* takes place and by reference to Italy's obligations on matters related to migration, its interconnection with labour, and the legal status of migrant workers at the international and regional levels and, more particularly, at the national level.

The international legal framework

Irrespective of national legislative systems and their varying degrees of criminalization across the globe, labour exploitation generally implies a condition of vulnerability of workers (UNODC 2015). The latter concept is largely regulated internationally by a number of International Labour Organization (ILO) conventions, the UN Convention against Transnational Organized Crime (UNTOC) and the 1990/2003 Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (UN General Assembly).

Italy introduced into its legal system internationally agreed anti-trafficking standards in 2006 through Art. 2 of *Legge 16 Marzo 2006, n. 146*, which incorporates into national law not only the text of UNTOC, but also its supplementary Protocol on the smuggling of migrants and trafficking in human beings (L. 146/2006).

As for the rights of migrant workers, 30 years after the UN General Assembly adopted the CRMW, Italy has neither signed nor ratified the convention. Several commentators have noted that this is a missed opportunity for Italy to harmonize its legislation on labour, migration and human rights and thereby ensure compliance with the full range of international norms and standards relating to the treatment of migrant workers (CNOAS 2020; Covella 2020).

Ratifying the CRMW would have constituted a solid step towards introducing principles of international human rights law and would have paved the way to further harmonization of Italian law with international standards. In the convention's preamble, in fact, the drafters stressed the importance of harmonizing national legislation with the convention's provisions as well as other relevant ILO treaties, namely, the 1930 Convention Concerning Forced or Compulsory Labour (ratified by Italy in 1934), the 1949 Revised Migrant Workers Convention (not ratified by Italy), the 1957 Convention for the Abolition of Forced Labour (ratified by Italy in 1968) and the 1975 Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (ratified by Italy in 1981).

The CRMW takes a step forward in terms of expanding the scope of protection afforded to migrants not only as workers, but also as rights-holders. The convention, in fact, requires States Parties to respect, protect and fulfil the rights of migrants and the members of their families not only as workers, but also, as enshrined in Article 45, as members of society through the guarantee of access to educational institutions, vocational guidance and training institutions, social and health services, and participation in the cultural life of the country (UN General Assembly 1990: Art. 45).

The regional legal framework

Italy's lack of full commitment at the international level is partially mitigated by its obligations at the regional one. In 1995, it ratified the Council of Europe (CoE) Convention on the Legal Status of Migrant Workers, which, in brief, regulates the principal aspects of the legal situation of migrant workers, in particular recruitment, medical examinations, occupational tests, travel, residence permits, work permits and the reuniting of families, among others (CoE 1977).

In addition, as far as migrant workers from EU countries such as Bulgaria, Poland, Romania are concerned, Italy provides an additional degree of protection by having introduced the text of the European Commission 2004/38/EC Citizens' Rights Directive in 2007, which not only guarantees the right of free movement for citizens of the European Economic Area (EEA) beyond three months for work purposes, but also extends rights of family reunification to unmarried couples (D. lgs. 30/2007).

The national legal framework

A generic worsening of migrant protection standards has characterized the 2018–2019 biennium, years marked by the entry into force of the *Decreto Sicurezza* (also known as *Decreto Salvini*) by *Legge 1 Dicembre 2018, n. 132*, which converted the contents of the *Decreto Sicurezza* into national law. Thanks to this law, in fact, Italy formally abrogated most of its obligations in respect of humanitarian protection deriving from the Geneva Convention and limited the legal stay of migrants in its territory only to 'special cases' in which the applicants (the migrants) could prove to have been subject to 'violence' in their country of origin (Camilli 2018). Since 2020, the legal status of migrants is regulated by the recently adopted *Legge 18 Dicembre 2020, n. 173*, a law that marks a change of direction in comparison with the past and that broadens the number of cases in which migrants are given the possibility to convert their standard residency permits into working ones (L. 173/2020).

Yet, as migrant workers' employment is often informal and exposed to exploitation, the Italian penal code regulates such matters and, more specifically, prohibits the 'illegal intermediation and exploitation of labour force' (Art. 603-bis c.c.).

The latter offence was first introduced in the Italian criminal code by a 2011 law and provides that illegal intermediation is punishable by five to eight years of imprisonment and a fine of between 1,000 and 2,000 EUR for each exploited worker recruited (L. 148/2011).

This offence refers to the conduct of an 'organized' intermediation activity of labour recruitment, characterized by violence, threats or intimidation, and the exploitation of bargaining power asymmetries between workers and employers related to the needs of the worker (L. 148/2011). Therefore, the requirement that the relevant conduct be carried out in a systemic and organized manner may be difficult to satisfy in relation to single and isolated cases.

Further, the existence of exploitation is a necessary but not sufficient condition to trigger article 603-bis. The additional use of violence and intimidation by the perpetrators is the *condicio sine qua non* without which it would not be possible to prosecute the *caporali*.

A few years after, Article 1 of *Legge 29 Ottobre 2016, n. 199* updated the content of Article 603-bis. Newly titled 'Provisions on combating the phenomena of illegal work, exploitation of labour in agriculture and wage realignment in the agricultural sector', this law entered into force in November 2016 and not only enlarges the set of potential perpetrators, but also provides for an increase of the penalties prescribed (L. 199/2016). In fact, the new provision provides for imprisonment of up to six years for illicit intermediation only, with the possibility of an increased sentence of up to eight years and a fine of 500 to 1,000 EUR for each worker recruited in a violent manner.

Most importantly, the new provision establishes penalties for both the recruiters/intermediaries and for those who exploit these types of mechanisms and services (employers, farm owners). In doing so, the new text of article 603-bis recognises that *caporalato* takes place in cases of direct recruitment for the purpose of exploitation and the indirect use or employment of manpower recruited illegally by third parties (Art. 603-bis c.c.).

As already provided in the previous law, if the acts are committed through violence or threats, the penalty is imprisonment of five to eight years and a fine of between 1,000 and 2,000 EUR for each worker recruited.

Moreover, the new provision enlarges the notion of *caporalato* as an exploitative practice when one or more of the following conditions is met in a particular case: (a) repeated payment of wages in a manner that is clearly different from national collective agreements or in any case disproportionate to the quantity and quality of the work performed; (b) the repeated violation of legislation relating to working hours, rest and vacations or workplace rules on safety and hygiene; and (c) subjecting the worker to degrading working conditions, surveillance or a degrading housing environment.

Further, the law provides for several aggravating factors, including when the number of unlawfully recruited workers is greater than three, when minors are unlawfully recruited and when unlawfully recruited workers are exposed to danger of any type (Art. 603-bis c.c.).

The brief legal analysis provided sheds light on the approach that Italy has taken to the regulation of both the status of migrant workers and forms of labour exploitation, and the general absence of a human rights-based approach to victim support. In particular, this is reflected by the absence of protection mechanisms for migrant workers in the text of relevant national laws, which evidences a strong and enduring tendency to regulate exploitation from a purely criminal law perspective.

Figure 2 below summarizes the analysis conducted so far and illustrates agriculture's supply and demand as the two counterweights of a scale, of which structure is represented by the Italian legal framework.

Conclusions

While the agri-food excellencies of the 'Made in Italy' brand are a source of pride in Italian entrepreneurship and a major export, evidence shows that many of these products are made as a result of labour exploitation in Italy.

These products are of high value to consumers and buyers, but compliance with human and labour rights should be at the core of the industry's due diligence processes. Therefore, it is essential to shed light on each step of the long supply chain that brings fresh products to our tables.

Often, due to many of the factors briefly illustrated above, migrant farmworkers suffer from severe labour exploitation. The networks and the actors involved are heterogeneous and contribute to exploitative schemes in many different ways. While considerable attention is given to scenarios in which organized crime networks are involved, the same cannot be observed for schemes that do not appear to have a nexus with organized crime but operate under comparably exploitative conditions.

Caporali from the Alps all the way down to Sicily develop new methods and adapt their exploitative systems to the vulnerabilities of the environment where they operate. To counter them, both the Italian

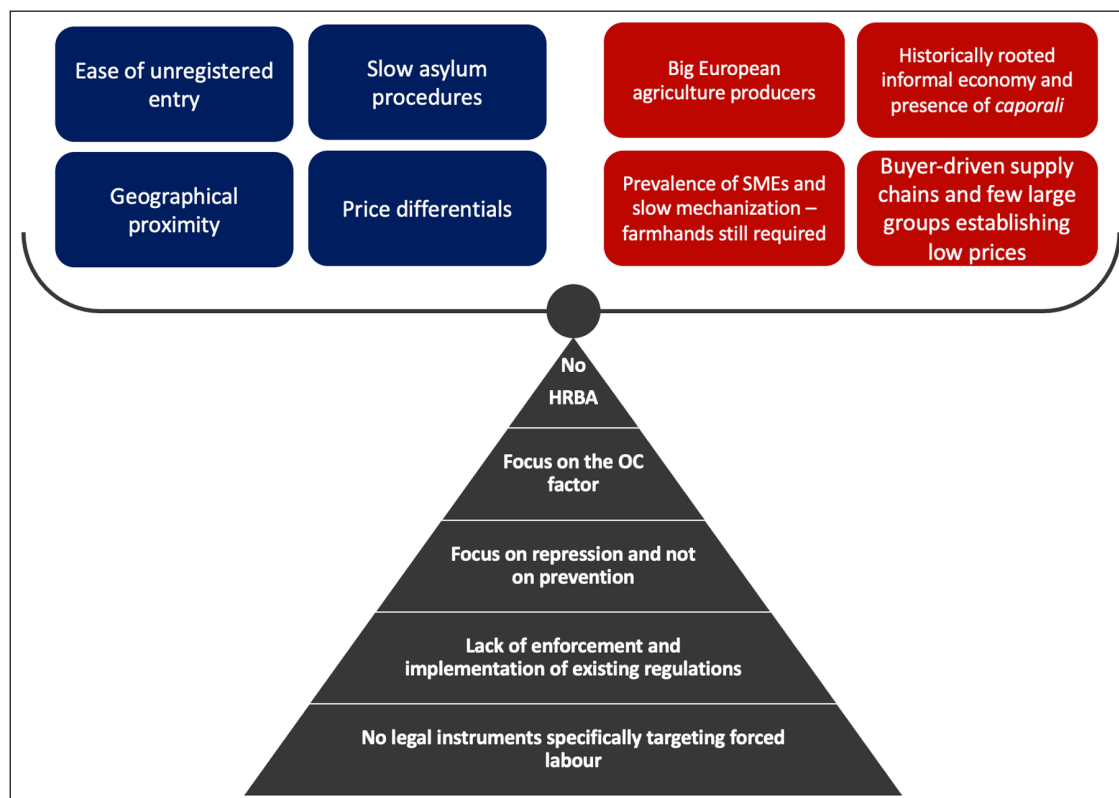


Figure 2: The unbalanced scale of modern slavery in Italy (source: author).

parliament and government have been taking progressive steps towards effective criminalization by enlarging the list of subjects to be held accountable and by introducing aggravating factors.

Results, however, remain limited. Even though efforts have been made on the legislative side, the phenomenon appears to still be under-prosecuted; probably for too long, the criminal justice approach has suffered (and still suffers) from a sort of cops and robbers game-oriented system where the need to find a typical organized crime component in exploitative labour schemes tends to overshadow investigations into the exploitation that lies at their core.

It is then essential to understand the vulnerabilities of migrant workers and the complexities of the phenomenon and to re-direct the approach towards the prevention of abusive conduct. Therefore, with the results obtained at the legislative level in mind, prosecutors' approach should focus less on enforcing criminal law and sanctioning perpetrators and progressively more on victims' support. Punishing criminals would then become one aspect of a more holistic approach that equally values criminalization and workers' protection.

Competing Interests

The author has no competing interests to declare.

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