

Democracy Must Be Defended: Anti-Terror Laws, Islamism, Islamophobia and the Neo-Fascist Exception

Danila Genovese^a

Abstract

Since 9/11 and the ensuing start of the War on Terror, there has not been a single 'Islamist' terrorist attack in Italy, unlike in other European countries. Yet Italian counter-terrorism policies frame terrorism exclusively as a product of Islamist ideology, excluding any other threats, such as those posed by fascist ideology.

This article seeks to examine the ways in which Islamism and neo-fascism are respectively criminalised as anti-democratic terrorist threats or, alternatively, exempted from interdiction in the Italian political and juridical spheres.

The purpose of this study is twofold. First, through a comparative analysis the conflicting application of anti-terrorism laws and the laws against glorification of fascism, I will explore the degree of ideological and political normalisation of neo-fascism in contemporary Italy. Second, I intend to open a debate on the implementation of the right to freedom of thought and expression in liberal democracies. My goal is to investigate whether its exercise by social actors can be influenced by racial relations of power and, relatedly, I question whether its discriminatory weaponization against minorities may pose a very severe threat to democracy.

Keywords: Islamism, anti-terrorism, neo-fascism, Scelba Law, Mancino Law, Freedom of expression, minority rights.

^a Research Fellow IFIMES (Institute for Middle Eastern and Balkan Studies); Adjunct Professor at Unimol (SUSEF), Italy.

Corresponding author:
Danila Genovese
E-mail: danila.genovese@unimol.it

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1. Introduction

In 1989, political scientist Peter Sederberg astutely stated that “the definition of concepts, like all other human practices, reflects the interests of those who engage in this activity. Those who successfully impose their own definition are also those who lead the debate and set the agenda for an entire community” (1989, p.3). What emerges clearly from this reflection is the fact that the semantic operations of determining a concept are intrinsically operations of power.

The term terrorism is undoubtedly one of the most frequently used terms in the analysis of political conflicts (Schmid, 2023) and, even in 2026, there is still no single, legal definition for it.

In 2019, this author conducted a Google search on the definition of terrorism and found 136 million pages on the subject; in 2022, the same search was repeated, returning 238 million pages as a result, and in August 2025, the same search resulted in 1 billion 590 pages containing the definition of terrorism.

Yet despite the vagueness and extreme fluidity of the concept, since 2001 a peculiar and unanimous consensus seems to have formed among institutional powers, the media and public opinion in general, whereby the phenomenon and practice of terrorism are fundamentally interpreted as an expression of Islamism and Islamists. As a result, Islamist thought has been deprived of any political legitimacy, and Islamists themselves are generally considered to be individuals who should be ostracized or eliminated from the political and legal landscape of Western democracies (Genovese 2023b; Gregory, 2004; Mamdani, 2004).

Overall, this article aims to analyse the way in which Islamism (and Islamists) and neo-fascism (and neo-fascists) are represented and considered in the Italian political and legal landscape.

In particular, this author aims to investigate in detail what appears to be a crucial oscillation between the ideological criminalisation of a ‘non-western’ political ideology (Islamism), even in the absence of material offensiveness on the part of Islamists, and the ideological decriminalisation of neo-fascism, whose actions, ontologically anti- constitutional, have been characterised by terrorist attacks on Italian civil society and its democracy. In relation to Islamism, the paper will rely on the author’s empirical work with two British radical Islamist parties: al Ghurabaa and the Saved Sect. It will then analyse specific case studies related to Italian counter- terrorism policies prosecuting Islamists exclusively on the basis of their ideological affiliation in the absence of any material offensiveness. Regarding neo-fascism, the article will investigate the political of two neo-fascist groups: Casa Pound and Forza Nuova. In the

last decade they have been tangled up in numerous political controversies and racist demonstrations that have been mostly investigated as a public order issue.

At the same time, this paper questions the crucial issue of freedom of thought and expression in relation to minorities inside European democracies, seeking to understand whether the *enjoyment* of such freedoms is *incontrovertible* or, on the contrary, closely linked to the balance of power within societies.

Finally, this article considers it necessary to open a debate on the possible limits of freedom of thought and expression in the event that it is exploited to convey forms of racism and discrimination against minorities, towards whom far-right parties systematically carry out forms of social terrorism (Mondon & Winter, 2020).

2. Terrorism, Islamism and Islamists

In 2022, the Global Terrorism Database published a graph showing the number of victims of terrorist attacks in Western Europe between 1970 and 2020. The crucial finding of the study is the enormous disproportion between the number of victims of terrorist attacks in Europe alone between 1970 and the end of the 1990s and the 20 years following 11 September 2001 (START, 2022).

Surprisingly, the graph overturns the idea and widespread perception among political elites and public opinion that the challenge of Islamist terrorism is the most dangerous ever faced by Western states. Scholar Nassim Nicholas Taleb argues that the attacks in New York and Washington in 2001 were a typical example of a Black Swan Event, a metaphor that indicates how a single event significantly changed the perception of an entire phenomenon at a political and social level.

Post-war Italy was sadly the scene of internal terrorist actions, whose toll in lives lost was tragically accompanied by crucial challenges to its democratic structure, painstakingly built after the fall of the fascist regime.

In general, terrorist acts were carried out by paramilitary organisations such as Gladio and extra-parliamentary movements of the extreme right and extreme left, which developed the famous strategy of tension. At the same time, fortunately, unlike other European countries, Italy did not suffer any terrorist attacks of a jihadist nature in the post-9/11 period.

Italian anti-terrorism legislation in the second millennium, incorporated into the penal code, is characterised by considerable regulatory hypertrophy and by the fact that the legislator has too often introduced typically symbolic criminal offences with little practical application or penalties that are significantly disproportionate to the conduct punished (Marino, 2017). In

particular, they are unilaterally based on a definition of terrorism as exclusively Islamist in nature, negligently excluding other forms of political violence, such as that of the extreme left and extreme right parties.

In this regard, the analysis of the Interior Ministry dossier is crucial.

On 15 August each year, the Ministry of the Interior publishes the Viminale dossier, an annual report documenting the ministry's activities, including numerical and statistical data on areas such as public security, the fight against organised crime and terrorism, immigration and rescue.

The Viminale dossier of 15 August 2025 provides detailed and incontrovertible data showing that terrorism in Italy is identified exclusively with the activities of jihadists (or alleged jihadists). In particular, the terrorism section only contains data relating to jihadists who have been arrested or expelled by administrative order, without judicial proceedings. The dossier reports that between October 2022 and July 2025, 205 jihadists were expelled by administrative order and in the first half of 2025, 20 jihadists were arrested, with a trend showing a sharp increase in arrests compared to 2024 (+53.8%), which is double the number of minors (+100%) (Ministero degli Interni, 2025).

In this regard, it seems necessary to briefly explain what Islamism is and, above all, to report some qualitative data on Islamist parties as analysed following my years of fieldwork in England.

2.1 Islamism and Islamists

In short, Islamism is a political discourse similar to other political discourses and ideologies such as socialism, liberalism and communism, to name a few. Just as no one could legitimately criticise the fact that the above-mentioned ideologies are not uniform, so no one should be surprised that Islamism is not a uniform political doctrine: as such, it does not entail cohesive political action among all the different parties and movements that define themselves as Islamist.

Islamism as a political discourse ranges from the assertion of a Muslim political subjectivity to a revolutionary project of founding society according to Islamic principles (Mamdani, 2004).

Between 2005 and 2011, I conducted intensive qualitative ethnographic work, by using a feminist decolonial methodology, interacting with numerous members of British Islamist parties, from the most moderate to the most radical; the latter, according to British anti-terrorism legislation, were considered apologists for terrorism and as such were banned from public life.

In particular, my fieldwork with young members of al Ghurabaa and The Saved Sect revealed that the reasons why young people adhered to a radicalised

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version of Islamism as an ideology of liberation were essentially linked to their experience as minorities who were heavily discriminated against within British society (Bhopal, 2018; Kundnani, 2014).

The analysis of qualitative data revealed that for the young people I spoke to, radicalisation had developed gradually through interactions and practices in the social context, rather than on a purely ideological level. In some ways, the ideological framework proposed by party leaders and those who have been defined as *hate preachers* served to give meaning to certain life experiences of the political actor and to propose future prospects; conversely, the ideological framework did not create the conditions or prerequisites that led the actor to embrace certain political analyses (Genovese, 2023b).

Furthermore, it is essential to emphasise that my field research has revealed that forms of ideological radicalisation are not physiologically or deterministically a precursor to terrorist violence. The event of a terror attack is deeply embedded in the political and social circumstances of its perpetrators, and the way that they experience and make sense of their social and political context (Genovese, 2023c).

In addition, what clearly emerged is that the ideological criminalisation of Islamists has produced counterproductive results on a social level in terms of secondary radicalization and of further racist profiling of a minority, such as Muslims, who had already historically experienced forms of discrimination and exclusion (Genovese, 2019).

If radical Islamist leaders such as Anjoum Choudary and Abu Izzadeen, who became famous through their media spectacularization, succeeded in convincing very young people, victims of discrimination, to join their parties, this should not be interpreted as a military act preparatory to terrorist action, as British anti-terrorism legislation and in particular PREVENT has sanctioned. On the contrary, it represented an effort to propound a plan of social justice, that would have allegedly avenged the racism and discrimination they had experienced in their lives, which “no one ever acknowledged” (Genovese, 2023a).

In particular, this author defined them as an *elite of grievances* (rather than *'hate preachers'*) to indicate those who capitalised on the wrongs suffered by their acolytes to consolidate their elite position at the head of the parties. Relatedly, field research has suggested that Islamist leaders were fundamentally infatuated with power and the possibility of obtaining it, rather than with the prospect of re-establishing an unlikely Islamic state in the Middle East or Europe (Genovese, 2019).

What anti-terrorism analyses have failed to understand from a sociological point of view is that security strategies fail greatly if they fuel new forms of racism, insecurity and exclusion towards the most vulnerable communities,

such as the Muslim community, which has been profiled no longer on the basis of race or culture, but on the basis of a presumed pseudo-biological tendency towards violence. A constructive analysis of extremism, radicalization and terrorism in any country should involve the burden Muslim communities have had to suffer through widespread practices of racialization and their stereotyping as a terror threat. My field work data has also clearly suggested that practices of anti-Muslim racism do not reduce the risk of terrorism: quite the opposite, they inflate it (Genovese, 2023b).

2.2 Islamists in Italy and anti-terrorism policies

Unlike the British Muslim community, whose presence is predominantly linked to the British colonial past, the Italian community is much more recent, with a mainly first-generation character and a rapidly growing second generation. The formation of the Islamic community in Italy is linked to migration phenomena since the 1990s. According to the latest census in 2021, there are 2.7 million Muslims in Italy, equivalent to 4.9% of the population (Allievi, 2025).

As for the so-called Italian jihadist scene, fragmentation seems to be a prevailing characteristic. As mentioned, Italy has not been the target of any terrorist attacks since 2001, and the number of jihadists or foreign fighters is significantly lower than in France, the UK or Germany, for example.

The latest official data date back to 2018 and report the presence of 135 *foreign fighters* linked to Italy, compared to 1,900 French, 1,010 German and 958 Anglo-Saxon fighters. The relevant data for the arguments in this paper is that, unlike other European countries, 92% of foreign fighters classified as Italian were born abroad and only 19% had Italian citizenship (Marone & Vidino, 2019).

As briefly mentioned, global counter-terrorism policies are based on a firm determination to identify violent extremists before a terrorist attack is carried out. A comparative study of counter-terrorism policies in Europe reveals that, at the international level, preventive action is fundamentally aimed at neutralizing the ideology spread by Islamists and jihadists, which is identified as one of the main driving factors behind terrorist attacks. This has led to the development of lists and rankings (Sabir, 2017) that aim to empirically determine the profile of an extremist/terrorist and even predict the formation of new ones.

Since the beginning of the War on Terror, the anti-terrorism strategies implemented have been criticized for certain Islamophobic aspects and for promoting the creation of a surveillance system on the Muslim community in

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Europe (Genovese, 2023b). Liberal democracies have been significantly challenged by anti-terrorism policies in the sense of a considerable and pernicious reduction (if not abuse) of civil rights and freedoms over a sustained period of time (Saul, 2014).

This axiom has been duly incorporated into Italian anti-terrorism policies and laws, which are also characterized by a conspicuous stratification of regulations, bordering on symbolic criminal law, copyright law and enemy law, as famously elaborated by Jakobs (2007).

An overview of Italian anti-terrorism laws suggests that they focus more on the repression of certain types of perpetrators rather than on the crime itself. From Law 155/2005 to the more recent Law 153/2016, there has been a rampant anticipation of the threshold for criminal intervention, with measures aimed at the total neutralization of terrorists rather than their possible re-education.

Specifically, Article 270 quater 1 of the Criminal Code criminalizes the organization of transfers for terrorist purposes (Cavaliere, 2015, p.233)

This case represents a peculiar type of offence with specific intent but socially neutral conduct: organization, financing and propaganda take on an offensive connotation exclusively in relation to the purpose of terrorism, to which such actions are teleologically directed. This implies that the basic offence does not in itself constitute an offence against the legal interest protected by the law, with the consequence that the penalties are linked to an intensely subjective factor: the innermost purpose pursued by the perpetrator.

A second strand of legislation in the field of counter-terrorism relates to bringing forward the threshold for criminal intervention by describing and criminalizing generic conduct. In such cases, the tension with the principle of materiality and offensiveness is realized by the tension with the constitutional requirement of sufficient certainty (Risicato, 2021).

A clear regulatory example of this second form of anticipation can be found in Article 270- quater of the Italian Criminal Code, which criminalizes recruitment for the purposes of terrorism, including international terrorism, in both active and passive forms. The article in question criminalizes “recruitment for terrorist purposes” for those who recruit and are recruited to carry out acts of violence for terrorist purposes. The criminalized conduct is recruitment, and the legislator is silent on what this entails.

This approach fully reveals the limitations of a case built on a predominantly subjective basis, with the risk of leading to applications based on the background of the accused, favoring the spread of forms of racist profiling. Another significant problem is that, in terms of evidence, it is extremely difficult to distinguish between a completed crime and an attempted crime, especially in the case of a verbal agreement.

The analysis proposed here of the numerous critical issues of Italian anti-terrorism laws in terms of constitutional legitimacy and racial profiling finds crucial confirmation in the examination of specific case studies as extrapolated from the *Monitoring Jihad* database. The analysis of the latter faithfully conveys the existence of a legal and socio-political milieu in which a generic fascination with the ideas of Islamism and the related formation of the Caliphate on the part of those who are pre-conceptually categorized as *jihadists*, effectively determines the commission of the crime of glorification of terrorism and incitement to terrorist action.

2.4 Case studies

A detailed analysis of the *Monitoring Jihad* database, which reports daily on the arrests of (alleged) *jihadists* reveals that almost all of those arrested and subsequently convicted of crimes of glorification of terrorism are young immigrants who face prison simply for having written the word *jihad* on their social media channels or for having shared videos related to the Caliphate with their followers.

Among the many cases analysed by the author, there are some that are particularly emblematic and representative of the dynamics described.

On 13 July 2025, in Milan, a very young Iranian citizen (16 years old) residing in Italy was arrested for propaganda, glorification of terrorism and associationism and now faces between two and six years in prison.

According to reports, the police found several social media profiles in which the teenager described himself as 'the terror of skyscrapers' and through which he disseminated images of the Caliphate, claiming that Italian society was composed of Muslim infidels. In one of these messages posted on social media, he stated that one day he might sacrifice himself for ISIS (Monitoring Jihad, 2025).

It seems redundant to point out that the materiality of a crime should not be constituted by the ideological system of a minor, combined with a certain vagueness of intentions, which is physiological at that young age. In essence, the evidentiary activity of the trial seems more linked to the specific subjectivity of the defendant than to a concrete possibility on his part to commit the crime. The commission of the crime established in the psychological provision is in stark contrast to the principles of criminal law but, above all, it creates a precedent, an ideal type, of the young Muslim prone to extremism and violence.

On 1 July 2025, in Bergamo, a young Moroccan citizen was arrested on charges of glorifying terrorism and association for having disseminated data and images relating to the defunct ISIS caliphate to his 5,000 followers on social

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media. The police also found in one of these posts the defendant's will written in Arabic, which, according to the investigators, demonstrated his willingness to carry out a suicide attack. The reflections proposed for the previous case in relation to the vagueness of the accusatory system, based mainly on suggestions and forms of neo-Orientalism (Kundnani, 2014), are also confirmed in this case. What emerges clearly is that forms of racist profiling in relation to the Muslim minority are not limited to biological factors, as was the case with the theories and practices of scientific racism in the 19th and 20th centuries, but are reinforced by the War on Terror through stereotypical narratives of cultural and religious heritage that become a sort of alternative DNA, representing a *radical* diversity of Muslims compared to the rest of the majority society, contributing to the construction of antagonistic and polarised narratives of Us and Them.

On 17 May 2025, a young man born and raised in the Lebanese refugee camps of al Baddawi was arrested in Campobasso on charges of condoning terrorism and possession of material for the purpose of terrorism. Investigators found videos on his smartphone in which the young man condemned the genocide in Gaza and called for mobilisation in the West Bank. A passage in which he condemned the silence of Arab countries was considered by the Digos (Special Operations Group) to be jihadist propaganda for the purpose of terrorism, according to the recent Article 270 quinquies 3 of the Criminal Code. Apparently, the young man also wrote generic messages to his contacts about the need to fight Christians and Jews around the world who supported the massacre in Gaza. In April 2026 he was sentenced to 4 years in prison for crimes related to Islamic terrorism.

A critical discourse analysis of such rhetorical and propagandistic propositions suggests that adherence to certain political imaginaries, even if extremely conflictual, does not automatically translate into violent or extreme terrorist action; the construction of a linear relationship between certain ideologies or theologies and specific actions that destroy civil society is built using a deterministic and generally racializing criminological and political science approach. This also contributes to limiting the democratic space for dissent among Muslims, generally defined according to cultural *markers* of disposition towards radicalism and extremism. The restrictions on public demonstrations of opposition to the war in the Gaza Strip and the case of the imam of Turin who was arrested and transferred to a repatriation centre in Caltanissetta¹ are signs of a crucial and worrying trend within liberal

¹ On 24 November 2025, the imam of Turin, Mohamed Shahin, was arrested and sent to the repatriation centre in Caltanissetta following an expulsion order for terrorism issued by Minister Piantedosi. On 15 December 2025, the Turin Court of Appeal

democracies towards the regimentation of minorities and their freedom of thought and expression. Unfortunately, there seems to be no sign that institutions and political representatives are willing to create a democratic space for dissent, and this seems even more evident in relation to minorities who are constantly subjected to integration tests (Titley, 2020), which also imply their irremediable inability to adapt to Western models of democracy and, at the same time, redefine the spaces of freedom as “verbal tenses of Western civilisation and nations” (Povenelli, 2011).

3. Neo-fascism, neo-fascists and the attack on democracy in Italy

Indirect evidence of a deeply Islamophobic anti-terrorism law system against members of the Muslim minority is provided by the following analysis of the phenomenon of neo-fascism within the Italian legal and political landscape.

This second part of the article aims to briefly analyse the manifestos of two of the most popular neo-fascist parties in Italy, Casa Pound and Forza Nuova, together with some distinctive features of their activism in the face of the sporadic and inconsistent application of the Scelba law and the complementary Mancino law on the glorification of fascism and racial hatred.

The author's intention is to ascertain whether, within Italian democracy, there is a process of normalization and, in part, decriminalization of fascism vis-à-vis the practices of demonization and racism (including epistemological racism) towards Islamism and Islamists.

Casa Pound is a far-right movement with a fascist ideology that was founded in Rome in 2003 and became a political party in 2008.

Over the years, starting in 2014, the party has taken part in local, national and European elections, forming alliances with the Lega Nord and Fratelli d'Italia respectively, and although the actual election results have been very poor, they have marked the beginning of a media campaign that has made the name Casa Pound Italia very well known (Rosati, 2018).

This paper aims to analyze its ideological apparatus and manifesto rather than its political presence in terms of representation, seeking to highlight certain conceptual (that does not equal ideological) similarities between some of the postulates of CP and those of radical European Islamist movements, which, however, differ from those of the far right in general due to the absence of a conception of *otherness* defined as racial inferiority. While diversity is opposed in

reassessed the initial validation of the detention and released Mr. Shahin, considering that he should not be considered a dangerous person.

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various ways in the Islamist conception, it is essentially represented in religious and moral terms. Yet Islamist parties are automatically ostracized, from a political and legal point of view and generally by society, through the representation of terrorists, which, as will be argued in this paper, is never used to describe far-right movements.

The core of CP's agenda and, more generally, its *Weltanschauung* is organized around the idea of a mono-ethnic Europe, devoid of any diversity. As Ignazi writes, “since the late 1990s, one of the characteristic features of the new extreme right has been xenophobia, no longer expressed as biological racism but as ethnocentrism on both an ethnic and cultural basis” (Ignazi, 2000, p. 233). In a very similar way, in the radical Islamist imagination, the establishment of the Caliphate should lead to the creation of a supranational state of the world's Muslims, where the idea of moral and ideological diversity is developed in an antagonistic manner, without, however, this being expressed in terms of ontological inferiority.

CP's judgement of its own present, which it aims to revolutionize, is articulated in a semantic field linked to the themes of degradation, decline, corruption and moral weakness, as theorized by one of the leading philosophers of the European right, Julius Evola, who pointed to the idea of equality as the great crack in the ancestral world of Tradition based on a hierarchical order of superiority among men (Gentile, 2009).

In a very similar way, the radical Islamist parties with which the author has interacted represent their present using a rhetorical apparatus aimed at defining the status quo as failed and depraved because it lacks an Islamic moral code, which, however, is not based on a hegemonic conception of human society but exclusively as the best moral and therefore political, economic and social system for social coexistence (Genovese, 2023a).

The concept of borders as expressed by CP (Casa Pound, 2025) and the Islamist parties examined is particularly noteworthy. Both political groups develop the idea of borders as protection from external threats and evils and as a threshold for proselytizing or expansionist operations abroad, according to Schmittian epistemology. CP represents this postulate through the idea of a *Limes*, while Islamist parties represent it through the famous division between *Dar al Harb* and *Dar al Islam* (house of war and house of peace). It is important to note that the notion of borders is a fundamental pillar of CP nationalism, which also translates into extreme opposition to foreigners and *immigrants* defined as an alien mass intent on the ethno-cultural annihilation of European nations (Scianca, 2016). In this regard, it is crucial to emphasize that while for far-right parties, and CP in particular, ethnic-cultural (racial) divisions are conceived as rigid and immutable, for Islamists the boundaries are mobile and changeable, built on ethical and religious differences that can be dismantled

through conversion to Islam and the political plan of the Caliphate. From this point of view, it is reasonable to assert the absence of any racial hierarchy within Islamist ideologies in the same way that it is the backbone of CP's ideological framework, where nationalism is revealed as the product of a racist worldview rather than an autonomous postulate in which racism is proposed as a corollary and a possible development.

Forza Nuova is a far-right movement founded in 1997 by Roberto Fiore.

The eight points of FN's political agenda clearly outline the *Weltanschauung* of the movement which presents itself as a moralizing force in Italian society, that, according to this elaboration, is in danger of being destroyed “by an increasingly anonymous and distant enemy” (Forza Nuova, 2025). The re-moralization of Italy should take place through the repeal of the abortion law and through incentives for the traditional family, within which women's work should be carried out “within the home”. One of the main pillars of the programme is the forced repatriation of all immigrants, which should be followed by a restoration of European colonialism in the rest of the world in terms of a civilizing mission to the “dark continent”. Like Casa Pound, Forza Nuova constructs its politics within the semantic and ideological framework of the hegemonic domination of the West over the rest of the world, represented as backward and uncivilized according to the dichotomies characteristic of historical and cultural racism (Goldberg, 2002). The society of the future that constitutes the model that inspires FN politically is a rigidly monocultural and mono-ethnic one in which the presence of any minority is opposed as deleterious and corrupting the fabric of the Italian people. If we consider that one of the key functions of a democratic system is the protection of minorities, it is clear that the political model of FN, like that of CP, is ontologically anti-democratic, based on a presumed hierarchy of value among human beings according to gender, ethnicity and culture, with white men occupying the top of the pyramid.

In May 2025 in Gallarate and then in July in Vienna, a network of far-right parties, including representatives of CP and FN, gathered for the *Re-immigration Global Summit*, calling for the expulsion of immigrants from Europe, especially those of the Muslim faith. Similarly, on 6 September in Grosseto, CP announced the launch of a platform for re-immigration against mass immigration in defense of national identity.

In this context, it should also be remembered that one of the fundamental points of FN's programme is the abolition of laws defined as 'liberticidal' (Forza Nuova, 2025) Scelba and Mancino, respectively Law No. 645 of 1952 and Law No. 205 of 1993, which punish the glorification of fascism, the possible reconstitution of the fascist party and those who carry out external

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manifestations usual of the fascist party aimed at promoting the spread of ideas based on superiority and ethnic hatred.

Specifically, the Scelba law is difficult to apply because it is extremely difficult to provide evidence of the concrete danger of the reorganization of the fascist party; in this context, case law considers the Mancino law to be applicable. Yet the same jurisprudential guidelines are fragmented and inconsistent, allowing a wide margin of freedom and impunity to those who engage in nostalgic manifestations of the fascist period and display symbols associated with fascist ideology. On the contrary, it seems crucial to highlight how the ideological criminalization of Islamism by the judiciary, political forces and public opinion occurs almost automatically. What seems to be overlooked is the notion that fascist ideology is ontologically anti-democratic and racist, while Islamism is a political ideology consisting of many variants and currents that should not be systematically characterized as terrorism, which is instead the most appropriate term for fascism.

3.1 Apology for fascism and anti-democratic practices

Since their approval, there have been very few Supreme Court rulings dealing with the Scelba and Mancino laws. Yet, as in the last decade, there has been an extraordinary increasing number of demonstrations by far-right members promoting fascism and spreading discriminatory and racist ideas.

The Roman salute or la *chiamata al presente* characterise all public demonstrations by parties such as CP and FN. However, this does not seem to alarm democratic political groups, civil society and, above all, the judicial authorities in the same way that any ideological demonstration linked to Islamism or, more recently, to the Palestinian question arouses concern combined with sudden and robust punitive action in terms of anti-terrorism.

In recent years, two opposing views on fascist demonstrations have emerged within political forces and constitutional and criminal law doctrine: one that, noting the increasing difficulties in applying the Scelba and Mancino laws, would like to ban any reference to fascist symbolism from public life; the other, on the contrary, doubts the constitutionality of such a criminal offence, both because it would be a crime of opinion and presumed danger and because of the inherently undefined nature of the legal right protected in terms of public order.

The legal right protected is clearly public order, understood as the set of principles and values of democracy which, as this article seeks to argue, is intrinsically antithetic to neo-fascist movements and their ideology, from which structural racism is practically inseparable.

In this regard, limiting the investigation to the last twenty years and in relation to the Scelba law, the rulings of the Criminal Cassation Court have generally excluded the existence of the crime of fascist demonstrations in commemorative acts for the deceased which, in the Court's reasoning, did not in themselves constitute a crime or any intent to restore the fascist regime.

Of particular note is the ruling of the Court of Cassation no. 11576 of 2021, which overturned and remanded the ruling of the Court of Appeal of Rome, which had convicted the mayor and councillors of the municipality of Affile for glorifying fascism by dedicating a memorial in a public place to General Graziani, minister of the Italian Social Republic. According to the Supreme Court's reasoning, mere commemoration does not imply glorification of fascism, despite the fact that the monument is located in a public park and was inaugurated by the municipal administrators in a celebratory manner, thus glorifying the historical figure of General Graziani. The Supreme Court's findings are unconvincing in light of the fact that General Graziani was a prominent figure in the fascist regime, convicted by the Military Tribunal of Rome for collaboration in 1950, loyal to the regime until the end, Minister of National Defence and Chief of Staff who attended the talks between Hitler and Mussolini. According to the Court of Cassation, in order to ascertain the offence, it is necessary to know the exact dimensions of the mausoleum, the relics on display and the precise references to Graziani in order to speak of glorification of fascism. The Scelba Law is difficult to apply precisely because of the introduction of the principle of concrete danger of reforming the fascist party, which is in fact complicated to ascertain; however, case law in recent years seems to have made it almost *impossible* to ascertain criminal relevance.

With regard to the application of the Mancino Law, there has been more consistency in case law, suggesting that neo-fascist movements have a discriminatory and racist ideology that does not need to be proven. In this sense, ruling 3806 of 2022 by the Court of Cassation reiterates that any public manifestation of the fascist party must be interpreted as constituting a concrete danger of spreading racist and discriminatory ideas. Yet, too often, judges seem to find difficult to detect ideological fascism in the activism of neo-fascist groups, by downplaying their racist outbursts.

Overall, there seems to be a certain form of political minimisation, if not denial, of the risk of fascist resurgence in Italy. On the assumption that a return to fascism is impossible, there is even a desire to delete the XII final provision, as happened during the XVI legislature.

On 14 September 2017, Bill 3343 on the "Introduction of Article 293-bis of the Criminal Code concerning the crime of propaganda of the fascist and fascist regime" was approved by the Chamber of Deputies, but it was never approved by the Senate, following numerous criticisms that it punished mere

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propaganda of the fascist party. The main reservations concerned the alleged dubious constitutionality of an offence characterised by what was assumed to be an ill-defined protected legal interest, an apparent degree of abstraction of the danger, and the punishability of conduct that, although politically reprehensible, was considered harmless (Risicato, 2021). The elaboration of these criticisms, which stalled the bill that would have remedied the difficulty of applying the Scelba law and the numerous jurisprudential conflicts, substantially demonstrates how an important part of the national political culture lacks a robust understanding of the danger inherent in the propaganda of fascist ideas. It seems short-sighted to think that the legal right protected is not well defined, when on the contrary it is the set of values of the Italian democratic and constitutional order, which not only are in clear and vigorous opposition to the values advocated and then materialised in the fascist order, but are ontologically anti-racist, as every democracy should be. As argued at length in this paper, racism is the founding element of fascist nationalism and not an accidental complement to it; the fact that Italian political culture, as represented in its parliamentary body, falters in the face of strenuous opposition to neo-fascist propaganda is a crucial symptom of a democratic system that is operating in a regressive manner.

It was the European Parliament that sounded the alarm about the danger of neo-fascist and neo-nazi resurgence. In 2018, there was a resolution (25 October 2018) on the increase in neo-fascist violence in Europe, caused in part by “the lack of serious action against neo-fascist and neo-Nazi groups, which has allowed the current surge in xenophobia in Europe to occur”. The resolution notes that “use and abuse democratic instruments to spread hatred and violence, including on social media channels with a very wide reach” (Spaccasassi, 2022, p.14).

In spring 2019, Facebook deactivated CP's page on the grounds that many of CP's positions are based on racial and ethnic hatred against minorities.

The judge of the Court of Rome, in order no. 59264/2019, upheld CP's appeal, defining it as a political movement exercising the right to political pluralism enshrined in Article 49 of the Constitution.

The judge substantiated his decision by stating that if the members or administrator of the social media page had engaged in reprehensible behaviour, they should be held personally accountable, without the page being blocked. What is surprising is that a judge could define CP as a normal political party, downplaying its claimed adherence to fascism. If the firm principle of prevention applies in the field of anti-terrorism, it seems impossible that the same principle should not be applied to the actions of anti-democratic parties such as neo-fascists.

The case involving Emanuele Castrucci stems from an emergency preventive seizure order issued by the public prosecutor of Siena against his Twitter account, on which he had posted a photo of Hitler with his dog with the following caption: “They told you I am a monster so you would not know that I fought against the real monsters who rule you today” (Gillespie, 2024).

In response to the request for validation of the preventive seizure, the investigating magistrate in Siena rejected the request, arguing that the post did not incite racial hatred but was simply an apologetic reinterpretation of Hitler, specifying that Hitler himself does not constitute a criminal offence and that no racist ideas can be indirectly derived from him.

It is certainly difficult not to be struck by the arguments of the Siena judge, who, through a *probatio diabolica*, maintains that it is possible to separate the historical figure of Hitler from his genocidal actions, as if, historically, the figure of Hitler were not synonymous with his criminal actions and, as such, capable of constituting content specifically aimed at propagating racial hatred. On appeal, the Siena judge's ruling was overturned by the same court in Siena, yet the event is part of a political, legal and cultural landscape that generally tends towards the normalisation of neo-fascist groups and their ideology. The cases at the jurisprudential level of the difficult, sporadic and inconsistent application of the Scelba and Mancino laws, combined with the passive and at times almost condescending attitude of the democratic forces in the face of manifestations of intolerance and discrimination by parties such as CP and FN towards minorities (Raimo, 2018), reveal a growing and worrying detachment of this country institutional, political and social fabric from democratic values and, above all, from their progressive and egalitarian application and propagation, which also implies that fascist political and ideological forces (in all their variants) should never expect to be treated in the same way as democratic and non-fascist forces, nor should they be able to invoke constitutional rights in order to make unconstitutional use of them.

These reflections pave the way for a debate of fundamental importance concerning the limits of the exercise of the right to freedom of thought and expression when it is used to discriminate against and marginalise minorities whose right to freedom of thought is, on the other hand, rationed on the basis of adherence to Western values. Gavan Titley (2020), in his brilliant *Is free speech racist*, demonstrates with a detailed argument how invoking the universality of the right to freedom of thought in the public sphere, in politics and in courtrooms contributes significantly to the legitimisation and extension of discriminatory practices against minorities. When the right to freedom of thought “is invoked as a national value, it helps to define who can speak, in what register and, above all, how the message is received” (Titley, 2020, p.198). If the right to freedom of thought is extrapolated from relationships and

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inequalities within society, from processes of discrimination and marginalisation, it risks separating freedom of thought from the right to live fully in a society where diversity should be celebrated as constitutive and not as a semiotic construct.

4. Conclusions

The analysis presented here has been structured on two distinct but closely connected levels.

First, through the analysis of anti-terrorism laws in Italy and their application, which demonstrate a 'furious' anticipation of the criminal law threshold in relation to ideological crimes, the author set herself the goal of investigating the level of normalisation of neo-fascist ideology and its manifestations in the Italian legal and political-cultural landscape.

The analysis of anti-terrorism laws and their application served as a sort of rhetorical Trojan horse to highlight how, in the case of Islamism, ideological crimes are readily defined and punished as a precursor to terrorist action, whereas in the case of the dissemination of neo-fascist ideology, which is intrinsically criminal, the same ideological crime is too often exempt from criminal punishment and is instead treated as an expression of political pluralism or as an act commemorating a complex historical legacy. In the few cases in which acts of fascist ideological propaganda are punished, case law shows extreme fragmentation and inconsistency in reaffirming the principle that the legal right violated by manifestations of fascism is public order, understood as the set of founding values of democracy, including anti-racism.

Second, the examination of anti-terrorism policies has also served to advance hypotheses for analysing the exercise of freedom of thought and expression by minorities within a liberal democracy such as Italy's, seeking to understand whether the enjoyment of such freedoms is intimately linked to power relations within societies and, above all, to forms of epistemological racism that have historically affected the understanding of political ideologies such as Islamism (Genovese, 2019; Said, 1978).

As has been widely argued, the fixation of current models of radicalisation on the ideological or theological element of terrorist action has reproduced positivist and strongly islamophobic criminological approaches, whereby the evidentiary process too often focuses on the personal profile of the defendant, bordering on the criminal law of authorship and that of the enemy, which since the end of the Cold War has been increasingly identified in Islam as an anti-Western civilisation and in Muslims in general.

Furthermore, in the specific case of Islamism, models of radicalisation totally deny the political element of violence (unlike what happens with other armed struggle formations or groups) and too naively reduce terrorist action to the philosophical and ideological alienation of Islamism from Western and/or democratic systems of thought and government. The most damaging consequences of this form of *epistemological ignorance* have been that Islamist political thought is interpreted exclusively as synonymous with terrorism, and Islamists, without any distinction between different movements and political contexts, are stereotyped and criminalised as public enemies to be destroyed or ostracized from the public arena, even in the absence of violent acts.

Surprisingly, the ideological manifestations of fascist groups, whose racist component is intrinsic and omnipresent, are not subjected to the same scrutiny and criminalisation by the judiciary and democratic political forces. The latter, even in Parliament, have often expressed reservations or opposed new bills that would make the ban on fascist ideological demonstrations more peremptory and avoid the difficulties of applying the existing Scelba and Mancino laws.

In this sense, this text formulates the hypothesis that the exercise of freedom of thought and expression for minorities, rather than depending *on the categories of thought itself*, is intimately linked to the forms of categorisation (or discrimination) applied to thinkers, which considerably weakens the entire democratic system, which seems to operate in a regressive manner.

In addition, the author considers it crucial to open a debate on the weaponization of the right of thought and expression when it conveys forms of racism and discrimination against minorities, towards whom neo-fascist parties operate a form of social terrorism, which has become increasingly normalised within our societies in recent decades (Mondon & Winter, 2020).

A rich and stimulating body of political sociology literature on the phenomenon of the popularisation of the far right in Europe and the US (Brown 1992; Gillespie 2024; Losurdo 2014; Mondon & Winter 2020) argues that, contrary to the widespread belief that it has managed to infiltrate the democratic centre over time, it is in fact a product of the radicalisation of liberal models of hegemony. The authors agree that liberal models are not synonymous with or almost *natural* components of democracy; on the contrary, they have historically evolved on the basis of the exploitation of colonies, systems of racism and nationalism to the point that liberal systems, which later became democratic, rather than being bastions against the right, have over time become facilitators, sacrificing values such as anti-racism. As Aurielle Mondon astutely writes, when the far right in Europe began to modernise in the 1980s, abandoning the rhetoric of biological racism and finding a clever ideological alternative in cultural racism, they identified Muslims as their new target for discrimination. This happened at a time when, following the fall of the Berlin

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Wall and the end of the Cold War, liberal elites became enamoured with Samuel Huntington's (culturalist) theory of the clash of civilisations, which identified Islam and Muslims as public enemies (Mondon, 2025). Islamophobia, normalised at the level of geopolitics amid political and economic elites, then found its most powerful vehicle for dissemination in the anti-terrorism laws of *the War on Terror*, mainstreaming anti-Muslim racist practices and discourse, that had also become the battle cries of populism and the far right.

The analysis proposed here does not claim to be exhaustive and would require further study with a larger number of case studies, has sought to show how, in the Italian legal and political system, manifestations of fascism, whose racist and necropolitical elements are intrinsically constitutive, are tolerated or punished very lightly compared to ideological manifestations of *other* minorities, whose political dissent is strongly limited and managed within cultural markers of presumed democratic alienation. It does not seem too far-fetched to agree with Losurdo (2014) that this state of affairs suggests that the inclusion of minorities within the liberal social contract has always been very precarious, limited and subject to numerous conditions.

Confirming this, racist demonstrations by far-right parties in Italy, such as the Re-immigration plan are negligently ignored or accepted by the political class, civil society and the judiciary, almost suggesting that otherness in liberal democracies is more of a semiotic than an effective plan, to the point that openly ostracising manifestations of such otherness are partly legitimised within the liberal category of freedom of thought and expression.

On the contrary, the ideological *otherness* of minorities such as Islamism is opposed as incompatible with a liberal and democratic model, that is likely incapable of escaping its archaeological, *racializing* character of Western supremacy.

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