

Chapter 2

Return to ‘Radio Nostalgia’: Twenty Years of ‘Anti-Violence’ Legislation in Italian Stadia

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Abstract This chapter aims to retrace the implementation of counter-hooliganism legislation in Italy over the past 20 years. The perception of threat connected with football disorder has led to the gradual introduction of ‘emergency’ measures, generally passed in the aftermath of tragic and extreme episodes of violence at football grounds. Most of these are preventive measures, discretionally used by police and aimed mainly at incapacitating the so-called ‘potential troublemakers’. The chapter will focus on these measures, analysing them technically and highlighting the main issues in particular with respect to fans’ civil rights.

Keywords Football • Italy • Ultra conflict • Emergency legislation • Social control • Civil rights • Police discretion • Situational prevention

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Radio Nostalgia is the station broadcasting Genoa CFC matches. Nostalgia also represents the feeling of many fans and Ultras for their curva experience, which is gradually fading due to 20 years of ‘anti-violence’ policies (Contucci 2010; Francesio 2008; Marchi 2005; Sale 2010a, b).

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2.1 Introduction

There are two irreconcilable tropes that recur in political and media debate on the conflict in Italian football, and in particular with respect to the Ultra movement. The first refers to a rich vocabulary of ‘animal’ and barbaric images: violence for violence’s sake, the blind force of the pack, irrationality, cruelty, bestiality. This mechanism, which blurs the boundaries between the human and animal world, is a familiar cognitive dynamic that is typically used to deal with all that which fundamentally belongs to the universe of the unknown. The consequences of this are obvious: if the stadium stands are populated by animals, there is no motivation to tread carefully when it comes to public order strategies that go beyond the mere necessity of restraint or incapacitation. It is the same the world over: one of the strategies used in the UK to contain a crowd, when there are no doubts about its ‘violent tendencies’, is sometimes described as ‘corralling’—the procedure used by herders to control their livestock.

A second key interpretation is provided by newspaper reports on violent football-related phenomena, and emerged for the first time in the wake of a notorious story. On 11 November 2007, the death of Gabriele Sandri, a Lazio fan killed by a gunshot fired by a traffic policeman at a motorway service station, unleashed the fury of the Ultra during a night of street fighting in Rome. The next day, two young men were arrested and for the first time, in reference to Ultra violence, the charge of ‘terrorist acts’ was added to the now-classic charge of ‘devastation and looting’.¹ The accusation of terrorism, a powerfully evocative term, was subsequently dismissed. The fact that the charge was legally untenable did not, however, affect the general discussion or political and media debate on the subject.

These tropes, while incompatible, have two things in common; first, the evocative power of the threat, whether it is derived from bestial irrationality or cynical human planning. The concept of a threat belongs to the sphere of subjective perception and its mechanisms of social construction and consolidation will not be detailed here. However, when discussing this perception, we can find little comfort or contradiction in the social research carried out in Italy on the topic of conflict in football. In other words, it seems that there are few cognitive alternatives available to the emotional connotations applied by the media to the spread of football violence and the familiar Sunday clash between fans and police. The fact is that it is extremely difficult to quantify the true extent of the phenomenon. The ministerial body responsible for the data (the National Observatory of Sporting Events) publishes an annual report on football violence in stadia. However, the data is recorded on the eleventh day of every season (and is therefore incomplete), and is

¹Article 419 Penal Code, Section V (Offences against Public Order). ‘Devastation’ is the damage to a large number of things, spread over a wide area that threatens public order. ‘Looting’ is the theft, often accompanied by violence, committed by several individuals, that disturbs the peace and safety of the community.

constantly marred by inconsistencies and oversights.² Moreover, even if the methodology was infallible, official crime statistics, such as complaints and arrests, are more likely to record trends associated with the response adopted by the police, rather than directly measuring instances of deviant behaviour in and around stadia. What is more, the little Italian research carried out on the subject agrees that there is a substantial discrepancy between media attention and the actual scope of the problem.³

A second aspect that connects the images of bestiality with terrorism is the counter response of the authorities. The only conceivable reactions seem to be tightening the law on the one hand, and police repression on the other: in other words, the imposition of a strict regime of 'law and order'. The theme of police management in football conflict has been addressed in other papers.⁴ This contribution will focus on the legal instruments used: analysing them, highlighting the main issues and retracing the history of their gradual introduction and implementation in Italian stadia.

2.2 Legislation 401/89—The 'DASPO' (Prohibition of Access to Sporting Events)

In addition to the evolution of repressive techniques in the field,⁵ the history of social control measures in Italian stadia is based on a series of special legislations usually passed in the aftermath of tragic episodes in the history of conflict involving the Ultras. After a period of uncertainty, which mirrored that seen in Britain,⁶ legislation started to be broken down into specific 'stadium crimes' in December 1989, when Public Law 401 entitled 'ensuring proper conduct in the execution of sporting contests' was passed. Public Law 401/89 saw the start of a season of 'emergency' measures on safety in sports stadia,⁷ reinforcing 'the tendency of the Italian system to use judicial force for all areas that have strong social unrest'.⁸

²These are immediately apparent from the documents published at <http://www.osservatoriosport.interno.gov.it/pubblicazioni/index.html>.

³In particular, Dal Lago 1990; De Biasi 2001; Marchi 2005; Salvini 1988; Sale 2010a, b.

⁴Sale 2010a, b.

⁵De Biasi 1998; Marchi 2005; Sale 2010b.

⁶Tsoukala 2009.

⁷In the previous season, two episodes caused a strong emotional reaction: in October 1988, a 32 year-old Ascoli fan was seriously injured during a violent brawl which broke out between rival fans. A few months later, in June of 1989, Antonio De Falchi, an 18 year-old AS Roma supporter, died from a cardiac arrest after an ambush by a group of Milanese Ultras.

⁸Balestri and Cacciari 1998.

Article 6 saw the introduction, for the first time, of the ‘diffida’, the Italian equivalent of the UK ‘banning order’:

The public security authorities can always order the prohibition of access to places where athletic competitions are held to people travelling there with offensive weapons, or who have been convicted of, or who are alleged to have taken an active part in episodes of violence during or due to sporting events, or having incited or encouraged violence either verbally or written thereof.

The legislators intended that the denial of access to sporting events (commonly known by the acronym DASPO) would not be a punitive measure, but a preventive one, and therefore the imposition of formal authority does not come from a judicial court, but the police (the public security authorities). As is clear from the article, this measure can also be used on people who have only been accused of a crime: a conviction is not necessary. It is the police who press charges and it is the police who decide how to apply the law, giving rise to the so-called ‘double discretion’.⁹

The generic nature of the ‘conditions’ required to ban a supporter leads to a further element of discretion in the application of the notice. Anyone who has visited an Italian football stadium can see the practice of ‘incitement’ to violence or verbal aggression, through the traditional norms of fandom (e.g. chanting and gesturing) without it ever translating into an effective proposal for action or a real threat to public order. Police have full autonomy to evaluate the application of a banning order as a response to established and overt criminal behaviour but they typically use their wide discretion only to impose this power upon visitors of the stadia they believe are ‘problematic’ in terms of public order.¹⁰ It has been noted that the practical application of DASPO orders against most of the members of the historic Ultra groups, and in particular their leaders,¹¹ has been increasing in recent years. For example, 500 banning orders were issued in a single season to members of the ‘Brigate Autonome Livornesi’, which in 2003 led to the dissolution of this historically extreme left-wing group of football supporters and, in May 2012, 152 DASPO orders were served on the Genoa Ultra following the disruption of the Genoa v. Siena fixture.¹²

⁹Balestri and Cacciari 1998; Padovano 2005.

¹⁰It has been observed from the earliest ethnographic studies on the practices of policing in England that often the decision by the police to apply a rule that punishes widespread behaviour (such as drinking in the United Kingdom) is the result of an overall assessment of the situation not necessarily tied to a desire to strictly adhere to the law but more often to the practical need to manage a ‘public order’ situation: ‘Compliance with the law is merely the outward appearance of an intervention that is usually based on altogether different considerations. Thus, it could be said that patrolmen do not really enforce the law, even when they do invoke it, but merely use it as a resource to solve certain pressing practical problems in keeping the peace. [...] virtually any set of norms could be used in this manner, provided that they sanction relatively common forms of behaviour’ (Bittner 1967, p. 710).

¹¹Marchi 2005.

¹²On this occasion the charge of ‘psychological violence’ against players was introduced for the first time. In a decisive game that Genoa was losing 4-0, the fans, without exerting any physical violence, successfully forced players to take off their shirts because they were considered unworthy wearers of the traditional red and blue colours.

If the introduction of the DASPO order has made any substantial contribution to the decline in violence at stadia, it is only in recent years. The episodes of conflict between opposing groups of fans continued to be a feature of the Sunday matches and filled the pages of the newspapers in the 1990s.¹³ However, this initial failure did not lead to a substantial rethink of the foundations of the measure. The logic of rendering incapable subjects identified as problematic, in a measure applied discretionally by the police with no defence possibilities for those affected, continues to be the basis for all subsequent regulatory changes. The legislation was further tightened by subsequent decrees which were converted into laws¹⁴ in the wake of the 'stadium emergency'. The so-called Maroni Decree, ratified by Public Law 45 of 24 February 1995, extended the prohibition of access to facilities where sporting events occur, to include places 'for refreshments, transit or transport of those participating in or attending the events' (para 1). A condition of the DASPO order may also require, 'the appearance in person once or more during the times indicated in the office or station of the police [...] during the day on which are programmed the events for which the prohibition operates' (Article 1, para 2). This is a significant limitation of personal freedom, especially if one takes into account the fact that it also affects people who have only been accused of a crime.

As with UK legislation¹⁵ theoretically it is a preventive and not a punitive measure and therefore not all principles of criminal due process apply. The jurist Ferrajoli, speaking about the 'divergence of the punitive system', notes:

This is how our legislators have substantially eroded the main criminal and procedural safeguards with simple word games: using names such as measures of prevention, or safety, or supervision, or police for restrictive sanctions or procedural constraints of freedom essentially similar to punishment and subjecting everything to a regime which is not hindered by civil rights.¹⁶

There is essentially no defensive remedy against such measures; there is no hearing at which the affected person may contest the ruling. It is possible to appeal to the Supreme Court (however, it will not suspend the enforcement of the order, and thus reveals itself to all intents and purposes a useless and expensive recourse), but only against the obligation to report to the police station, since only this condition, rather than the ban on travel to sporting events, is considered a limit on personal freedom.¹⁷

¹³For a reconstruction of the history of football conflict, Marchi 2005; Francesio 2008; Sale 2010b.

¹⁴Contrary to the legal system, where Parliament is the deliberative body, the decree-law is adopted by the Council of Ministers (the executive power). The Government should present the bill to the House on the same day; if the decree is not ratified within 60 days, it ceases to be effective. According to the prevailing view in law, this is justified by the need to promptly legislate 'extraordinary cases of necessity and urgency'. In the presence of these conditions, the Government acquires the power to temporarily exercise its legislative function.

¹⁵James and Pearson 2006; Stott and Pearson 2006.

¹⁶Ferrajoli 1996, p. 796.

¹⁷Marchi, 2005. For the same reason, the fact that cross examination was not compulsory was considered unconstitutional (Case 144, May 1997) but only with reference to the obligation to report to the police station, not to the banning notice itself, for which no amendments were considered necessary.

As Contucci notes, ‘it cannot be ignored that all Italian football fan groups, which have hundreds of thousands of members, have agreed that the escalation of the conflict between supporters and police has also been determined by the excessive discretion left to local police forces and insufficient defence guarantees for those affected’.¹⁸ The breakdown of the relationship of mutual ‘respect’ between fans and police¹⁹ is attributed by some leaders of the Ultra interviewed by the author during ethnographic research in Genoa, to the application of the DASPO measure:

Before there was mutual respect, they arrived, they divided you up, maybe they slapped you around a bit too, eh, and there you are... Oh, they were only doing their job... it was about respect... [...] Look, honestly, if they caught me doing something they gave me a year in prison without parole. But you must catch me red-handed. But now with this, you’re out for 5 years, you are forced to sign, even if you’ve done fuck all, it just makes the situation worse...²⁰

2.3 The ‘Special Legislation’ from 2001 to 2007

The escalation of conflict in football, which was increasingly defined by the line that divided the Ultra from the police, led to a further tightening of the law in the 2000s. From August 2001 to April 2007, the desire of governments to show their strength in the face of situations perceived as being out of control manifested itself in the issuing of four decrees on violence in stadia, and caused many to convert to progressively stricter laws. In 2001, Public Law 377 extended the maximum duration of the DASPO order, increasing it to a maximum of 3 years and establishing custodial sentences for those contravening its conditions. Specific offences relating to football violence were also introduced; the release of ‘hazardous’ material was made punishable with imprisonment from 6 months to 3 years, and pitch invasions were made punishable by fine or imprisonment.

The main innovation introduced by Public Law 88 (24 April 2003) was ‘deferred flagrancy’. When an arrest ‘in flagrante’ (at the moment an offence is committed) is not feasible for reasons of security or public safety, police can arrest a person who, on the basis of video/photographic elements or other objective evidence, is believed to be the perpetrator, within 36 h of the crime being committed. With this provision, the police gained the power to restrict the personal freedom of an individual after a crime has been committed, a power which according to Article 13 of the Italian Constitution should only be within the jurisdiction of a magistrate. Having a possible unconstitutional element makes the measure an interim order: a suspension of the law dictated by the urgency of an emergency

¹⁸Contucci 2010, p. 115.

¹⁹For a deeper analysis of the concept of ‘mutual respect’ between fans and the police, see Sale 2010b.

²⁰Sale 2010b, p. 325.

situation. The deadline for the cessation of this interim order was 30 December 2005, in accordance with legislation passed in 2003. However, with extensions applied after subsequent changes in the law, it was extended indefinitely and became nothing more than the 'normalisation of the state of exception'.²¹

Public Law 88 of 2003 provides mandatory measures for situational prevention in sports facilities with a capacity greater than 10,000; numbered tickets electronically controlled at the entrances, access gates equipped with metal detectors, video surveillance of spectator areas both inside the stadium and within its immediate vicinity, and segregation to prevent contact between rival spectator groups. For the first time, economic costs for the safety of the facilities became 'the responsibility of the organiser of the event'²² even if they were owned by the council. These measures for 'structural adjustments' of stadia were further expanded through three ministerial decrees issued in June 2005, which dealt with the selling of named tickets, the installation of video surveillance systems, access to sports facilities and structural safety. These measures, which would have caused the closure of the majority of Italian top flight stadia and the application of which would have involved huge expenditure by clubs and councils, have been subject to constant and repeated extensions, the latest of which is a decree from the Ministry of the Interior in September 2006. Italian law is, once again, as a popular Italian saying states, 'strong with the weak and weak with the strong'.

Public Law 210, dated 17 October 2005 (the so-called Pisanu Law) added more restrictive elements to the Italian regulatory framework. DASPO orders were extended to sporting events taking place abroad. It reinforced the obligation for named tickets and the employment of stewards, the staff responsible for the admission and direction of the spectators, basically equating them to 'public officials'.

In the Ministry of the Interior, the law also established the National Observatory on Sports Events (ONMS), although it merely formalised an organisation already in operation since 1995. ONMS became not only responsible for monitoring the phenomena of violence by publishing an annual report,²³ but most importantly evaluating problems related to the specific scheduled matches. In other words, they assign a risk level to sporting events, on which appropriate measures of public order are based, such as the prohibition of away fans or regulation of restrictions on the sale of tickets. Often going beyond its institutional responsibilities, the ONMS advocate these restrictive measures with a punitive intent, applying them for matches that, although not posing a risk in themselves, involve teams whose fans have recently been involved in a disturbance.²⁴

²¹Petti 2007.

²²Massucci 2008.

²³It should be noted that it has not been deemed necessary to involve any academic opinion in the research.

²⁴The most striking example is the season-long ban on away games imposed on Napoli supporters (Ministerial Directive 555/Op/2144/2008/CNIMS), stated after the disturbances at Rome Termini station during the Roma v. Napoli match on September 2nd 2008. This clearly punitive ban included matches with no risk profile, such as Genoa v. Napoli, long-term "twinned" teams.

The 2006/2007 and 2007/2008 seasons marked a period of substantial change to strategies of social control in and around stadia. The decree of February 2007, issued in the aftermath of the clashes in Catania²⁵ (precisely 6 days later) and ratified in April of the same year (Public Law 41/2007, the so-called Amato Act), introduced 'emergency measures' to combat football violence. The measures adopted are in three different areas, separated into organisational, preventive and repressive measures.

Among the former, there are measures to ensure the safety of spectators and persons inside and outside stadia, to tackle risks that are both 'structural' and 'subjective'—i.e. those related to the suitability of the facilities and those relating to the 'context and organised presence of "dangerous individuals"'.²⁶ Articles 10 and 11 set out the requirements for structural adjustments and procedures for the ticket staff already sanctioned by the ministerial decrees of 2005, the application of which are denied any additional adjournments. This is supported, not without sarcasm, by a police officer interviewed during the author's research in Genoa:

After eight extensions, the decree passed two days after the death of Raciti says essentially this, that the law will apply tomorrow: Article 1 says that games will no longer be played in stadiums which are not compliant. And we witnessed the race to install the turnstiles, which by the way, were fake, they did not work, because it is not like you can install turnstiles in two days...²⁷

The second package of measures is aimed at making preventive action 'more effective', reinforcing the measures of prohibition of access to facilities to 'those persons "objectively" and "potentially" dangerous to public order and security as well as materials prohibited for their potential to offend'.²⁸ 'Objective' and 'potential' are clearly oxymoronic and the offensive potential of an object represents a criterion that is far from satisfactory for declaring with certainty the degree of the threat posed by its owner. People (including minors) have been reported for mere possession of (and not for the act of 'launching', as previously established by the 2001 Act) pyrotechnics or blunt objects and objects capable of polluting (for example, an aerosol canister) and can be given a DASPO order. The mere possession of such material has been transformed from a misdemeanour to an offence, and punished with a prison term from 6 months to 3 years.

The decree and subsequent law of 2007 not only toughened the measures already taken, but introduced a series of bans that in fact complicate, if not prevent, the expression of a particular feature of the world of the Italian Ultra, the 'fan choreography'. According to many commentators, the tacit intent was to limit the role played by the fans by making them passive consumers (and not protagonists) of a

²⁵At the Catania-Palermo Sicilian Derby on February 2nd 2007, Police Inspector Filippo Raciti died in circumstances never completely clarified during clashes between fans and police in Catania. Antonio Speziale, a 17 year-old youth, was accused. Despite ambiguities in the evidence, which emerged during the trial, Speziale was sentenced to 14 years in prison.

²⁶Massucci 2008, p. 8.

²⁷Sale 2010b, p. 324.

²⁸Massucci 2008, p. 9.

spectacle that must only take place on the playing field.²⁹ In this sense it is possible to interpret it as a ban on accompanying a choir with drums or other musical instruments or a ban on the use of megaphones to coordinate the cheering in the stands. Among the rules discussed within the framework of preventive measures, was the obligation to notify by fax the club hosting the match of the text of a banner to be exposed in the stadium. This fax must then be forwarded to the police station for a kind of modern 'imprimatur' from the police force. This additional measure, in which it is possible to recognise the classic whiff of censorship, kills the creativity and spontaneity of the traditional messages sent from the stands of Italian stadia. It is considered by many to be in conflict with the absolute right of 'freedom of speech and expression', stated in Article 21 of the Italian Constitution: 'Everyone has the right to freely express their thoughts through speech, writing, and every other means of communication'³⁰ and also raises questions under Article 10 of the European Convention on Human Rights (Freedom of Expression).

As to the tightening of existing measures, the Amato Act, para 1 states that the DASPO order 'can also be used against those whose conduct, on the basis of objective evidence, is believed to be intended for active participation in violence'. The addition of this point is rather obscure: it now appears that a conviction or a formal complaint is no longer necessary to merit a DASPO order: a simple report by the police which refers to 'conduct intended for violence' will suffice, evaluated on the basis of 'objective evidence' which, considering that this term has not been specified, leads to a further discretionary use of the measure.³¹ The maximum duration of a DASPO order has been increased from three to 5 years, and the term of deferred flagrancy has been extended from 36 to 48 h. Furthermore, against 'the most dangerous people, the promoters, even if they are not the architects, of violent group actions',³² the application of measures provided by the so-called 'Anti-Mafia Law' (No. 575, May 31, 1965) can be used, i.e. measures restricting personal freedom (special surveillance, confiscation of property), based on purely circumstantial evidence.³³ This association between stadium violence and the mafia, as well as some aspects of the legislative response and control strategies adopted, seem to follow the concept of 'the enemy within' which, 20 years earlier in Great Britain (under Margaret Thatcher's Government), associated in the same wave of repression, striking miners, terrorists in Northern Ireland and football 'hooligans'.³⁴

The target group for preventive control strategies is not, however, comprised of people who have committed a crime, but by a very large group of spectators

²⁹Among others, Cacciari and Giudici 2010; Sale 2010b.

³⁰Following this procedure, a banner that bore the text of that very Article of the Italian Constitution, prepared by the Sampdoria fans for a Sampdoria v. Cagliari match in March 2007 was denied access to the stadium!

³¹Filing an appeal does not suspend the immediate enforcing of the measure, so it is often useless due to the lengthy Italian legal procedures.

³²Massucci 2008, p. 10.

³³So far no examples have been encountered in a football context.

³⁴Armstrong and Hobbs 1994.

stigmatised as ‘potential troublemakers’.³⁵ The ‘anti-violence’ legislation seems therefore to trace the characteristics identified by the jurist Ferrajoli in ‘Police Law’:

...which has the function of prevention of crime and more generally of public order disturbance through measures of social defence *ante* or *extra delictum* applied for administrative purposes to “hazardous” or suspicious characters. The general basis of their application is not in fact the committal of a crime, but simply a personal quality determined on a random basis by purely discretionary criteria [...]. *Danger and suspicion are inherently incompatible with the forms of strict legality, as they elude a clear legal predetermination and leave blank spaces based on assessments as questionable as they are uncontrollable.*³⁶

The third package of legislative measures contained in the decree and Act of 2007 included provisions that were more typically repressive, with the aim of intensifying the deterrent effect. With the explicit intention to incapacitate, it toughened the penalty for stadium crimes, aiming to ‘achieve the desired effect of social protection through cautionary measures by putting the author of violence or other types of risky behaviour in a position to do no harm to the community’.³⁷ It also introduced the crime of aggravated damage committed on a sports facility, formalising, in Italian legislation, the ‘spatial criterion’ in determining the seriousness of a crime: a criterion which is already found in other European legislative framework for crimes committed at football events.³⁸ ‘...the spatial criterion is both a key definitional element of football hooliganism and the ground of new aggravating circumstance as a person committing offences in connection with sports events is punished more severely than are persons committing similar offences in other circumstances’.³⁹

The goal of preserving the stadium and the football spectacle from any form of deviance or social conflict has contributed to the potentially unlimited expansion of social control measures in sports facilities, including the diffusion of ‘soft surveillance’⁴⁰ technologies and a renewed alliance between security needs and commercial interests. In this framework it is possible to place the adoption of the latest measure to curb football violence, the controversial ‘fan loyalty card’.

2.4 A Loyalty Card for Fans (The ‘Tessera Del Tifoso’)

A loyalty card for supporters was introduced with the Administrative Circular No. 555 of 14 August 2009 which announced the ‘provisions for the 2009/2010 football season’ to the regional authorities. It is not therefore a law in the strictest

³⁵This is one of the basic principles of the ‘new paradigm of control’ (among others, Garland 2001; De Giorgi 2000).

³⁶Ferrajoli 1996, pp. 797–798, emphasis added.

³⁷Massucci 2008, p. 10, emphasis added.

³⁸Pearson 1999; Stott and Pearson 2007; Tsoukala 2007, 2009.

³⁹Tsoukala 2007, p. 5.

⁴⁰Marx 2007.

sense of the word as it is not based on any law of the State regularly discussed and approved by Parliament. However, this does not undermine its coercive character. The Minister of the Interior, in fact, requires local authorities to consider as non-compliant (and therefore to close) sports facilities where clubs that refuse to adhere to the 'loyalty card' programme play.

According to the aims of the Ministry, the card represents 'an instrument to increase loyalty', through which the football club has the opportunity to create an 'official fan/customer' base.⁴¹ On the one hand, the card is presented as an instrument of an 'ethical' adhesion to values for the benefit of a community of 'real fans' who share a 'genuine' passion for football; passion, that according to the familiar mythical Olympic ideal, is completely free from any form of conflict that goes beyond healthy competition in the field. On the other hand, the commercial nature of the programme is clear to see:

The relationship established with the sports club is similar to that which the commercial world proposes to its best customers on a daily basis when selling its products. All personal data submitted by fans from football clubs is stored and only used (in accordance with the Privacy Act) to promote activities and facilities offered to its customers (agreements with transport and refreshment companies, dedicated lanes, an electronic wallet and much more).⁴²

Even in appearance, 'the card will look like a normal credit card, but should also have the photo of the owner on it'. With this 'normal credit card', the holder will be able to benefit not only from the various business opportunities offered by their club as part of their marketing strategy, but also in the facilitation of normal security measures in stadia. In particular, again from a ministerial source, the card will help in the purchase of tickets, enabling the reading of the buyer's personal information and therefore rendering an identity card or passport unnecessary:⁴³ the card will help in making the holder exempt from the restrictions that may be imposed for reasons of public security on both home and away games. Moreover, the card will help in streamlining procedures for entering the stadium and in allowing the holder to benefit from preferential access roads and entrances to avoid searches. In this regard, as noted by Gary Marx, 'there is a chilling sense of continued regression that characterises a society in which we are asked to provide an increasing amount of personal information as evidence of not being "worthy" subjects of even more intensive controls'.⁴⁴

The interplay between marketing tool and control measure is inextricable. If it were only a business opportunity, both for the sports clubs that offer it and for customers who decide to subscribe to it, it should, as with all economic activity in a

⁴¹See www.interno.gov.it/mininterno/export/sites/default/it/sezioni/sala_stampa/speciali/Tessera_del_tifoso/FAQ_tessera_del_tifoso.html (link no longer active).

⁴²Ibid.

⁴³Although only a few lines further down it is stated that Loyalty Card holders are still required to show a valid ID on request of a steward or the police (www.osservatoriosport.interno.gov.it/tessera_del_tifoso/vantaggi.html).

⁴⁴Marx 2007, p. 45.

free market, be voluntary. In other words, it should be a matter of free choice made by the people involved, without the need for a directive from the Ministry of Interior stipulating its mandatory aspect. The ambiguity between opportunity and necessity (evidently oxymoronic concepts) is revealed in the information on the fan loyalty card programme posted on the Ministry's website: 'The card must be seen as an *opportunity*. It will be *required* to apply for a season ticket or go to an away game [...]. By next football season it will not be possible to apply for a season ticket or go to an away game without the card.'⁴⁵

However, not all supporters are eligible for the card. The ministerial decree of 15 August, 2009⁴⁶ stipulated that clubs must submit the names of the subscribers to the police headquarters, which will be responsible for verifying the presence of impediments. If the card represents a trade agreement between the sports company and its customers, the transmission of personal data to the police is in itself problematic, even if limited to the verification of the presence of the necessary requirements for the issue of the card. It has been interpreted by the Italian Ultra groups, and many ordinary fans, as an excessive profiling made on the basis of an association between fan and potential criminal, and putting them into the same category of risk. As to the impediments, they are referred to and specified in Article 9 of the Amato Law 41/07, which prohibits associations organising football competitions, 'from issuing, selling or distributing admission tickets to individuals who have been the subject of Article 6 of Public Law dated 13 December 1989, n. 401 (the DASPO order), or to individuals who have been convicted for crimes committed during or because of sporting events, even if the sentence is not definitive'.

If we exclude those who have been convicted of stadium crimes⁴⁷ (regardless of the sentence, which could be just a fine) this not only reverses the presumption of innocence,⁴⁸ but the presumed guilt is a label that thwarts the purchase of a season ticket (i.e. the signing of a trade agreement between two private parties) even after sentence has been served. In addition to this, as already mentioned, the range of 'stadium crimes' and reasons to issue a DASPO order have been extended greatly over the years, to include behaviour that is not necessarily violent and extremely widespread as it is linked to practices rooted in the subculture and folklore of Italian football fandom, such as the ignition of fireworks or the display of an unauthorised banner. Regardless of the questionable legal grounds for this system of exclusion, the introduction of this card creates an unnecessary duplication in terms of security: the application for a season ticket or individual named ticket

⁴⁵www.interno.it/mininterno/export/sites/default/it/sezioni/sala_stampa/speciali/Tessera_del_tifoso/FAQ_tessera_del_tifoso.html (link no longer active).

⁴⁶Ministerial Decree. 18/08/09 entitled: 'An investigation by police on the conditions of the requisite impediments to the access to places where sporting events take place'. The date itself highlights the urgency of the measure. *Ferragosto* (15 August, a religious festival) is a national bank holiday.

⁴⁷Determination No. 27/2009 from the National Observatory of Sport Events specifies that 'temporarily excluded from the program are those persons convicted of stadium crimes even if the sentence is not definitive, until the completion of five years after the aforementioned conviction'.

⁴⁸Among others, Bigo 2006; Dal Lago 2000; Tsoukala 2009.

already foresees a background check for impediments by the person issuing the tickets, who will only receive a green light from the police if the purchaser's name is not on the blacklist of individuals denied access to sporting facilities.

Furthermore, the effectiveness of the measure in terms of actually improving public order in sports is highly doubtful. Perhaps denying the mandatory aspect of the loyalty card (which, as we have seen, contradicts its commercial façade), a note of clarification⁴⁹ from the Ministry of the Interior specifies how the card is not compulsory and therefore the failure to sign up to the programme will not constitute an impediment to the purchase of individual tickets for home matches (the only prerequisite is the purchase of an annual subscription, which allows considerable savings to the buyer). As for away matches, it is possible to buy a normal ticket provided that it is in a different stand to that reserved for visiting supporters. Therein lies a paradox: the 'official' fan, a cardholder, loyal, verified faultless through careful screening by the police, is confined to 'cages' and isolated areas which contain the hyper-controlled 'away end' of Italian stadia. However, a fan without a loyalty card has the opportunity to purchase a regular admission ticket in the home fan areas, and therefore come into close contact with rival supporters.

The response adopted in confronting this evident complication in the management of public order in football stadia is typical of the logic that has always governed Italian law in this area. The National Observatory of Sports Events assesses on a weekly basis the level of risk at matches and therefore imposes restrictive measures to organising companies for the sale of tickets for the home sections of a ground to anyone without a loyalty card who does not reside in the geographic region in which the sporting event takes place, or resides in the region of the visiting team.⁵⁰ These measures presume a localisation of football clubs that is not always reflected in the actual geography of the fan base, thus creating difficulties and paradoxes for anyone who supports a different team than that of their city. More alarming is the territorial discrimination regularly operating to the detriment of fans in contradiction of Article 3 of the Italian Constitution (the principle of equality before the law). In season 2010/2011, more than 40 % of the games in Serie A were subjected to stringent restrictions on the sale of tickets, either in the form of prohibiting sales of vouchers to residents in the region of the host team, or as exclusive sales only to residents in the region or province where the match was held.⁵¹ The ease with which this measure is being used goes against the emergency justification given to a discriminatory measure.

At the end of the second season after the loyalty card programme came into force, data published by the Ministry showed a substantial reduction in violent

⁴⁹See www.interno.it/mininterno/export/sites/default/it/sezioni/sala_stampa/speciali/Tessera_del_tifoso/FAQ_tessera_del_tifoso.html (link no longer active).

⁵⁰This means preventing, for example, a Genoa fan without a loyalty card (who lives in Liguria) buying a ticket for the home end of the Meazza Stadium in Milan for the high-risk Milan v. Genoa game.

⁵¹The data is easily calculated by consulting the archives of the decisions taken by the CASMS and the relative judgements of the ONMS.

episodes and extolled the benefits of the card.⁵² In reality it is an extremely difficult phenomenon to quantify. Official statistics on football conflict, available on the ONMS site, are incomplete and the methods used are flawed. They are produced by the same organisation at the Ministry of the Interior that proposes the countermeasures (a clear conflict of interest). It seems that the calming effect of the card has come about in an indirect way: following the refusal to sign up for the loyalty card expressed by all groups of Ultra and the exasperation felt by many ordinary fans by the tightening of security procedures and the increasing difficulties in buying tickets (which have not been simplified by the introduction of the card), there has been a substantial decline in public stadium attendance, and in particular a significant reduction in the number of fans who follow their team to an away game.⁵³ Contucci argues that the success of the programme can be likened to a reduction in road accidents had the Ministry of Transport decided to close all highways in the Italian territory for safety reasons.⁵⁴

2.5 Conclusions

An analysis of the legislative and administrative measures taken in Italy to combat football violence shows many trends that define the transition towards a ‘new paradigm of control’: the application of measures for situational prevention. A focus on pacifying a *space* and not the disciplinary treatment of the individual offender. The introduction of preventive measures to neutralise the potential risk and not to punish the criminal act itself. And finally the elevation of ‘security’ as a top priority and the urgent demand, driven by public opinion, for a zero-tolerance response from the authorities, whatever the cost in terms of respect for individual civil and human rights. It appears, therefore, a contradiction. As observed by Castel:

If you want a state of law, this pursuit for total security is going to fail, since total security is not compatible with an absolute respect for legal forms [...]. Perhaps it is a contradiction inherent in the practice of modern democracy. It is expressed through the fact that security in a democracy is a right, but that this right cannot certainly be respected in its fullness without putting into motion the means that prove detrimental to this right. It is significant that [...] the security question is immediately translated into a question of authority, which, once prey to the excesses of enthusiasm, can threaten democracy.⁵⁵

Italy has also witnessed what Armstrong and Hobbs (referring to the control of British sports in the 1980s), called ‘the normalisation of surveillance and control

⁵²By the start of the 2014/15 season no further statistics had been published.

⁵³Unfortunately, there is no systematic collection of official statistics on stadia attendance and no data at all on guest supporters’ presence. The independent website monitoring on Italian football (www.osservatoriocalcioitaliano.it) compares data related to 2011–2012 and 2008–2009 Serie A seasons, recording a 8.1 % decrease in stadia attendance. Several experienced observers relate this decline to the decrease of guest supporters (among others, Contucci 2010, www.asromaultras.org).

⁵⁴Contucci 2010.

⁵⁵Castel 2003, trans. it. 2004, pp. 20–21.

without a political protest'.⁵⁶ The passage of legislation on violence in stadiums by a logic of preventative incapacitation, so worrying for the protection of individual rights and thus the fate of democracy itself, has not in fact provoked reactions of dissent even from the areas of public opinion generally sensitive to these issues. Indeed, the issue of the unlawful nature of DASPO order was only raised when Interior Minister Maroni proposed to extend it to provisionally cover political demonstrations.⁵⁷

'Total security', as well as being incompatible with the observance of legal forms, is in fact a utopian goal, which makes the coveted peace of the stadia destined to remain incomplete and the progressive tightening of legislation never fully conclusive. The reasons are manifold and can only be alluded to in the conclusion of this review. It is sufficient to remember that, as stated by one of the first ethnographers on the police, 'the phrase "law and order" is misleading because it draws attention away from the existing substantial incompatibilities between the two ideas'.⁵⁸ The tightening of regulation does not always produce the pacifying effects hoped for: the zero-tolerance approach dictated by political imperatives often results in restricting the areas of mediation between the police and their opponents which are essential to maintain a certain level of 'structured chaos',⁵⁹ which seems to be the most desirable and realistic condition once the utopian image of society (and stadium) as completely orderly and free of any form of deviance, is removed. The stadium never becomes as sterile as the legislature demands; the frustration of pockets of unresolved conflict increases while a private or semi-private enjoyment of football at home in front of the television grows. If however you are a Genoa fan, and therefore hopelessly romantic, you can stay tuned to 'Radio Nostalgia' (the name was never more appropriate), the only place where, so far, it is still permitted to be a 'potentially dangerous' subject.

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⁵⁶Armstrong and Hobbs 1994, p. 215.

⁵⁷*Corriere della Sera*, 18/12/2010, *La Repubblica*, 18/12/2010.

⁵⁸Skolnick 1966, p. 9.

⁵⁹De Biasi 2001; Sale 2010b.

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