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# Reporting on U.S. Military Basing in Italy

The Rule of Law and the Role of Media  
in shaping civil-military Relations

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*“The time of empire is war and destruction,  
but it is also creation, beauty, and renewal.*

*The apparatus of empire is the military,  
but it is also architecture, planning, and humanitarian aid.*

*The mandate of empire is to annihilate,  
but it is also to preserve, rebuild, and protect.*

*Empire rules through coercion and violence,  
but it also rules through consent and culture.”*

**Ananya Roy**, *'Praxis in the time of Empire'*



## **ABSTRACT**

The presence of facilities owned and used by the United States armed forces around the world has been matter of debate over the years and for a wide variety of reasons. The purpose of this work is to examine the public perception of the presence and activity of United States' armed forces on Italian soil, as shaped by a set of major agreements dating back to the aftermath of World War II, when our country needed support in order to reconstruct its economy and security, and found in the Marshall Plan and the partnership with the United States a powerful tool to recover from the conflict. But what is the current status of these treaties? How do our domestic laws apply towards U.S. personnel stationed in the Italian jurisdiction? Are the civilian communities on both sides informed about the status of bases on their territory/overseas, and in any case, what kind of information is accessible to the public and how does it affect the collaboration and trust between these two economic and military partners?

Given the premise that the major agreements between Italy and the United States, with an exception for the Shell Agreement signed in Rome on February 2, 1995, still remain a secret, I tried to answer these questions choosing the time-span that goes from

1998, year of the infamous “Cavalese Cable Car Disaster”<sup>1</sup> to the present days, since it is only after this accident that the “*Memorandum of Understanding between the Ministry of Defense of Italy and the Department of Defense of the United States of America*” has been made public.

From an organizational point of view, the thesis is divided in two parts, made up of three chapters each, following two main fields of research: in the first part, which deals with the historical background of the military installations themselves, I examine the role of U.S. bases abroad, the legal framework regulating their presence in the Italian case, and how these have been used in legal procedures involving Italian and American military and intelligence personnel. The dissertation goes then beyond defining the presence of American troops as a normative issue, focusing also on what the public perception of the subject is, and to what extent its media coverage defines Italian-North American relations and their bilateral security arrangements. In order to show the variety of opinions on these theme, I decided to concentrate my analysis on a selection of several newspapers articles, which provided an immense load of information on the matter (specifically, the *The New York Times* digital archives),

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1 A ski resort on the Dolomites in which Twenty people died, when a United States Marine Corps EA-6B Prowler aircraft cut a cable supporting a gondola of an aerial tramway.

websites of U.S. Navy and Air Force Network, Italian newspapers such as *La Repubblica*, *l'Espresso*, and many visual and graphic resources found online.

In the last two chapters, I will briefly compare Italy's situation with the experience of other countries working as hosts for the U.S. military system, showing which are the hopes and concerns of citizens of different nationalities facing the same question of national security and sovereignty. The conclusion will be an attempt to seek a common ground and considering the potentially positive and negative aspects of U.S. stationing abroad, and how differences in perception and understanding created by media can improve awareness and foster debate in an area that seems confined to an administrative and legal dispute, but unquestionably presents social and cultural implications as well.

## RIASSUNTO

La presenza di strutture possedute e utilizzate dalle forze armate statunitensi nel mondo è stata materia di dibattito per anni e per una vasta gamma di motivazioni. Lo scopo di questo lavoro è di esaminare la percezione pubblica della presenza e attività delle forze armate degli Stati Uniti d'America su suolo italiano così come venutosi a formare da un insieme di accordi risalenti al periodo successivo al secondo conflitto mondiale, quando il nostro Paese aveva bisogno di supporto per ricostruire la sua economia e sicurezza, e trovò nel Piano Marshall e nella collaborazione con gli Stati Uniti d'America un potente strumento per riprendersi dal conflitto. Ma qual è lo *status* attuale di questi trattati? Come si applica il nostro diritto interno al personale militare statunitense in servizio nella giurisdizione italiana? Le comunità civili di entrambe le nazioni sono informate circa le condizioni delle basi militari sul proprio territorio /all'estero, e in ogni caso, che tipo d'informazione è accessibile al pubblico, e com'è che essa influenza la collaborazione e la fiducia tra questi due partner economici e militari? Premesso che gli accordi più importanti tra i governi di Italia e Stati Uniti, con l'eccezione dello "Shell Agreement" del 2

febbraio 1995, rimangono ancora segreti, ho cercato di dare una risposta a queste domande scegliendo il lasso temporale che va dal 1998, anno della tristemente nota Strage del Cermis<sup>2</sup>, poiché è solo dopo questo incidente che il “*Memorandum d’intesa tra il Ministro della Difesa della Repubblica Italiana e il Dipartimento della Difesa degli Stati Uniti*” fu reso pubblico, fino ai giorni nostri.

Da un punto di vista organizzativo la tesi risulta divisa in due parti, ciascuna composta da tre capitoli, che seguono due filoni di ricerca principali: nella prima parte, che riguarda il contesto storico delle installazioni militari stesse, esamino il ruolo delle basi statunitensi all’estero, il quadro normativo che regola la loro presenza su territorio italiano, e come questi due fattori siano stati utilizzati in procedimenti legali in cui è coinvolto personale militare e dell’intelligence italiano e americano. La trattazione va in seguito ben oltre la definizione della presenza di truppe americane come una mera questione normativa, concentrandosi anche su quella che è la percezione di essa da parte del pubblico, e in che misura la copertura fornita dai media definisca le relazioni tra Italia e America settentrionale, con i loro rispettivi accordi bilaterali. Proprio per mostrare la varietà di opinioni su

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2 Una località sciistica delle Dolomiti nella quale, a causa di un aereo Grumman EA-6B Prowler del Corpo dei Marines degli Stati Uniti, che tranciò il cavo di una funivia, morirono venti persone.

questo tema, ho deciso di concentrare la mia analisi su una particolare selezione di articoli di giornale, che forniscono una notevole quantità di informazioni sull'argomento (nello specifico, gli archivi digitali di *The New York Times*), siti internet della Marina Militare degli Stati Uniti e dell'Air Force Network, riviste italiane come *La Repubblica* e *L'Espresso*, e molte altre risorse visuali e grafiche trovate online.

Negli ultimi due capitoli affronterò una breve comparazione tra quella che è la situazione dell'Italia e l'esperienza di altri Paesi che si prestano come ospitanti in funzione del sistema militare americano, mostrando quali possano essere le speranze e le preoccupazioni di cittadini di diverse nazionalità che si trovino a porsi lo stesso quesito sulla propria sicurezza nazionale e sovranità.

La conclusione sarà un tentativo di trovare un terreno comune e di considerare gli aspetti sia positivi sia negativi dello stazionamento statunitense all'estero, e come delle differenze di percezione e comprensione create dai media possano migliorare la consapevolezza dei cittadini, favorendo il dibattito in un'area apparentemente confinata a una disputa amministrativo-legale, ma che indubbiamente presenta anche implicazioni sociali e culturali.

## INTRODUCTION

According to the analysis of the White House Office of Management and Budget<sup>3</sup>, the U.S. Department of Defense (DOD) asked 495.6 billions of dollars as “base budget” for the fiscal year 2015.

This means that, despite the necessity of reducing expenditures, the number of resources allocated in order for it to maintain its minimum state of efficiency, is planned to be higher than the funds received by the three other largest executive departments within the U.S. Government, namely Health and Human Services (HHS), Education (ED) and Housing and Urban Development (HUD), which respectively got \$73.7 billion, \$68.6 billion and \$32.6 billion. Following another report, titled “*Trends in World Military Expenditure*”, published in April 2014, this time by an European authoritative think-tank, the Stockholm International Peace Research Institute (SIPRI)<sup>4</sup>, the United States is also the world leader in this sector, directly followed by the People’s

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3 Full report “*Budget of the U.S. Government for the Fiscal Year 2015*” available at: <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2015/assets/budget.pdf>.

The data above are taken from the Summary Table S-11, PG. 203-205.

4 “*Trends in World Military Expenditure*”, fact-sheet available at: [http://books.sipri.org/product\\_info?c\\_product\\_id=476](http://books.sipri.org/product_info?c_product_id=476)

Republic of China, which, however, devotes less than one third of the U.S. spending to the armed forces.

These numbers alone might not be an indicator of how these resources are effectively used for the country, nor are they reflective of the kind of goals they are meant to achieve, but represent indeed a starting point to understand its political priorities. An on-line interactive project, precisely called “*National Priorities*”<sup>5</sup>, created by a team of researchers in Massachusetts, whose ambition is, according to its official website, to “*make [the] complex federal budget transparent and accessible*” so to “*reflect the interests of all Americans*”, underlines how military budget next year will make up an outstanding 55% of the Federal Discretionary Spending (the portion of Federal Budget allocated each year by the Congress during the budgeting process). All this does not include an exceptional and undesirable war funding. For comparison, that is larger than the entire economy of Sweden<sup>6</sup>, where the previously quoted SIPRI is located.

In the meanwhile, Italy has also published an analogue programmatic document through its Ministry of Defense for the

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<sup>5</sup>“*National Priorities Projects*”, Cost of National Security : <http://nationalpriorities.org/cost-of/>

<sup>6</sup> Whose GDP, according to CIA’s *World Factbook*, was \$ 393.8 billion in 2013 (specifically, 1.18% of GDP in 2012 has been used for the military).

two-year period 2013-2015<sup>7</sup>, for the first time in the history of the Republic: according to its forecast, Italy is intended to spend in 2015 0,91% of its gross domestic product, precisely € 14.5 billion in function of defense. These resources, however, take into consideration the austerity measures promoted by former Italian Prime Minister Mario Monti and implemented by his successor Prime Minister Enrico Letta, who served between April 2013 and February 2014. Mario Mauro, who was Defense Minister under the legislature, stated in an audition at the Italian Chamber of Deputies Defense Commission<sup>8</sup> that following these parameters, the armed forces would be at risk of “*a complete functional default*”.

The political guidelines of both the United States and Italy would certainly not have been the same if the two countries had not been faithful allies within the North-Atlantic Treaty Organization (NATO) since its founding in 1949.

Both the nations have long been committed in a long lasting relationship, cooperating within the framework of other several

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7 “*Il Budget dello Stato per il triennio 2013-2015*”, Ministero dell’Economia e delle Finanze, Dipartimento della Ragioneria Generale di Stato, Ispettorato Generale del Bilancio, Roma, November 2012.

<http://www.rgs.mef.gov.it/Documenti/VERSIONE-I/e-GOVERNME1/Contabilit/Pubblicazioni/BudgetdelloStato/BudgetStato-DLB-2013-2015.pdf>; “*Documento Programmatico Pluriennale per la Difesa per il Triennio 2013-2015*”, [http://www.difesa.it/Content/Documents/DPP\\_2013\\_2015.pdf](http://www.difesa.it/Content/Documents/DPP_2013_2015.pdf), Ministro della Difesa Gianpaolo di Paola, April 2013, pg. I-5 and III-5.

8 Webcast available at Ministero della Difesa WebTV, 23 July, 2013: <http://webtv.difesa.it/Detail/Dettaglio?ChannelId=a87c5c4c-8702-4284-b5f5-11120a94776e&VideoId=4a92931c-b466-4081-9f2e-bb71136c31f9>

international institutions, such as the United Nations, the Euro-Atlantic Partnership Council, the Organization for Security and Cooperation in Europe (OSCE), the Organization for Economic Cooperation and Development (OECD), the G-20, G-8, the International Monetary Fund, the World Bank, and the World Trade Organization. Italy has also been serving as a permanent observer to the world's oldest regional organization, the Organization of American States, since 17 May, 1972.<sup>9</sup>

Analyzing another instructive bulletin, which brings the eloquent title of “*2004 Statistical Compendium on Allied Contributions to the Common Defense*” and, despite its outdated year of publication, appears to be the most recent resource with reference to this topic, we come to discover that Italy alone in 2002 has provided with \$ 3.02 million to the distribution of direct costs to the stationing of U.S. troops overseas; if we take into consideration the *Base Structure Report* (BSR) published by the U.S. Department of Defense during the same year<sup>10</sup>, it is estimated that the United States used to keep 3.842 military facilities within their territory, and 860 on foreign soil, against the respective 4.461 local bases and 598 abroad of Fiscal Year

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<sup>9</sup> U.S. Department of State, Bureau of European and Eurasian Affairs, October 25<sup>th</sup>, 2013, Fact Sheet “*U.S. Relations With Italy*”, permanent link at <http://www.state.gov/r/pa/ei/bgn/4033.htm>.

<sup>10</sup> U.S. Department of Defense, *Base Structure Report* (BSR), Fiscal Year 2004 Baseline, pg.11.  
[http://www.defense.gov/pubs/20040910\\_2004BaseStructureReport.pdf](http://www.defense.gov/pubs/20040910_2004BaseStructureReport.pdf)

2013<sup>11</sup>. This reduction overseas has to be explained, once again, by a variety of factors, including the program of spending cuts implemented and approved by President B. Obama with the aim to reduce U.S. internal deficit.

According to the same report, in Italy there are 1456 U.S. owned military assets, located next to the cities of Aviano, Vicenza, Pisa and its small suburb Tirrenia, Naples, Gaeta, Livorno, Catania<sup>12</sup> and thirty-eight other sites, thus making our country the fifth contributor in terms of space allowed for military installations, after Japan (8.071 sites), Germany (6.772), South Korea (5.976) and the United Kingdom (2.021 facilities without considering the ones overseas)<sup>13</sup>.

However, to have a solid knowledge of any real-estate property inventory to assess a determined and precise impact of U.S. military bases in Italy and abroad still appears to be a highly problematic task. This is mainly due to the fact that military secrecy was (and is) an obvious feature of this particular kind of issues, and that number and positioning of military stations has done nothing but adapt and modify itself over time, according to changing needs and new circumstances. For this same reason, it

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11 U.S. Department of Defense, *Base Structure Report* (BSR), Fiscal Year 2013 Baseline, pg.17.

[http://www.acq.osd.mil/ie/download/bsr/Base%20Structure%20Report%202013\\_Baseline%2030%20Sept%202012%20Submission.pdf](http://www.acq.osd.mil/ie/download/bsr/Base%20Structure%20Report%202013_Baseline%2030%20Sept%202012%20Submission.pdf)

12 U.S. Department of Defense, *Base Structure Report* (BSR), Fiscal Year 2013 Baseline, pg.74.

13 U.S. Department of Defense, *Base Structure Report* (BSR), Fiscal Year 2013 Baseline.

is worth to mention that the *Base Structure Report* so diligently released every year is nothing more than a public version of the Department of Defense's *Real Property Inventory*, which is, instead, a classified document<sup>14</sup>, identifying and counting the effective properties of the U.S. Armed Forces "owned or managed by the Department"<sup>15</sup> at the 30 September of every year, therefore without taking into account eventual replacements that might occur during the year in exam.

Furthermore, it has been pointed out by many journalists and knowledgeable scholars of International Relations<sup>16</sup>, that some sites are only partially mentioned if not even omitted from the official records: one striking example of this phenomenon is Camp Bondsteel, old headquarter of the U.S. military and NATO peacekeeping forces during the war in Kosovo<sup>17</sup>; there is no trace of the U.S. presence in Afghanistan, despite the post 9/11 invasion of 2001 and the envisioned signing of a Bilateral

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14 This definition follows the Executive Order 13526 of December 29, 2009, issued by President B. Obama, according to which information can be classified in three levels, namely "Top Secret", "Secret" and "Confidential", according to the level of damage that an eventual disclosure /publication of the material itself could cause to the security of the nation. Italy, instead, distinguishes in its Penal Code two level of secrecy, one related to its intrinsic sense, and a second which prohibits public disclosure of any kind of information representing a threat to the national stability and to its democratic nature, as of art.12, Legislative Act n.801 of 24/10/1977, [http://www.camera.it/\\_bicamerali/sis/norme/1801-77b.htm](http://www.camera.it/_bicamerali/sis/norme/1801-77b.htm).

15 U.S. Department of Defense, *Base Structure Report* (BSR), Fiscal Year 2013 Baseline, pg. 2.

16 See "*Conversations with History*", Institute of International Studies, University of California Berkeley, 5/2004, [Public Affairs] [Humanities] [Show ID: 8641]. Permanent link at <http://www.youtube.com/watch?v=sQi4-97GXrI>

17 Despite not being listed in the *Base Structure Reports*, the United States European Command often publishes on its official website some news related to the various activities of the Camp, as it can be seen at <http://www.eucom.mil/media-library/articles/tags/camp-bondsteel>

Security Agreement once the second round of presidential elections will be held this year;<sup>18</sup> there is no mention of the withdrawal of soldiers from Iraq in 2011; completely missing figures include Israel, Kyrgyzstan, Qatar, and Uzbekistan. In the specific case of Italy, the only list that is seemingly exhaustive but yet uncontrollable and unverifiable (at least by the author of this work) has been printed in a book by German writers Wilhelm Langthaler and Werner Pirker titled “*Ami go Home: Zwölf gute Gründe für einen Antiamerikanismus*”, and published at a later time, translated in Italian, in an analogue expressly self-confessed anti-American website<sup>19</sup>. Alfonso Desiderio asserts that many lists available might be outdated and not signal that many posts have been, in reality, closed, reduced, or brought back to the use of the Italian armed forces, and have nothing to do with NATO or the U.S. military anymore.

Still, he continues, “the total extension of all the U.S. military infrastructures in Italy is equal to one eighteenth of those in Germany and to one fourteenth of those in Japan”.<sup>20</sup>

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18 Holland S., “Obama, in Afghanistan visit, says he's hopeful on security pact”, Reuters, May 25, 2014. Available at: <http://www.reuters.com/article/2014/05/25/us-usa-afghanistan-obama-idUSBREA4O08E20140525>

19 Wilhelm Langthaler and Werner Pirker, „*Ami Go Home. Zwölf gute Gründe für einen Antiamerikanismus*“, Promedia Verlagsges MbH, October 2003. The first of these authors is a radical spokesman and organizer of “anti-imperialist camps” in Austria, the second has been Chief Commentator of the German national daily newspaper’s *Junge Welt*. Reported on: [http://www.kelebekler.com/occ/bas\\_it.htm](http://www.kelebekler.com/occ/bas_it.htm)

20 See more at: [http://www.affarinternazionali.it/articolo.asp?](http://www.affarinternazionali.it/articolo.asp?ID=882#sthash.flMWc1ww.dpuf)

ID=882#sthash.flMWc1ww.dpuf

If we consider that, according to an esteem made by the Japanese Minister of Defense in 2006<sup>21</sup>, the Okinawa prefecture is occupied, alone, by two thirds of the 40.000 American armed forces in Japan, on bases that cover an area of at least 18 % of the island, it is easy to make our calculations related to the peninsula.

The lack of transparency by American authorities is combined with the practice of keeping military zones inaccessible to citizens of the hosting countries, and even if this is functional to the safeguard of national interests and the safety of personnel employed in military and intelligence services, it is often been regarded with concern by both American and non-American taxpayers. People who happen to live in the communities where bases are placed, frequently perceive some sort of limitation to their right to obtain information and find out how their money is being spent; they fear eventual exposures to radiations in case of nuclear weapons storage inside the bases, showing apprehension for the environmental damages due to the building of military sites and training facilities, and sometimes, they even organize themselves in movements of protest, coordinated on a local and international level<sup>22</sup>.

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21See text at:  
[http://www.clearing.mod.go.jp/hakusho\\_data/2006/2006/html/i4262000.html](http://www.clearing.mod.go.jp/hakusho_data/2006/2006/html/i4262000.html)

22 A comprehensive list of anti-base associations can be found at:  
<http://closethebase.org/us-military-bases/anti-base-movement-organizations/>

The thread I decided to follow while researching for this thesis is that the incompleteness of information is motivated not only by military secrecy, but also from the role played by public opinion. As a matter of fact, a too accurate knowledge on U.S. military deployments overseas can spark mixed and sometimes controversial feelings within the public, not only of foreign countries, but also on the American electorate.

Once a common citizen understands to what extent he contributes to the militarization of other countries or is affected by it, it is possible that he feels a contradiction between the desire to be safe or give his help to what he perceives to be like-minded nations, and the hostility towards a possible turning of a peaceful situation in a state of warfare.

The creation of a vast military complex and the commitment to alliances with other countries is not only a source of economic expenditures, but also a generator of social dynamics. It can create a point of contact between culturally different societies, or the opposite, be a cause of contrast between them, and become a matter for “moral judgment”.<sup>23</sup>

In a 2010 documentary directed by two Italians, and titled

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23 See Wolfers A., “*National Security as an Ambiguous Symbol*”, Political Science Quarterly, The Academy of Political Science, Vol. 67, No.4, December 1952, pg. 481-502. Permanent Link at: [file:///C:/Users/hp/Downloads/Arnold%20Wolfers%20-%20National%20Security%20as%20an%20Ambiguous%20Symbol%20\(1\).pdf](file:///C:/Users/hp/Downloads/Arnold%20Wolfers%20-%20National%20Security%20as%20an%20Ambiguous%20Symbol%20(1).pdf)

“Standing Army”, the American historian, economist and essayist Chalmers Johnson asserts that “[...] *certainly, the unit of empire in the classic European empires was the colony. The unit for the American empire is not the colony, it's the military base.*”

<sup>24</sup>It seems natural to think that controlling an empire of planetary dimensions, like the one the United States conceive for themselves, comes with a series of costs: one of them is that in no part of the world, and above all, not under international public opinion, it can afford too serious or too prolonged disorders, nor it can delegate to others the possibility to solve its problems, and gain its relative influences.

The more a fierce and forceful apparatus is ready to be *used* in case of threats, the more likely the possibility to weaken a status of equilibrium and peace.<sup>25</sup> The expression of military capitalism, upon which the United States bases its current state of supremacy in international relations, can gain supporters as well as unpopularity, securing the values and the ideas on which the country has been founded, but at the same time threatening them and mining their credibility. It is a phenomenon that, being legitimate or not, almost never creates indifference. This is one of the main reasons to demand a proper understanding of it. The

purpose of this study is to give an overview of the normative aspects that have led to the legitimization of this huge placement of forces on the Italian soil, whose intensification or expansion should never leave indifferent the political actors on the international scene, particularly who is (s)elected to be a representative of the values of justice, peace and freedom, presenting himself as an arsenal of democracy.

## **Part One**

### ***The Rule of Law***

## **1.1**

# **MILITARY POWER AND INTERNATIONAL ORDER: AN HISTORICAL BACKGROUND**

In order to get a sense of the function played by the presence of American military installations in Italy, and what it represents for us, it is helpful to put it first into a broader historical and geographical perspective, and to understand what we usually refer to when we use the word “base”.

One first approach used by scholars who have investigated the etymology of this term says that military bases have always existed on an international level. Erik Castrén, a famous Finnish diplomat and professor of International Law, states in one of his works that the very first traces of military installments on foreign soils can be traced back to the antiquities<sup>26</sup>, and this is possible considering that using expression “base” had no military connotation until the half of the nineteenth century.

Their main purpose at the time was to foster diplomatic relations between countries, supporting trade and commercial activities, and in this sense, we can still see how the spread of U.S. bases, especially in Europe, and particular in the aftermath of the Second World War, has also created a receptive and favorable environment for American investors intentioned to open branches of their companies abroad.<sup>27</sup>

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26 Castrén E., *La base navale de Porkkala et sa restitution à la Finlande*, in *Gründprobleme des internationalen Rechts*. Festschrift für Jean Spiropoulos, Bonn, 1957, pp.71-72, quoted in Marchisio S., *Le Basi Militari nel Diritto Internazionale*, Giuffrè Editore, Rome, 1984, Chapter 1.

27 A striking example of this is the Transatlantic Trade and Investment Partnership, still in phase of negotiation, on which the website of the European Commission has already published an exhaustive study. See: <http://ec.europa.eu/trade/policy/in-focus/ttip/>

By the same token, they constituted one of the central means to claim sovereignty rights over certain territories, maintaining both political pressure and cultural influence on the hosting nations, sometimes altering and modifying their domestic democratic processes.<sup>28</sup> This possibility to exert indirect control on other states, even during long periods of peace and disengagement from military operations, assumes an even deeper significance nowadays, considering the technological advancement of armaments, and the fact that conflicts tend to be fought with indirect means.

Drones and armed unmanned aerial vehicles are, for instance, possessed by seventy-six countries and used by at least eleven governments<sup>29</sup> according to official sources, but it is definitely not the availability of a solid cyber and technical equipment alone that guarantees stability and supremacy; much more importance is given to an impressive net of military bases, that is diffusely built or leased so to allow action, control and intervention in a short time, and in every corner of the planet.

The significance of a base is then, was and is to guarantee a safe connection to the other poles of the system, shifting the priority

of having / hosting one of these spots from the defense of a national territory, to a more general and widespread sense of security. From a geopolitical point of view, the distribution of bases abroad has been theorized as the result generated by the mixed interaction between technological equipment and the necessities motivating military presence in itself.<sup>30</sup>

By the start of First World War, an efficient system of naval posts had already been constituted; its widespread availability was then mitigated thanks to the founding of the League of Nations in 1919<sup>31</sup>. Evidence of this can be found at Article 22 of its Charter, which establishes a mandate on the former German colonies, to prevent “*the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes, and the defense of territory*”, thus securing “*equal opportunities for the trade and commerce of other Members of the League*”.

Such a regulation, too often underestimated, is instead of the utmost importance for this kind of analysis, because it not only created what would have become known as the “United Nations Trust Territories” after 1946, but it underlines once again the

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30 See Paragano D., *Le Basi militari degli Stati Uniti in Europa: Posizionamento strategico, Percorso localizzativo e Impatto territoriale*, pg. 101.

31 See Article 22 of *The Covenant of the League of Nations*, signed on 28 June 1919 and effective since 10 January 1920. It can be consulted online at *The Avalon Project*, Yale Law School, permanent link at: [http://avalon.law.yale.edu/20th\\_century/leagcov.asp#art22](http://avalon.law.yale.edu/20th_century/leagcov.asp#art22)

tendency of that time to consider the bases as a means to generate new ventures, rather than something to implement one state's paraphernalia.

Despite this, as soon as the international community started fighting again in the second conflict, belligerent countries managed to obtain aerial and naval military facilities on allied territories, but also on neutral countries, which were seen as a useful tool to move forward towards the enemy<sup>32</sup>.

What is more important, the legacy of these establishments lasted after the war, transforming itself in a key element of the new defensive systems, and paving the way to further multilateral and bilateral partnerships.

However, a clear distinction of which bases were solely related to the ongoing conflict, and which ones have been involved in the process of reconstruction is too complex. Some of the agreements signed in time of war with the aim of a common defense prescribe a use of the facility for a limited period of time, and the consequent restitution to the owner country at the end of the hostilities, while others stipulate that the sites should have been kept at disposal of the United States for a longer time.<sup>33</sup>

A major step towards a new positioning of the United States'

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32 Chardonnet, *La politique américaine des bases aériennes et navales*, in *Revue de défense nationale*, 1950, pp. 283-303, quoted in Marchisio A., 1984.

33 Marchisio S., 1984, pg. 59.

military bases was made through the “*Destroyers for Bases Agreement*” of September 2, 1940. This document was a first attempt of the United States to back Great Britain, and established that the former would have incorporated some parts of British Guiana, setting up armed forces in that territory, in response to a request of fifty warships “destroyers” made from the Britain.<sup>34</sup> This exchange reveals then two different attitudes maintained by imperial powers in the management of their colonies, and was seen by the population as motivated by the necessity of defending the territory of each country, confirming a tendency towards isolationism.<sup>35</sup>

A concrete public debate on the necessity of structuring a net of military institutions started only in 1942, when President Roosevelt began to exercise some sort of pressure to the Joint Chief of Staff, an entity constituted by all the Commands of the U.S. armed forces, which are represented in equal number, with responsibilities pertaining the definition of a unequivocal strategy, synchronization of command during operations, and integration among Army, Navy, Marine Corps and Air Force. As a matter of fact, internal stability was seen as the first guarantee

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34 Paragano D., *Le Basi militari degli Stati Uniti in Europa: Posizionamento strategico, Percorso localizzativo e Impatto territoriale*, pg.20.

For the definition of isolationism as a self-centered choice, see Buzan B., “*Il gioco delle potenze – La politica mondiale nel XXI secolo*”, Università Bocconi Editore, Milano, 2006.

to the proposal of a new ambition, the creation of an ever more organized international force of peace, in which the United States would have played the main role.<sup>36</sup>

Equally important to this end were the effects of the “*Land-Lease Act*” (1941-1944)<sup>37</sup>, since it was through the authorization of leases given to the U.S. President that the belligerent countries could be supplied with weapons and military equipment, and a new rapid, chaotic phase in the expansion of military bases started.<sup>38</sup>

It has been well-documented by one of the most eminent French lawyers, Charles Rousseau, in a sort of European version of the *Base Structure Report* drafted in 1948, that the United States were already estimated to possess 494 military bases, of which 288 in the Euro-Atlantic zone, 195 in the Pacific and 11 in the Indian ocean<sup>39</sup>, thus confirming a feverish activity aimed to forge a constant, stable presence abroad, rather than confining the deployment of militia to temporally-limited disputes.

The United States were the only country that had been reinforced by war: its GDP in 1945 was doubled in comparison

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36 Converse E.V. , “*Circling the Earth – United States Plan for a postwar overseas military base System*”, 1942-1948, III.V. Air University Press, Maxwell Air Force Base, Alabama, 2005, pag. 8

37 Transcript at “*Our Documents*” digital collection:  
<http://www.ourdocuments.gov/doc.php?flash=true&doc=71&page=transcript>

38 Di Nolfo, “*Dagli imperi militari agli imperi tecnologici – La politica internazionale dal XX secolo ad oggi*”, Laterza, Bari, 2007, pag. 150.

39 Rousseau C. E., *Droit International public*, Paris, 1953,p.228, quoted in Marchisio A.,1984.

to 1939.<sup>40</sup>The American triumph could not have been more incontestable, and righteously the famous magazine of Henry Luce ( “Time”, ”Life”, ”Fortune”)<sup>41</sup> proclaimed with a joyful and winning attitude the rise of the “American Century” and the “American way of life”<sup>42</sup>. After having experienced the horrors of the war, it was then seen as convenient, legitimate and well-designed to create a free (and freed) world, based on cooperation and international justice, and that the economical ties between countries, especially between Europeans, and even more between these and the United States, could be developed over time with mutual profits and were to be tightly bond and conditioned to the American intervention. It is in this precise context that the North Atlantic Organization has to be placed. Bipolarism at the time was seen as a way to put order in a unified and militarized world: the non-demilitarization of the USSR and his takeover of Central and Eastern Europe were judged by the Americans as the causes of the Cold War, and in this sense, NATO was nothing more than

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40 Mark Harrison, *The USSR and Total War: Why Didn't the Soviet Economy Collapse in 1942?* from Mark Harrison, "The Economics of World War II: an Overview," in Mark Harrison, ed., *The Economics of World War II: Six Great Powers in International Comparison*, Cambridge University Press (1998), 10, Table 1. Reported online at: <http://www.onwar.com/articles/0302.htm>

41 See Keller B., *The New York Times*, April 22, 2010 on the value of journalistic authority, in which the journalist curiously defines him “*Editor in Chief*”. Correspondingly, “*Commander in Chief*” is the epithet referring to the President of the United States, who is also, according to Article II, Section II, Clause I of the U.S. Constitution, the Supreme Commander of the Armed Forces.

[http://www.nytimes.com/2010/04/25/books/review/Keller-t.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2010/04/25/books/review/Keller-t.html?pagewanted=all&_r=0)

42 See Herberg W., “*Protestant-Catholic-Jew*”, in which the “American Way” is described as “humanitarian [...] forward-looking [...] optimistic [...] generous [...] and philanthropic, prone to “response to suffering anywhere on the globe”.

a militarization of the Marshall Plan.<sup>43</sup> Furthermore, after that China had become a communist country too, the U.S. proceeded in “sealing” the U.S.S.R to make it a more regional power, whose “rim land”<sup>44</sup> had to stay under control of the United States.

The twelve original signatory nation states of the Washington Treaty<sup>45</sup> created an intergovernmental organization and an instrument aimed at collective defense, thanks to which, as it is clearly stated in Art. 5:

*“ The Parties agree that an **armed attack** against one or more of them in **Europe** or **North America** shall be considered an attack **against them all** and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the **right of individual or collective self-defense** recognized by **Article 51 of the Charter of the United Nations**, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such **action** as it deems **necessary**, including the use of armed force, to restore and maintain the security of the **North Atlantic area**.*

*Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council.*

*Such measures shall be terminated when the Security Council*

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43 Del Pero M., “*Libertà e Impero, Gli Stati Uniti e il mondo 1776-2011*”, Editori Laterza, Bari, 2011, chapter VII.

44 See the definition by Yale’s professor Spykman N.J., quoted in “*American Diplomacy, Foreign Service Despatches and Periodic Reports on U.S. Foreign Policy*”, [http://www.unc.edu/depts/diplomat/item/2006/0406/semp/sempa\\_spykman.html](http://www.unc.edu/depts/diplomat/item/2006/0406/semp/sempa_spykman.html)

45 See NATO voice of the *Encyclopedia Britannica* online: <http://www.britannica.com/EBchecked/topic/418982/North-Atlantic-Treaty-Organization-NATO>

*has taken the measures necessary to restore and maintain international peace and security”.*

Having considered this, it seems then reasonable to define NATO as an international organization with a *defensive*, but most importantly *regional* purpose, binding all the countries of Western Europe and Canada to the United States, where these latter logically had a leadership role and were holders of all the real powers<sup>46</sup>: it considered an armed attack against one of more of the contracting parties in Europe or North America as a direct attack perpetrated on all the other parties, which should have had the duty to assist all the states victim of aggression, or all the victims inside the states assaulted. This comes in handy to this research for three reasons: first of all, because it underlines the necessity to take into exam the general international norms whose functioning is activated in occasion of the creation and the utilization of military bases, both in peaceful times and in periods of war.

Secondly, because among the implications of the same existence and usage of bases on an international level, it seems natural to ask what the responsibilities of states are, meaning, if the

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46 See Wilson, J.E., "*Hard Power, Soft Power, Smart Power*", The Annals of the American Academy of Political and Social Science, pg. 114, online version: <http://www.ernestjwilson.com/uploads/Hard%20Power,%20Soft%20Power,%20Smart%20Power.pdf>

installation is legally binding only for the States who have negotiated its set-up, or it also involves third states.<sup>47</sup>

Last but not least, because of its reference to the Charter of the United Nations, an association of states whose organs have never declared, until now, the existence of foreign military bases as opposed or contrary to international law, relying on the principles guaranteed to every state, of self-determination, freedom of choice in addressing their foreign policy, and the constitution of alliances.<sup>48</sup>

It is important to note, however, that NATO would have later pursued goals of cooperation in an economical and political level, and after more than a half of a century from its founding, it has become an omnipresent and very popular institution, to which we have all become accustomed to: over the years it has constantly been developing itself, in any sense possible, and with the entrance of Greece and Turkey in 1952, of Federal Republic of Germany in 1955, of Spain in 1982 ( of the Czech Republic, Poland and Hungary in 1999, Bulgaria, Estonia, Latvia, Romania, Slovakia and Slovenia in 2004, and finally Albania and Croatia in 2009), the number of its members would have

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47 Marchisio S., *Le Basi Militari nel Diritto Internazionale*, Giuffr  Editore, Rome,1984, Chapter 1, pg 17.

48 On this matter, it is still worth to notice that with Resolution 36/103, adopted only on December 9, 1981, the General Assembly declared the inadmissibility under international law of external inferences in the internal affairs of a State. Full text available at: <http://www.un.org/documents/ga/res/36/a36r103.htm>

constantly risen<sup>49</sup>.

This habit and acceptance of NATO as a fixed and taken for granted element in the international scenario can probably lead us to ignore that it brought, instead, a radical and deep change, that after the Second World War began to operate in the foreign policy of the United States.

Sure enough, the ability to transform enemies in satellites of its own empire was a truly complimentary achievement of U.S. foreign policy, which went beyond any expectations. The American armies that had left Europe in 1949<sup>50</sup>, only a few months before the creation of NATO, had started to come back and settle, sometimes together with national troops, in the increasingly present military bases, given the fact that the European armed forces alone, even if they had been very powerful in the past, would have absolutely never been able to resist, not even for the briefest time, to an attack of a strong Russian Red Army.

In the meanwhile, the economic and industrial potential of the United States was unexpectedly spreading out, allowing them to achieve outstanding results in a very short time, and turning it into an invincible and inexhaustible giant, ready to rush

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<sup>49</sup>List of NATO members and their accessions at:  
[http://www.nato.int/cps/en/natolive/topics\\_52044.htm](http://www.nato.int/cps/en/natolive/topics_52044.htm)

<sup>50</sup> In Italy, for example, troops pulled back from the country in compliance with the agreement of 4 September, 1947.

anywhere in the world with its abundance of resources to other countries' aid, and its capacity for intervention and investment, for which it is still known these present days.

But just as spectacular and unexpected was also its rapid and decisive ideological and political transformation: this was, after all, the same country that had show reluctance and regret intervening in the First World War, that soon after the intervention had saw itself retired in his golden isolationism<sup>51</sup>, that had suffered the terrible crisis of 1929, and in 1939 was still considered to be largely pacifist<sup>52</sup>.

Now instead, not only it had not shown itself capable of a titanic effort in the field of war, to the point of designing and triggering an atomic bomb to be dropped and explode in Japan, that had launched it as a victorious ruler of oceans and continents; it was convinced to be the bearer of universal values throughout the world, invested with the mission of defending and spreading freedom and democracy everywhere<sup>53</sup>, and so it fiercely proclaimed its willingness to intervene in the world.

With the subsequent bipolar division of the globe<sup>54</sup>, the

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51 According to the definition of President Washington, G., " *Farewell Address*", 1796. Published by Yale Law School Avalon Project, 2008. Permanent link at: [http://avalon.law.yale.edu/18th\\_century/washing.asp](http://avalon.law.yale.edu/18th_century/washing.asp)

52 As reported in Doenecke D. J., " *American Isolationism 1939-1941*". [https://mises.org/journals/jls/6\\_3/6\\_3\\_1.pdf](https://mises.org/journals/jls/6_3/6_3_1.pdf)

53 For a definition of Manifest Destiny, see O'Sullivan, John L., essay " *Annexation*" on " *United States Magazine and Democratic Review*", 1845. Available at: <http://pdcrodas.webs.ull.es/anglo/OSullivanAnnexation.pdf>

transformation in a military sense of the United States was complete: on April 25, 1950, two months before the outbreak of the Korean War, U.S. President Harry S. Truman specified in a statement that would have become known as NSC-68 (NSC standing as an acronym for National Security Council Report) that from that moment on, up to 20% of the U.S. GDP would have been used for military spending, and that the United States would have countered every communist threat to any country of the non-Communist world<sup>55</sup>.

The only nation that had reached to arms during the war and that had felt safe, defended and protected by two oceans, had now become a super military power always ready to intervene in every corner of the Earth (with an exception made for the regions pertaining to the USSR), where the essential military bases would have multiplied and spread all over the planet, and whose strategy would have covered the seven seas and the five continents. It was (and is) an empire that absorbed the previous European colonial outposts, melting them into one entity, and remodeling them in accordance with its methods and its interests, adding also its own areas of ownership, more or less direct. This

is the same military apparatus of which it is still difficult (and perhaps impossible) to fully determine the extension.

Evidence in support of this position is given by the Italian General Fabio Mini<sup>56</sup>. In an interview for the geopolitical magazine *Limes*, he argues that

“[...] the United States, born with the revolution against colonialism, with the myth of freedom and the ideology of struggle between Good and Evil, waited for the colonial empires to be shattered, to deal the final blow with World War II, and replace them elegantly, but no less violently, in their fundamental roles”<sup>57</sup>.

This complete transformation of mentality, as well as being due to the need of the United States to defend its now global interests, and as a result of having to contain communism, was also caused by the emergence of two new accelerating factors: the birth of what President Dwight Eisenhower would have called the “military- industrial complex”<sup>58</sup>, that is, the system pivoted on conspicuous interests related to the production of armaments, and McCarthyism<sup>59</sup>, the persecutory hysteria of the fight against

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56 Also Commander in Chief to the KFOR Kosovo Mission between 2002 and 2003.

57 See General Fabio Mini on “*La strategia delle basi è la chiave della superpotenza*”, *Limes*, December 11, 2013, pg. 118.

58 *Farewell Radio and Television Address to the American People*, January 17, 1961 on “The American Presidency Project”. Available at: <http://www.presidency.ucsb.edu/ws/index.php?pid=12086&st=&st1=>

59 Initiated by Executive Order 9835, signed by Harry Truman on March 22 1947, which asked for loyalty of public employees to the Federal Government.

communism and the global threat it represented.

Hence, the already powerful military-industrial lobbies, aimed at continually increase their budget and endless war spending, started to accommodate the most lucrative contracts. This signed the birth of modern private contractors.<sup>60</sup> The constant flow of billions of dollars used in the armed forces and the armaments industry changed the industrial map forever: the research and production of war items created so many jobs that the statistics of the New Deal pale in comparison; new industries for military production (with all the related spin-off and services) were built in areas that had been previously neglected, especially in the South and the West (Georgia, Texas, Florida, New Mexico, Arizona, but above all California), thus increasingly reducing the gap with the North and the East. The civilian industry inevitably followed these new and promising areas of development. The U.S. had understood that research is essential, as well as the system of information, i.e. computers and satellite communications; therefore it looked with the utmost attention into the growth of modern techniques, and invested profusely in this sector<sup>61</sup>.

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Text available at the American Presidency Project. Permanent Link at:

<http://www.presidency.ucsb.edu/ws/?pid=75524>

<sup>60</sup> Tyler C., *To Know Contractors, Know Government*, in *The New York Times*, October 28, 2007. Link at : [http://www.nytimes.com/2007/10/28/business/28view.html?\\_r=0](http://www.nytimes.com/2007/10/28/business/28view.html?_r=0)

<sup>61</sup> For the role of technology and research in U.S. economic development, see Gentilini L., *Stati Uniti D'America- Espansione ed Imperialismo di una Democrazia in armi*, part 4.

To achieve any kind of progress, the human factor is central and fundamental, so the United States appealed to the confidence in the individual and in his personal responsibility, leaving him free of initiative, limiting itself to consider and control the results. The combination of a renewed interest for the military, an efficient university system and industrial machinery, as well as the militarization of the productive system, led to a specialty of companies producing products for defense, and to a greater respect for centers of research.

It should also be pointed out that while U.S. military spending managed to powerfully boost the financial system, in the U.S.S.R. what happened was exactly the opposite, because with its much weaker and poorly managed economy, this had the effect of taking men and means away from the production of consumer goods, leading to untenable conditions and to its eventual collapse in 1991.<sup>62</sup>

With this in mind, if we go back for a moment to the etymology of the term “base” with which our analysis has started, it must be remembered that during the terminal phases of the Cold War, the word “installation” was much better used in relation to the military. Scholars of international relations such as Robert E.

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62 Declaration N. 142-H of the Soviet of the Republics of the Soviet Union, December 26, 1991; Harrison, M., “*Are Command Economies unstable? Why did the Soviet Economy collapse?*”, University of Warwick, Department of Economics, available at: <http://www2.warwick.ac.uk/fac/soc/economics/staff/academic/harrison/papers/command.pdf>

Harkavy have pointed out how using the second expression in place of the first one is not casual at all: this is intentionally done to evoke a sense of neutrality, as it does not imply any difference in level of importance between the hosted and the hosting country, and consciously avoids to recall a military imaginary.<sup>63</sup> In the same way, the presence of armed forces in a foreign territory, or the setting of one country's own installations, is usually referred to as "*foreign military presence*" or "*global posture*". This is a point that should not be underestimated, as it does influence the perception of concepts related to this area, when used by public means of information.<sup>64</sup>

With a change of circumstances, as it was the collapse of the Soviet Union, the United States found themselves with an oversized and unfitting complex. The *Cold War consensus*<sup>65</sup> had already showed signs of instability ( it is enough to think of the terrible timing and failure of Kissinger's speech on "*The Year of Europe*", aimed to demonstrate the benefits of transatlantic partnership, that was instead received as distasteful and offensive

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Harkavy R.E., "*Thinking about Basing*" in *Reposturing the Force – U.S. Overseas Presence in the Twenty-first Century*, Naval War College Newport Papers n. 26, Carnes Lord Editor, Newport, 2006, pag. 10. See link: <https://www.usnwc.edu/getattachment/ffb8c107-641c-4f59-9d0f-7d926880cc0d/Thinking-about-Basing---Harkavy.-Robert-E-.aspx>

64 See Dieck H., "*Public Opinion and U.S. Military Interventions: The President's Room for Maneuver after the Cold War*", Annual Conference of the American Political Science Association, August 30, 2013, Chicago, IL., pg.5. See Link: [http://www.academia.edu/4875461/Public\\_Opinion\\_and\\_U.S.\\_Military\\_Interventions\\_The\\_President's\\_Room\\_for\\_Maneuver\\_after\\_the\\_Cold\\_War](http://www.academia.edu/4875461/Public_Opinion_and_U.S._Military_Interventions_The_President's_Room_for_Maneuver_after_the_Cold_War)

65 Wittkopf, R.E, Mc Cormick James M. "*The Cold War Consensus: dit it really exist?*" published online in *Polity*, Volume XXII, Number 4, 1990.

by European leaders )<sup>66</sup> and was not a valid justification for the settlement of American bases.

Be that as it may, the U.S. did not dismantle its massive and oversized military deployments, nor did it abandon its planetary network of bases, nor did it limit (at least voluntarily) its actions, its missions and its military pressure: NATO, once Communism had eradicated, had lost its theoretical *raison d'être*, but it was instead converted, quietly, quickly and almost automatically, into an operational tool to which the United States could resort when it needed.<sup>67</sup> In regards to this, it exists a rather convincing argumentation according to which the United States clearly did not see that a perpetual coincidence of their, so to say “western” values with their needs and interests was nonetheless a bit pretentious, and that carrying the weight of their military and economic superiority could be perceived or defined by the international community as imperialism, because in their logic, these two parameters were coinciding and interchangeable.<sup>68</sup>

Western Europe, having been defended, protected and controlled by the U.S. for more than forty years, had simply

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66 See John W. Young, John Kent, *International Relations Since 1945*, New York, Oxford University Press, 2004, chapter 13, pg.434-435.

67 Encyclopaedia Britannica online,  
<http://www.britannica.com/EBchecked/topic/418982/North-Atlantic-Treaty-Organization-NATO/218592/NATO-in-the-post-Cold-War-era>

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See Gentilini L., *Stati Uniti D'America- Espansione ed Imperialismo di una Democrazia in armi*, part 4.

nothing to say, and entered the nineties continuing to be a part of NATO and its system of military bases even more than before<sup>69</sup>, being comforted by a convenient dependence from its giant partner overseas<sup>70</sup>, and moving towards the creation of an European Union only with its more or less tacit consent. The United States would have obviously adjusted the deployment of its forces according to changes in times and situations, but this would not have been possible if it had not found a community of interlocutors more than ready and willing to get along with this situation, such as Italy, located at the heart of the Mediterranean, that consequently remained filled with American bases.

To conclude, it can be logically inferred that the distribution of bases abroad is the result of a process of their sedimentation during different historical phases<sup>71</sup> that have been categorized by historians in many ways, and its parallel correspondence to the rise of a “*global access to diplomacy*”<sup>72</sup>. Also, our national military cooperation with the U.S. has been motivated by three reasons: certainly a scrumptious geographical position, added to the warm political and diplomatic relation between these two

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69 See Video Timeline on the history of NATO, published on its Your Tube official page, 11 September 2013 <https://www.youtube.com/watch?v=MkqFg7HIpEg>

70 Riunione al Ministro della Guerra 10 Novembre 1945, quote in Cadorna R., “*La riscossa*”, Bietti, Roma, 1976., in which the Chief of the Defense Staff at the time affirms the “*uselessness of backing out from U.S. military control*”, since Italy was completely reliant on it for the production of armaments. In Nuti.L., pg.95.

71 See Paragano D., *Le Basi militari degli Stati Uniti in Europa: Posizionamento strategico, Percorso localizzativo e Impatto territoriale*, pg. 14.

72 Harkavy R.E., “*Bases Abroad – The Global Foreign Military Presence*”, SIPRI – Oxford University Press, New York, 1989, pg.2.

nations, and, most importantly, by the acceptance of U.S. presence by the general European and Italian public opinion.<sup>73</sup> Additionally, Italy serves well to exemplify on a smaller reality the inherent truth of General Fabio Mini's affirmation<sup>74</sup> that, during and after the Cold War, "*the United States realized the most impressive military deployment abroad in world's history*". In the light of what has been said until now, we might pose the question if Italy is only a "colony" in this empire of bases, or not.

If we consider the definition of *imperium*, that is to say, of supreme domination, historically used during the birth and formation of the Roman Empire, as suggested by Di Nolfo<sup>75</sup>, we see that the Latin definition points out at all those territories in which the laws of Rome had entered into force, differently from the territories in which a *dominium* of Rome existed. It was thus an indicator of a relation of a nation state acting as dominator, and another one who functioned as dominated. In like manner, the etymology of *colony* derives from Latin *colere*, which means "to cultivate".<sup>76</sup> In the past, an *ensemble of colonies*, constituted

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Nuti L., *L'esercito italiano nel secondo dopo guerra (1945-1950) – La sua ricostruzione e l'assistenza militare alleata*, Stato Maggiore dell'Esercito Ufficio Storico, Roma, 1989, pag. 83.

74 See General Fabio Mini on "*La strategia delle basi è la chiave della superpotenza*", *Limes*, December 11, 2013, pg. 118.

75 Di Nolfo E., *Lessico di politica internazionale contemporanea*, Editori Laterza, Bari, 2012, pg. 149.

76 Di Nolfo E., *Lessico di politica internazionale contemporanea*, Editori Laterza, Bari, 2012, pg. 52.

an *empire*.

Using more banal terms, it made reference to all the territories used, inside and outside state borders, to fulfill specific functions ( economic as well as strategic, and this is how the modern concept of base was born). As a principle, the inhabitants of colonies found themselves on an inferior juridical position in comparison to their administrators, who in turn tried to discipline their legal presence with all sorts of agreements<sup>77</sup>.

Thinking about the contribution of Italy in the North Atlantic Organization, the hospitality given to the American soldiers since the aftermath of the Second World War, the economic consequences both of the U.S. Marshall funding compared to the actual Italian defense spending, the legacy and inaccessibility of bases we have so long examined at the beginning of these essay, the general level of empathy and cultural affinity Italians feel towards Americans and the fiscal exemptions given to our Atlantic partners<sup>78</sup>, one might be indeed tempted to identify Italy as a colony.

Although this might be appealing, to make a juridical analysis of our situation starting from the premise that territorial sovereignty is part of real international law, thus transferring to it

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77 It is enough to think about the Berlin Conference of 1885, although this did not undermine the birth and spread of anti-colonialism.

78 Mostallino M., "*Fisco, la truppa gode*" in Lettera 43, Independent Magazine, January 25, 2012.

concepts like servitude, location, property, that are, instead, constitutive elements of the rule of law within the state, would be misleading.<sup>79</sup> Sergio Marchisio, in his work “*Le Basi Militari nel Diritto Internazionale*”<sup>80</sup>, asserts that the main reasons for this premise to be incomplete, is the confusion it creates on two faces of the same coin: on one side, the *international* regime of the State’s territory in which the base is located, and on the other, the *internal* regime of the lands on which real estate is to be found.

So, in order to analyze the Italian case, we should first examine the adaptation of domestic law to international law, which qualifies international norms as applicable and compulsory within the judicial system of our State.<sup>81</sup> In Italy, there are two ways to stipulate an international agreement, one is based on constitutional law, the other one is “*by necessity and convenience the most usual way*”, as expressed by Boggetti<sup>82</sup>. According to Sinagra A., Bargiacchi P.<sup>83</sup>, the solemn form of ratification, regulated by art. 80 of the Italian Constitution, the Parliament is

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79 Cavaglieri, “*Contributo alla definizione di alcune figure del diritto pubblico contemporaneo*”, in *Riv. Dir.intern.*, 1906, pg.291.

80 Giuffré Editore, Rome,1984, pg.14-15.

81 Based on Article 10 of the Italian Constitution, Official Gazette, December 27, 1947, n. 298n, which states: “*Italian laws conform to the generally recognized tenets of international law. The legal status of foreigners is regulated by law in conformity with international provisions and treaties.*”Permanent link at : <http://www.constitutionnet.org/files/Italy.Constitution.pdf>

82 Boggetti G., “*The Role of Italian Parliament in the Treaty-Making Process – Europe*”, *Chicago-Kent Law Review*, Volume 67, Article 6., Issue 2, June 1991. Permanent link at : <http://scholarship.kentlaw.iit.edu/cgi/viewcontent.cgi?article=2826&context=ccklawreview>

83 See Sinagra A., Bargiacchi P., “*Lezioni di Diritto Internazionale Pubblico*”, Giuffré Editore, 2009

called upon to approve a treaty, introduce reservations or propose changes before giving to the President of the Republic the authorization to sign it, as established instead, by art.87 comma 8.;

The simplified form of ratification instead allows the conclusion of an agreement without the Parliament being consulted, just with a governmental signature.

Bognetti has made this a source of further scholarly debate by saying that “*the Italian government did not hesitate to conclude hundreds of treaties*”<sup>84</sup> omitting the request for signature by the Parliament, especially in the 1950s,

“*...and neither Parliament nor the President have, at least with respect to the question of principle, raised any objection*”. The Government has also “*enounced, prolonged and modified many treaties*”<sup>85</sup> in a time span of forty years, thus displaying his authority in full capacity. On a quick note, Law n. 839 of December 11, 1984<sup>86</sup> prescribes the publication of all the agreements, including those in simplified form, on the Official Gazette of the Italian Republic.

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84 Bognetti G., “*The Role of Italian Parliament in the Treaty-Making Process – Europe*”, Chicago-Kent Law Review, Volume 67, Article 6., Issue 2, June 1991, pg.397.

85 Bognetti G., “*The Role of Italian Parliament in the Treaty-Making Process – Europe*”, Chicago-Kent Law Review, Volume 67, Article 6., Issue 2, June 1991, pg.404.

86 O.G. n.345 of 17.12.1984, text available at:  
[www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1984-12-11;839](http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1984-12-11;839)

Then again, Marchisio argues that the analogy between the title of *sovereignty* and *ownership* is typical of the Anglo-Saxon systems of *common law*, but it appears to be still inadequate in the case of military bases on foreign soil: the supporters of this approach conclude, without demanding a proper empirical demonstration, that the act of giving or conceding a military base to a foreign State requires a necessary limitation, or even worse, a transfer, of territorial sovereignty by the hosting nation.

All things considered, we could never define Italy as a *colony*, at least not in the traditional sense of the term, since there is no significant limitation to the legal capacity of its citizens and no explicit political subordination to the United States; similarly, an empire is not necessarily a *colonial empire*, but it can exert its influence in vast areas. It could be argued that, while the General Assembly of the United Nations has approved a resolution in 1960, declaring that colonialism goes against the values of its Charter,<sup>87</sup> due to globalization a new pattern of interactions between states has been taking place over the years, where ties of formal dependence have been substituted by substantial reliance on other countries.

It is therefore the norm, that despite our reality is now multi-

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87 UN “*Declaration on the granting of independence to colonial countries and peoples*”, N.1514, December 14, 1960. Permanent Link at: <http://www.sfu.ca/~palys/UN-Resolution%201514.pdf>

polar, and the United States have lost some of their influence favoring China and BRICs, countries like Italy on one side still feel devoted and anchored to their alliance within a transatlantic framework, and on the other pose themselves questions about the legal status of the U.S. placement of forces.<sup>88</sup>

After all, we should remember the demand for security is a *normative* demand, as stated by Wolfers<sup>89</sup>, it is a “*value of which a nation can have more or less and which it can aspire to have in greater or lesser measure*”.

Now that a fuller picture on the historical and geographical presence of U.S. bases around the world has been drawn, it is clear that military presence abroad is disciplined by international agreements, which constitute only one of the traits to explain the legitimacy of its very existence, but to which it is linked and subdued<sup>90</sup>, I will now enter into detail the specificity of the Italian case, showing which agreements and treaties have favored the building of military installations in the peninsula.

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88 Mosconi A., “*The United States and Europe in a multi-polar World*”, The Federalist Debate, Year XXVI, No. 2, 2012. See: <file:///C:/Users/hp/Downloads/The%20United%20States%20and%20Europe%20in%20a%20Multipolar%20World.pdf>

89 See Wolfers A., “*Discord and Collaboration: Essays on International Politics*”, Baltimore and London, John Hopkins University Press, 1962, pg.150.

90 Marchisio S., *Le Basi Militari nel Diritto Internazionale*, Giuffr  Editore, Rome,1984, Chapter 1, on International practice, pg.117.

## 1.2

### **INTERNATIONAL AGREEMENTS ON MILITARY BASES AND DOMESTIC LAW IN THE U.S. AND ITALY**

The “Dictionnaire de la terminologie de droit international”<sup>91</sup> provides us with a definition of *base in a military sense* operating a distinction between a military and narrower meaning, coinciding with the starting point of a military operation in times of war<sup>92</sup>, and the concept of a *military base*, explained as “ the territory or land where a foreign State has obtained [...] the permission from the State in which the territory or land is being taken over, the use of it for military purposes according to different juridical procedures”. In this second meaning, the notion of military base at an international level is characterized by two fundamental and distinct elements: one is the legal basis, the other one is its function.

Needless to say, only the legal basis is relevant to this research.

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91 1960.

92 See *Dictionnaire de la terminologie de droit international*, Paris, 1960,pg. 84-85.

What identifies military bases on an international level is that an installation by a sovereign State on the territory of a foreign one has to be explicitly allowed from the latter, through a manifestation of will, so that it can be favored by his armed forces. In this sense, it is a special form of foreign military presence, characterized by the existence of a permanent, but spatially delimited installation, in which military organisms and equipments belonging to another State are allowed to carry out certain activities to realize common goals, defined, in turn, by an international agreement (for example a treaty establishing an alliance, or mutual defense and assistance rather than military cooperation). It should however be pointed out that we are now talking about military presence in non-violent situations, since, as Marchisio<sup>93</sup> underlines, during war times states have the tendency to follow each one their specific norms.

In absence of conflicts, he argues, the essential prerequisite and cornerstone of stationing of personnel abroad is *consensus*<sup>94</sup>.

As a matter of fact, this really makes all of the difference in the perception of the expansion of military presence, which would be otherwise seen as some kind of military occupation by the local

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93 See Marchisio, *Le Basi Militari nel Diritto Internazionale*, Giuffr  Editore, Rome, 1984, Chapter 1, on military bases and general International law, pg. 160.

Woodliffe J., "The Peacetime Use of Foreign Military Installation under Modern International Law", Martinus Nijhoff Publishers, Amsterdam, 1992, pag. 45; quoted in Marchisio S., 1984, pg. 160.

inhabitants. It is also one more reason to confirm the impossibility of considering, as many argue,<sup>95</sup> Italy as a colony.

In the case of American settlements in Europe and in Italy, both *consensus* and agreements have been a direct product of an historical contingency (namely the Second World War), and, in reflection, many events in Italy have been influenced by the behavior of other European states, to whose Union our country belongs since 1952<sup>96</sup>.

The legal framework regulating the relations between the two countries is first of all multilateral, within NATO, but many other bilateral agreements on certain specific issues have been developed. Marchisio notes that there is still a certain form of juridical homogeneity of military bases on an international level, regardless of the fact that they are constituted through a bilateral agreement or a multilateral alliance.<sup>97</sup> The Italian Minister of Defense between 2008 and 2011, Ignazio La Russa, declared in an intervention to the Chamber of Deputies on October 25, 2006 that the status of U.S. forces in Italy finds its legal foundation on Article 3 of the Washington Treaty<sup>98</sup>. Natalino Ronzitti, Emeritus

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95 To quote just one of the dozens of articles that can be found online, See Leotta O., “*L’Italia è una colonia degli Stati Uniti*”, in Giro di Vite, January 5, 2011 <http://www.girodivite.it/L-Italia-e-una-colonia-degli-Stati.html>

96 Italy’s profile on EUROPA, official website of the European Union, link: [http://europa.eu/about-eu/countries/member-countries/italy/index\\_en.htm](http://europa.eu/about-eu/countries/member-countries/italy/index_en.htm)

97 Marchisio, 1984, pg.117.

98 Webcast available at <http://webtv.camera.it/archivio>

Professor of International Law at LUISS University (Rome)<sup>99</sup>, agrees with Marchisio, to the extent in which he confirms that a lot of aspects pertaining to the usage of bases are outdated or simply ambiguous, and would need a further revision to adapt them to the current state of international relations. Unfortunately, in the meanwhile, this area seems to remain rather static, showing once again that a united Europe is able to achieve many useful and praiseworthy goals, but not in foreign policy and in the military field, where it shows to be practically nonexistent. The United States, in matters of defense, kept filling a hole that continued to protract itself, even after that the U.S.S.R was gone.

A striking example of U.S. power obtained, thanks to its military capability, whatever it wanted, happened during the nineties, under President Clinton's administration, when, after the intervention in Kosovo in March 1999, a new document had been approved in Washington<sup>100</sup>, stating that the bases that should have served solely to the purposes stated in the Atlantic Pact of 1949<sup>101</sup>, for instance, could have been used for a new set of interventions by allied countries, varying from peacekeeping

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99 See Ronzitti, N., *Le basi americane in Italia - problemi aperti*, Dossier a cura dell'Istituto Affari Internazionali (IAI), n. 70, Giugno 2007.

100 See Gen. Pegoraro R.B., "*La strategia della NATO nei Balcani occidentali*", available at: [http://www.difesa.it/Pubblicistica/info-difesa/Infodifesa140/Documents/La\\_strategia\\_della\\_NATO\\_nei\\_\\_356occidentali.pdf](http://www.difesa.it/Pubblicistica/info-difesa/Infodifesa140/Documents/La_strategia_della_NATO_nei__356occidentali.pdf)

101 Remember Article 5. Full text available at: [http://www.nato.int/cps/en/natolive/official\\_texts\\_17120.htm?selectedLocale=en](http://www.nato.int/cps/en/natolive/official_texts_17120.htm?selectedLocale=en)

operations to missions of humanitarian assistance that had been, until then, under the jurisdiction of the United Nations; such a decision paved the way to the transformation of NATO itself from a military alliance with political bases, to a political alliance with military bases,<sup>102</sup> and Ronzitti notes in his essay how on this point there are still, among scholars, many differences of interpretation. Furthermore, the bases used by NATO<sup>103</sup> and those serving to the United States are often overlapping in the collective imagery of the receiving populations, although they present differences related to the possibility of their usage. Warlike training activities of the first ones are confined to operations defined by the Alliance, while the U.S. has been reported to use them for a wider range of purposes, as of the bilateral agreements in force.<sup>104</sup>

This promiscuity, almost irrelevant in Italy during the years of Cold War, has become really important in the nineties<sup>105</sup>, since it is especially thanks to the scarcity of information about it, and the adherence of the United States to the policies of the North Atlantic Treaty Organization, that the American presence in Italy

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102 Alcaro R., Briani V., Greco E., Nones M., Silvestri S. *“La NATO e la Difesa Europea: Sviluppi Recenti, Scenari e Ruolo dell’ Italia”*, April 2009.

103 Worth to mention that the Atlantic Treaty does not give any specific indication in relation to military bases.

104 Marchisio S., *Confronto e comparazione del regime giuridico delle basi NATO e di singoli stati membri presenti sul territorio di altri stati membri della NATO* in Camera dei Deputati, 1990, pg. 39.

105 For the unilateral policies of the United States in this period, see Ronzitti, N., *“Trattato NATO, Carta delle Nazioni Unite e azioni militari originate da basi site in territorio italiano”*, in Camera dei Deputati, 1990, pg. 4.

has been legitimated.<sup>106</sup>

Another essential observation to be added is that military bases in Italy are not subject to any form of extraterritoriality in the hosting country<sup>107</sup> (thus confirming Marchisio's definition): they do not imply any transfer of sovereignty to the United States, on the contrary, they require an explicit authorization made by the Italian Government each time a military training is deemed necessary. Curiously enough, an authorization is requested even if there would be no involvement of the Italian Republic in the execution of a military operation, and this might lead us to think that, given the frequent nature of military training, the Government could be accustomed to release permissions for the armed forces, trusting the allies and not considering their finality too much<sup>108</sup>.

With regard to the U.S. armed forces, there is no common practice regulating the Italian willingness to make for an easy access to its facilities for U.S. military interventions in case Italy is not intentioned to intervene. In 1983 for example, during the

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106 See Paragano D., *Le Basi militari degli Stati Uniti in Europa: Posizionamento strategico, Percorso localizzativo e Impatto territoriale*, pg. 121.

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Ronzitti N. "*Le basi americane in Italia – problemi aperti*", Senato della Repubblica, Servizio studi- Servizio affari internazionali, Dossier n. 70, Giugno 2007, Rome, pg. 8; see also Marchisio S., 1984, pg. 101.

108 This idea spread even more in recent days, when a group of Sicilian amateur filmmakers of the association MareAmico, denounced the frequent habit of NATO and Italian armed forces to exercise in a shooting range dangerously located next to Valley of the Temples, in Agrigento. Video:  
<http://www.youtube.com/watch?v=HSPUD6q-AxI&list=UUiVVUUZM9Zz0kGotjV0zeQg>

Arab-Israeli war, Italy denied his consent on the use of its installation to the United States, as reported by the Commission of Foreign Affairs<sup>109</sup>, while for the Iraqi war<sup>110</sup> the base in Vicenza was partially used for training, despite the lack of Italian involvement. Moreover, no interpretation of art.3 of the Washington Treaty, declaring the duty of the allies to “*maintain and develop their individual and collective capacity to resist armed attack*”<sup>111</sup> can result in an obligation to grant the access to training centers and facilities in our territory, nor can art 9., setting up the Atlantic Council with the purpose of “*recommending measures*”<sup>112</sup> to implement both art 3. and art 5. be invoked to justify the commitment to obligations that are independent from formal agreements stipulated with procedures legally established in our Constitution as the norm.

To this end, there are two agreements that deserve to be further considered. The Minister of Foreign Affairs Giuseppe Pella as representative of Italy, and the U.S. Ambassador in Italy Clara Booth Luce<sup>113</sup> have stipulated (in simplified form), the BIA (Bilateral Infrastructure Agreement)<sup>114</sup> also known by scholars as

“*Installazioni militari USA nella regione Sud della NATO*”, Commissione degli Affari Esteri, in Camera dei Deputati, pg 196, 1990.

110 See Ronzitti, 2007, pg.7.

111 North Atlantic Treaty, 1949, art.3

[http://www.nato.int/cps/en/natolive/official\\_texts\\_17120.htm](http://www.nato.int/cps/en/natolive/official_texts_17120.htm)

112 North Atlantic Treaty, 1949, art. 3,5,9

113 Arpino M, “*È l’Accordo ombrello del ’54 a regolare la presenza dei militari americani in Italia*”, “Il Resto del Carlino”, 18 gennaio 2007, p. 6., quoted in Ronzitti, 2007.

114 Where for “*infrastructure*”, to be precise, is meant “*the complex of fixed or permanent structures, both horizontal and vertical, and facilities, within the installation and therein*”

the “*umbrella agreement*” on October 20, 1954, that has been preceded by two agreements and an exchange of notes in the area of defense, in 1950 and 1952.

In contrast to Law n. 839 of December 11, 1984, the original document has never been published, and this has been justified both from the practice of military secrecy, as well as from the fact that it has been seen as a smaller and specifically technical attachment to complement the Washington Treaty, and because of a secrecy restriction imposed on it at the moment of stipulation, making it so that none of the two countries can disclose its content without the consent of the other party.

The geopolitical expert Alfonso Desiderio asserts that, according to the only three articles that have been published in a dossier for the online magazine *Limes*,<sup>115</sup> the installations are under Italian jurisdiction and control, again confirming Marchisio’s theory about sovereignty. The United States, being distant from the war scene, exploit then the opportunity to train in the Mediterranean to improve their performance within the North Atlantic Organization missions. It seems reasonable to agree with what David Vine has asserted in one article on the use

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established for the performance of the main and support activities of the Forces”, according to the *Technical Arrangement between the Ministry of Defense of the Italian Republic and Department of Defense of the United States of America regarding the installations/infrastructure in use by US Forces in San Vito dei Normanni, Italy*. Full text at [www.state.gov](http://www.state.gov).

115 Desiderio A., *Affari Internazionali*, article available at: <http://www.affarinternazionali.it/articolo.asp?ID=882>

of U.S. forces in Italy, when he claims that “*the Pentagon has turned the Italian peninsula into a launching pad for future wars in Africa, the Middle East*”.<sup>116</sup>

It has also to be noted that many lists of military bases in Italy, always due to the secrecy of the agreements, are outdated and signal the presence of military outposts in places where the installment has been instead, closed or brought back to the use of the Italian Armed Forces.

Another agreement that is useful to mention in order to understand the legitimacy of U.S. forces in Italy is the “Memorandum d’Intesa tra il Ministero della Difesa della Repubblica Italiana ed il Dipartimento della Difesa degli Stati Uniti d’America, relativo alle installazioni / infrastrutture concesse in uso alle forze statunitensi in Italia”, signed by the Second Chief of Staff of the Ministry of Defense in Italy, and the vice-commander of the U.S. armed forces in Europe on February 2, 1995, and made public in 1998 after the Cavalese Cable disaster, as we will see later<sup>117</sup>.

This document has incremented the (known) legislation about the use of real estates, and basically build up a scheme to

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116 Vine D.,” *The Italian Job-How the Pentagon Is Using Your Tax Dollars to Turn Italy into a Launching Pad for the Wars of Today and Tomorrow*”, reported on TomDispatch.com, 2013. Full text available at: <http://www.tomdispatch.com/blog/175755/>

117 Text available at: <https://byebyeunclesam.files.wordpress.com/2008/06/shell-agreement.pdf>

formulate agreements pertaining each specific installation on Italian soil. Any change on the structure of the military base must necessarily be approved by both parties.

The Italian judicial system does facilitate the secrecy of its agreements with the Constitution: if we examine articles 11 and 52 our Charter guarantees two basic values, *defense* and *security*, but as Ronzitti suggests, this should not undermine the democratic principle of parliamentary oversight on foreign policy activities made by the Parliament. So, the clauses and smaller provisions might be secreted, but the general picture of the agreement ought to always be published in the Official Gazette of the Republic<sup>118</sup>.

All this might sound like an oxymoron, having seen the established legal practice of the Italian system to simplify the ratification of documents, and the precedent tendency not to disclose them to the public.

This is why many Italian citizens who are, for one reason or another, knowledgeable with this topic, feel that the secrecy might lead to a territorial political pressure and unconstitutionality of the agreements themselves, and in any case, they perceive it as a political will to maintain and disguise, come hell or high water, the same friendly line of relations with

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118 N. Ronzitti art n.70 IAI Giugno 2007.

the United States prescribed by the agreements of 1954, thus making the awareness of the Italian population very low.

The theory of an assumed unconstitutionality of these and later agreements has been extended not only to their content, but also to their same existence, and, even in the cases in which it has been brought to the public, this has not provoked any consequent legal consequence on their validity and legitimization, surely it has damaged public *consensus*.<sup>119</sup>

Having seen how the placement of U.S. armed forces is regulated, we can now linger for a moment of how NATO forces are institutionalized.

The main textual reference in this case is the London Convention of June 19, 1951<sup>120</sup>, this time ratified by the President of the Republic in solemn form and submitted to the governmental Chambers according to Law n. 1335, November 30, 1955. This Convention is extremely important in our jurisdiction, as it disciplines the status of military personnel stationed on foreign soil, and consequently establishes a legal framework for both the members of NATO forces, and American ones, stationed in Italy. Furthermore, it gives specific indications on the civilian personnel following member or affiliated of the

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119 See to this regard:

<https://byebyeunclesam.wordpress.com/tag/bilateral-infrastructure-agreement/>

120 Text at [http://www.nato.int/cps/en/natolive/official\\_texts\\_17265.htm](http://www.nato.int/cps/en/natolive/official_texts_17265.htm)

armed forces, its technical representatives and, more generally, gives guidance to anyone who is “*recognized by both governments as necessary in connection with the functioning of the installations*”.<sup>121</sup> This turns particularly useful in order to understand of how troops are welcomed in our country.

As the geopolitical expert Paragano observes in her dissertation<sup>122</sup>, while U.S. bases overseas, particularly those who serve to the permanent stationing of troops, can be described as bases with a low rotation of stationed personnel, those who welcome soldiers returning from the battlefield have incremented their status of autonomy, dedicating vast spaces to the life and entertainment of the American families and employed personnel. The improvement of life standard and quality of stationing in military facilities represents one of the more important characteristics of military installations abroad, and a priority for the U.S. Department of Defense.

To this achieve this goal, there is a particular attention devoted to the creation of a sense of hospitality, for example through the observance of festivities and family gatherings, that can be best seen on the 4<sup>th</sup> of July festivals, which represent one of the very

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121 For this definition see “Civilian Personnell Accreditation Procedures in the Republic of Italy”, February 4, 2004 text at: <http://photos.state.gov/libraries/usun-rome/164264/USUN/Guidance.pdf>

122 Paragano D., *Le Basi militari degli Stati Uniti in Europa: Posizionamento strategico, Percorso localizzativo e Impatto territoriale*, pg.163.

few occasions in which Italian civilians can enter certain areas of the bases, if authorized by a family member or acquaintance.

All these little things, that might at first glance seem just a way to gain consent or to spread American culture, have to be considered instead as part of a precise political intent of the armed personnel, and a way to incentive the willingness of soldiers to be employed overseas, reducing the possible implications of military presence on the civilian community.

In an analogue way, the placement of U.S. military bases abroad is functional to the reconstruction of domestic lifestyle, and the creation of what Fontana describes as “micro-worlds”, similar to the American reality.<sup>123</sup> Without the London convention then, we would not have in Italy little U.S. *enclaves*, where unfortunately the moments in which civilian and military communities have a real cultural exchange are limited in number and quality, and if there was an institutionalized possibility for the engagement of soldiers in the local community and vice versa, more than a mere job vacancy or a military assignment, the perception of personnel by Italians would be better, perhaps less seen as an external element to civil life. Until now, all the non-strictly institutional

projects carried on by the military communities in our country to meet and integrate with locals (visits from schools, fieldtrips, etc.) are really limited, and are still perceived as a mere form of advertising or legitimization of military presence, contextually reducing the quality of perception of those benefitting aspects of *securitization* that even the critics could appreciate.

Securitization, according to Alan Collins<sup>124</sup>, is a concept introduced for the first time in the field of security studies by researchers of the Conflict and Peace Research Institute, located in Copenhagen, later known as the Copenhagen School, and can be best defined as the way and the process through which élites of politicians articulate what is by them perceived as a potential threat to the security of state, thus convincing the public.

Having said this, it is clear that a military presence plays a fundamental role in terms of securitization. To further comprehend the effects of a military base on foreign territories such as Italy, a first distinction needs to be done between the base as possible target of criminal actions, and possible criminal events committed by soldiers stationed in a base. Evidently enough, a military base can be a possible object of military

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124 Collins A., "Contemporary Security Studies", 3<sup>rd</sup> Edition, Oxford University Press, 2013., Introduction

attacks by other countries or terrorists/militant groups, since they are better than national targets both for the alliances they symbolize, and for the minor safety that could characterize the base and its inhabitants, taken for granted their ability to promptly react in case of violence. The presence of a military base can than pose a reduction of security for the country in which it is built.

However, at the same time the presence of a military bases, especially a foreign one, for those same very reasons for which it can be a possible target of criminal actions, could lead to a potential major concentration of resources by the local police force active in the territory where it is located, thus improving its overall safety and security.

Military bases, in turn, possess a specific security system<sup>125</sup>, which, in the majority of cases, is directed to the defense of the base, and not to the neighboring land; as a consequence, there is not always an exact and calculable coincidence between the diminished criminality in the base and in the areas next to it.<sup>126</sup> Military presence abroad, and especially U.S. presence, has been in many cases detected as a source of criminality: sexual abuses, violence, illegal drug trade,

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125 In the case of NATO operative bases, shared by all members of the Alliance.

126 Paragano D., *Le Basi militari degli Stati Uniti in Europa: Posizionamento strategico, Percorso localizzativo e Impatto territoriale*, pg.140.

alcoholism, and murder are just a few of the crimes for which U.S. military soldiers stationed in Italy and abroad have been accused of<sup>127</sup>. Strictly connected to the presence of a military installation, in many cases there has also been registered a considerable increment in public statistics related to the world of prostitution, in many cases, of children too.<sup>128</sup> This presence of criminal cases committed by military personnel stationing in the bases, particularly abroad, could be motivated by many different reasons, among which the characteristics of composition of the armed forces sent abroad, and life conditions in the military base. For this reason, not that a criminal record is justifiable, but it is even more important for both the Department of Defense and the Government of hosting countries, to promote a climate of relaxed cooperation among members of the military community, as it has been said before. Building installations in which there is a presence of recreating facilities and the possibility to welcome the families of soldiers, is a fact that has to be placed within a system of specific policies dedicated to the personnel and aimed at the creation of a friendly environment, similar to “a home

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127 Woodward R. “*From Military Geography to militarism’s geographies: disciplinary Engagements with the geographies of militarism and military activities*”, in *Progress in Human Geography* 26 6, 2005, pg.718 – 740;  
Also, Baker A. P., “*American Soldiers Overseas – The Global Military Presence*”, Praeger Publisher, New York,2004.

128 Woodward R., “*Military Geographies*”, RGS-IBG Book Series, Blackwell Publishing, Oxford, 2004, pg. 49; Baker A. P., 2004, pg. 156; Mostallino M, “*Stupra a Napoli e a Latina ma lo processano gli USA*”, Epolis Roma, March 14, 2008.

away from home”<sup>129</sup>, so to limit feelings of alienation that could decrease the military performance of stationing soldiers, and reduce the chance for criminal actions to happen.

Criminal episodes connected to the presence of American soldiers, besides their functions, have always been a reason for huge protests, both by the civil society and by local institutions; the violence perpetrated on a twelve-years old by a group of U.S. soldiers stationed in the base of Okinawa, Japan, in 1995, not only represented a symbol for all the violence shown by U.S. soldiers abroad, but it led to the formation of movements of protestors who were against the military occupation of the island.<sup>130</sup>

Connected to the possibility that foreign militias can be charged for criminal events, there is the problem of the jurisdiction to apply under these circumstances, when they happen. U.S. soldiers are often classified, by the public opinion of their hosting countries, as possessors of a sort of *immunity* giving them the guarantee of being liable for judgment, if need

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129 As confirmed by Public Affairs Specialist / Strat Com at U.S. Army Ms. Anna Ciccotti, responsible for the U.S. Army S in the documentary “Welcome to Vicenza” presented by Lorenzo Mappelli on VICE News, 22 October 2013. <http://www.vice.com/it/vice-news/welcome-to-vicenza>

be, exclusively under the civil and military tribunals of their countries or origin.

This assumed impossibility for the hosting country to judge foreign military members has been often underlined in relation to the events of the Cavalese cable disaster, in 1998.

### 1.3

## CASE STUDIES INVOLVING U.S. AND ITALIAN JURISDICTIONS

Cavalese is a small municipality of 40.000 inhabitants located in the spectacular landscape of the Italian Dolomites, and very famous for its ski resorts. At 14:13 local time, on February 3,1998, an unexpected event happened: a EA-6B Prowler Jet<sup>131</sup> of the U.S. Marine Corps, that had taken off, piloted by Captain Richard J.Ashby and co-piloted by captain Joseph Schweizer, for a low-altitude training mission, from the Italian-administered Air base of Aviano, in the north-eastern region of Friuli-Venezia Giulia, hosting the only fighter wing of the U.S. Air Force south of the Alps<sup>132</sup>, cut a funicular cable of an aerial tramway, causing one of the gondolas to crush on the ground and killing twenty people<sup>133</sup>.

The victims involved were of at least six different nationalities<sup>134</sup>: Italians, Germans, Polish, Austrians, Belgian and Dutch. This caused an impressive reaction of international media, and a challenging case for international law.

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131 A particular twin-engine air warcraft, in service to the U.S. Armed Forces since 1971 .

132 Website of Aviano Air Base with description <http://www.aviano.af.mil/>

Marzio B., "*La cabina è caduta come un giocattolo*", Il Corriere della Sera, 31 August 1994, p. 5.

134 According to the Italian 3 February Committee for Justice <http://www.valdifiemme.it/comitato3febbraio/vittime.htm>

The jurisdiction of this case, after having been brought to the knowledge of the two marines, who, in a first moment, were not even aware of the tragedy, and despite the declared intention of the Italian court to charge them for trial in Italy, was given to U.S. military courts.

Contrary to popular belief, no joint commission was built to investigate the case. An extract of a classified cable of March 8, 2005, 20:11<sup>135</sup>, published online by the notorious website of Wikileaks, which deals with the killing near Baghdad of an Italian intelligence officer by the U.S. forces, Nicola Calipari, and the consequent pressure made by the Italian Prime Minister Silvio Berlusconi for the establishment of a joint commission to draw appropriate conclusions on the investigations that were underway, ex U.S. Ambassador to Italy under the Bush administration, Mel Sembler, states:

“[...]7.(S) Ambassador shared with Letta Ref.C press release text, noting that while we were not offering a joint commission, we were doing what had been done initially in the case of the *Cavalese Cable Car disaster* investigation in 1998 and *inviting Italian participation* into the military investigation. Ambassador told that Italy would have full access and be a full participant, and that it would be up to the Italian Government to decide who

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135 Classified cable n. 000781,” *Iraq/Italy: accidental killing in Baghdad, Berlusconi proposes joint commission, agrees to joint investigation*”, Tuesday 8 March 2005, 20:11. Reported in Maurizi, Stefania, *Dossier Wikileaks-Segreti Italiani*, edizione BUR Rizzoli Futuropassato, Settembre 2011, pg. 265.

would represent Italy in the investigation. Details of the Italian participation could be worked out later. [...]”.

Later in another cable, Ambassador explains frankly to his colleagues in Washington that among the goals of the United States there was the need to prevent any form of request for the establishment of a joint commission that could investigate on the killing, but that he believed to have supported with this our Government’s political urgency to present to the next session of the Parliament, on March 9, something that could demonstrate a full cooperation on equal bases for both countries<sup>136</sup>. The two American marines were then brought back to the United States, (flying from the Aviano Air base! )where they faced trial, with the accusation of “*involuntary manslaughter*” and “*negligent homicide*”.<sup>137</sup>

One thing emerging from this cable is how diplomats and government officials manage the urgency of giving at the same time, start to investigations related to military accidents, and an unmistakable response to the public requiring justice for the crimes.

It also poses question on the jurisdiction to apply to foreign

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136 Maurizi, Stefania, *Dossier Wikileaks-Segreti Italiani*, edizione BUR Rizzoli Futuropassato, Settembre 2011, pg. 60

137 Vogel S., “*Marine Pilot acquitted in the Alps*”, *The Washington Post*, Friday March 5, 1999.

military forces.<sup>138</sup> States are objectively diverse from one another, both in culture and history, and different are also the judicial systems applicable to members of the Allied forces as a consequence of their misbehaviors, especially if committed in official and representative roles. In this case, as noted in Martinelli<sup>139</sup>, one of the foreseeable consequences of being tried in the United States, the worst penalty the two pilots could get was a sanction or a disciplinary action; but this also assumes without reason that the conviction would have been much worse in Italy.

The faculty of standing a trial in the country of origin, as it happened in the Cavalese Cable Car disaster, is often used by the Italian parliamentary commissions of investigation, and it was evoked both here and in another previous air accident in 1988, in which two aircrafts of the Italian acrobatic team of Frecce Tricolori ( *Tricolor Arrows* ) during a performance in Ramstein, Germany, collided with each other causing the death of six spectators<sup>140</sup>, despite the very different legal consequences of these two accidents. The jurisdiction applicable to foreign armed

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138 On this matter, see leaflet of the Italian Ministry of Defense [http://www.difesa.it/Pubblicistica/info-difesa/Infodifesa140/Documents/Sovranit%C3%A0\\_dello\\_Stato\\_imp\\_725internazionali.pdf](http://www.difesa.it/Pubblicistica/info-difesa/Infodifesa140/Documents/Sovranit%C3%A0_dello_Stato_imp_725internazionali.pdf)

139 Martinelli M., *The Impact of the NATO / U.S. Military Bases in the North East of Italy*, Ca' Foscari University of Venice, a.y. 2011-2012, pg.121.

140 Dougherty K., "1988 Ramstein air crash stirs memories", in *Stars and Stripes*, August 27, 2008. <http://www.stripes.com/news/1988-ramstein-air-crash-stirs-memories-1.82371>

forces, in the case of NATO countries, is disciplined by the *Status of Forces Agreement (SOFA)*<sup>141</sup>,

That, besides the general indications, determines a scale of typologies of crime and, with relation to the possible verdicts in the two countries, the legal norms to be applied. In order to underline the importance of the activities of all the countries bound by the Atlantic alliance, NATO SOFA prescribes in article VII, comma a., that:

*“The military authorities of the sending State shall have the right to exercise exclusive jurisdiction over persons subject to the military law of that State with respect to offences, including offences relating to its security, punishable by the law of the sending State, but not by the law of the receiving State”*<sup>142</sup>

The sentiment expressed in this quotation embodies the view that a state like the U.S., stationing troops abroad, has the last say over the conviction of his citizens living in military bases, but it is important not to assume its complete applicability in all the situations that might occur.

There has been a huge debate among scholars on the fact that the receiving state should apply a “national” treatment to foreign military members, recognizing the parity with the armed forces

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141 Full text: [http://www.nato.int/cps/en/natolive/official\\_texts\\_17265.htm](http://www.nato.int/cps/en/natolive/official_texts_17265.htm)

142 See: [http://www.nato.int/cps/en/natolive/official\\_texts\\_17265.htm](http://www.nato.int/cps/en/natolive/official_texts_17265.htm)

of the other parties bound by alliance, or a sort of “minimum international treatment”.<sup>143</sup> The second opinion is preferable. As a matter of fact, it cannot be said nor is it confirmed by the practice of international law that States have the duty to treat foreign citizens and their members of the armed forces only in the way they use to treat theirs. However, it is difficult to establish which precise kind of treatment (diverse and more favorable from the national one, if necessary) should be internationally guaranteed.

In particular, it has been discussed if the imprisonment, or the forcible abduction of a foreign citizen in another State, in which he is arrested and put through a criminal law procedure, may represent a violation of international law, being seen as a form of disguised extradition and expulsion, in violation of the procedural obligation according to which extradition and expulsion must not happen in a outrageous way for the foreign citizen, who has the right to a fair trial.<sup>144</sup>

This problem has been raised especially in relation to the so-called “extraordinary renditions”<sup>145</sup> of suspect terrorists, which became who were kidnapped and imprisoned in foreign jails, or transferred with secret flights in other states to be interrogated

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143 Focarelli C., *Lezioni di Diritto Internazionale*, CEDAM, Padova, 2008, pg. 327.

144 Focarelli C., *Lezioni di Diritto Internazionale*, CEDAM, Padova, 2008, 130.4.

145 Garcia John M., Legislative Attorney American Law Division, “Renditions: constraints imposed by laws on torture”, September 8, 2009, in the United States Counter- Terrorism Training and Resources for Law Enforcement website. Link at: <http://www.fas.org/sgp/crs/natsec/RL32890.pdf>

and most likely tortured, to American authorities by European governments, such as the Italian one.

Focarelli notes that the infamous practice of extraordinary renditions has been harshly condemned from both the European Parliament and the Council of Europe<sup>146</sup>. Sweden, in particular, has been condemned in 2005 by the Committee against the use of torture, for having violated the Convention against Torture of 1984,<sup>147</sup> and in 2006 from both the European Court of Human Rights (EctHR) and the United Nations Human Rights Committee, for the violation of the pact on civil and political rights.<sup>148</sup> In Italy, what sparked interest on this practice is the case of Mr. Osama Mustafa Hassan Nasr, better known as Abu Omar, which has recently come to a conclusion.

This man was an Egyptian clerical, at the time permanent resident in Italy, considered by the United States to be in contact with islamist groups, affiliated with Al Qaeda, the organization founded by Osama Bin Laden, who had claimed the 9/11 attacks on the Twin Towers. By the time of his arrest, on February 2003, the Italian intelligence services, who had been asked by U.S. authorities to prepare a dossier on his ties to the group, had

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146 The European Court of Human Rights, *“Extraordinary Renditions and the Right to the Truth: Ensuring Accountability for Gross Human Rights Violations Committed in the Fight Against Terrorism”* Human Rights Law Review, October 31, 2013.

147 See: <http://www.unhcr.ch/tbs/doc.nsf>

148 See: <http://www.unhcr.ch/tbs/doc.nsf>

already submitted a detailed report on his transfers, which was under scrutiny by the Italian police officers.<sup>149</sup>

One morning, he saw himself kidnapped in an anonymous van in a joint raid by a team of American and Italian operatives of the Central Intelligence Agency (CIA), transferred to the Aviano Air Base, and flown back to Egypt, where he was subsequently detained for months, and, he claims, tortured from a team of officers intentioned to gather information.<sup>150</sup>

The Criminal Division of the Appeal Court in Milan gave start to the trial, committing twenty two CIA agents and the SISMI<sup>151</sup> chiefs of Italian intelligence operations and, having the United States excluded a possibility for extradition for his officers, announced that the process would have gone further *in absentia*.<sup>152</sup> The Italian Government then lamented a conflict in the allocation of powers to the Constitutional Court, for a claimed intrusion of the judicial power in the sphere of action of the Executive branch of Government, on the bases of the secrecy of State that would have covered the all case. The procurement in Milan also posed the same question on the conflict of interest

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149 Fabbrini Federico, “*Understanding the Abu Omar Case: The State Secret Privilege in a Comparative Perspective*”, International Association of Constitutional Law, Workshop n. 6, 2010.

150 Giupponi Tommaso F., *Stato di diritto e attività di intelligence: gli interrogativi del caso Abu Omar*, Quaderni Costituzionali, 810, 2006.

151 Law 801/1977, establishing SISMI, the Italian military intelligence and counter-intelligence service. With the enactment of Law 124/2007 replaced by AISE.

152 Whitlock C, “*US Won’t Send CIA Defendants to Italy: Abduction Probes Hurt Anti-Terrorism Efforts, State Dept. Official Says*”, The Washington Post, March 1, 2007

and the allocation of powers, claiming that putting the privileged clause of state secrecy to remove all the evidence gained from the prosecutors against Italian personnel and their foreign colleagues, as at the time Prime Minister Prodi had done<sup>153</sup>, could damage the constitutional attributions of the Procure itself.

In 2007, the Constitutional Court accepted and confirmed that both the pleads were legitimate and receivable.

Conversely, in the United States, Virginia, the Court of Appeals has declared applicable the clause of state secrecy, saying that the knowledge of facts did not concern the details that would have been, instead, inevitably revealed in the case in which the trial had continued, thus putting the security of State in danger.<sup>154</sup> The Court has explicitly ruled that this would have represented an inadequate solution, against which though judges could do nothing, and that was a task of the Executive, to solve the case. This idea was later confirmed by the U.S. Federal Supreme Court.<sup>155</sup>

By the end of the trial, in May 2014, the outcome of the whole procedure was defined by the Court of Cassation in Italy, that according to art. 65 of Italian civil law is responsible for interpreting the law and examine if judiciary verdicts are

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153 Reg. C. 2/2007

154 See Fabbrini, pg.17., and Focarelli, 365.

155 See: [http:// www.supremecourtous.com](http://www.supremecourtous.com)

legitimate, but is not authorized to reexamine them<sup>156</sup>, as “*hanging a black curtain*” over the case.<sup>157</sup> None of the accused intelligence services was present during the trial. The Italian Government, which had saw the alternance of two Prime Ministers, Silvio Berlusconi and Romano Prodi, both denied to have ever been informed of the dossier against Mr. Omar, and the whole content of the operation.

The Constitutional court decided to extend all the provisions regarding state secrecy to the Italian officers involved, thus overturning the previous conviction of respectively ten and nine years for the Italian Chief of intelligence in Rome Niccolò Pollari and the second-highest ranking officer Mancini.<sup>158</sup> Twenty two agents were convicted and declared guilty<sup>159</sup>, while the U.S. CIA Chief officer Bob Seldon Lady asked for ( and received, together with Air Force Colonel Joseph Romano who was at the time U.S. Commander of Aviano Air Base ) pardon from the Italian State,

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156 R.D. January 30, 1941, n.2 «*La corte suprema di cassazione assicura l'esatta osservanza e l'uniforme interpretazione della legge, l'unità del diritto oggettivo nazionale, il rispetto dei limiti delle diverse giurisdizioni; regola i conflitti di competenza e di attribuzioni ed adempie gli altri compiti ad essa conferiti dalla legge*»

157 ANSA General News, “*Cassation blasts Constitutional Court over rendition case*”,

May 16 2014.

158 Reuters, “*Italian ex-spy chief gets 10 years in CIA case*”, Milan, Feb.12, 2013.  
<http://www.reuters.com/article/2013/02/12/us-italy-rendition-verdict-idUSBRE91B0OS20130212>

159 Hooper J., The Guardian, November 4, 2009,  
<http://www.theguardian.com/world/2009/nov/04/cia-guilty-rendition-abu-omar>

after a failed attempt of extradition to Panama and the consequential intervention of INTERPOL and the United States, and declared “ *I am judged as a criminal for violation of basic human rights everywhere, but nowhere should I be judged as a criminal*”.<sup>160</sup> Abu Omar has been officially declared a terrorist<sup>161</sup>, condemned to prison for six years and the CIA agents will have to compensate him and his wife with a sum of one million euro<sup>162</sup>, which he will not be able to ask anyway, because of state secrecy covering the case. It seems now adequate to explain what this means, and what consequences it does imply for Italy.

## Second Part

### *The Role of Media*

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160 Il Foglio.it, “*Caso Abu Omar, ecco perché Seldon Lady ha chiesto la grazia a Napolitano*”, September 11, 2013 <http://www.ilfoglio.it/soloqui/19775>

161 Corriere della Sera, December 6, 2013, [http://milano.corriere.it/milano/notizie/cronaca/13\\_dicembre\\_06/abu-omar-condannato-6-anni-terrorismo-internazionale-6cbbb79e-5e5c-11e3-ae7-1683485977a2.shtml](http://milano.corriere.it/milano/notizie/cronaca/13_dicembre_06/abu-omar-condannato-6-anni-terrorismo-internazionale-6cbbb79e-5e5c-11e3-ae7-1683485977a2.shtml)

162 December 15, 2010, La Repubblica, “*Pollari e Mancini non perseguibili, sentenza confermata in appello*” [http://www.repubblica.it/cronaca/2010/12/15/news/abu\\_omar\\_appello-10237633/](http://www.repubblica.it/cronaca/2010/12/15/news/abu_omar_appello-10237633/)

## 2.1

### *Raison d'État vs. Secret d'État*

One of the main difficulties encountered in our analysis of the presence of military bases in Italy, is the access to the sources of legal authority. As we have seen, Constitutional Law No. 839 of December 11, 1984<sup>163</sup> prescribes for the agreements listed in

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163 Text available at: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1984-12->

art.80 of the Italian Constitution ( of political nature, requiring arbitration or a legal settlements, entailing change of borders, spending or new legislation)<sup>164</sup> the publication in full in the Official Gazette of the Italian Republic. However, if for the inter-allied areas the preferred standard procedure to reach an agreement has been the solemn form, this is not the case for U.S. bases, where it has often been disregarded: certain agreements have never been made public, or they were, but when it was too late.<sup>165</sup> The information on military activity has, in the majority of cases, one only source, that is precisely the complex of military bodies, which do not have the necessity nor the task of disseminating information.

The availability of information is then tied to the degree of openness the military world indulges in, and to the political will of making that information public.<sup>166</sup> Furthermore, many official disclosures are protected by military secrecy that forbids their diffusion and publication. The control of information and discourse on these themes constitutes, in some cases, a form of guarantee to the regular implementation of military activities, and one of the most prominent forms of the exercise of power by

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11;839

164 See full text at:

[https://www.senato.it/documenti/repository/istituzione/costituzione\\_inglese.pdf](https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf)

165 See Shell Agreement disclosure.

166 Paragano D., *Le Basi militari degli Stati Uniti in Europa: Posizionamento strategico, Percorso localizzativo e Impatto territoriale*

military top officials<sup>167</sup>. Marchisio observes that the viscosity derived from the political implications of this area of study, and the partial inaccessibility of the sources that would guarantee civil “co-gnition”, represents a serious obstacle only for those investigations whose purpose is to collect and give an interpretation to the news relating the military dislocation of weapons in the world, the armaments they possess, the number of personnel stationed in the bases, and more broadly, the functions they are destined to perform in the strategic-military equilibrium between big powers.<sup>168</sup> To this regard it should be beared in mind that all domestic laws give some sort of legal protection to the *secret d'état*. Article 256 of the Italian Code of Criminal Procedure<sup>169</sup> punishes who gets himself news that, in the interest of State's security, and, in any case, in the political, internal or international interest of the State, need to stay secret. Also, the Royal Charter of July 11, 1941, n. 1161, in turn, explicitly forbids, at paragraph 7., the disclosure of news regarding “fortifications, bases and installments of the Armed Forces”, imposing norms regarding military secrecy pursuant to and by effect of articles 256,par.2, 258 and 262 of the Italian Code of

Criminal Procedure.<sup>170</sup>

There is no doubt about the fact that such norms have to be interpreted, because of the interdependence of the State with others within the framework of military alliances, in the sense that the procurement of news related to the safety of the State and the divulgation of news on military subjects concerning “fortifications, bases and installments” leased by Italy conforming to international treaties, to foreign armed forces, like those involved in NATO, are equally forbidden.

In this sense, after all, deposes also the judicial procedure of the other states members of the Atlantic alliance of which Italy is a member, such as the Federal Republic of Germany. In February 1981, the Chief Prosecutor in Karlsruhe opened an enquiry to determine if there has been a violation of *secret d'état* after the publishing, in the German periodic “*Stern*”, of a map of launching bases for nuclear missiles installed, needless to say, by the United States. According to the scoop, the woods in the northern part of Ravensburg were swarming with launching bases for explosives that could have hit Hungary or Poland, while other bases were located between Eifel and Niederrhein<sup>171</sup>. The bases in exam were controlled by the German armed forces, but

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170 Official Gazette, October 20 1941, n. 257.

171 Corriere della Sera, February 10, 1981.

the missiles were not, as a matter of fact, charged with nuclear devices, which in times of peace belong to the United States.

On June 6, 1981, the daily Italian newspaper *La Repubblica* hinted at the conviction of two researchers, Nils Petter Gleditsch and Owen Wilkies of the Peace Research Institute, to six months of detention, before the “Lower Court” in Oslo<sup>172</sup>, for the crime of having collected and divulged some news that should have been best kept secret for the safety of Norway, according to Norwegian legislation on secrecy of military activities.

Both the accused proclaimed themselves innocent, saying that they had based their photographs and drawings on normally accessible and “open” resources, such as written unclassified materials, oral information of public domain and observations on the field. In particular, the report they had collected was about the stations of *Sigint*<sup>173</sup> and the technical information existent on Norwegian soil, to whose construction and functioning the United States, within the framework of the Atlantic alliance, had been cooperating. One of those two was then convicted in Sweden as well, since he had had access without authorization to secret information regarding the safety of the state and, in

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172 See Väryrynen, „Presentation of the Gleiditsch & Wilkies Case to the Administrative Meeting of the Ninth General Conference of the International Peace Research Association”, in *Human Rights*, Helsinki, 1981, n.3, pg. 27-28.

173 Acronym standing for “Signals Intelligence” ( Electronic and Communications Intelligence” or “Electronic Spying and Eavesdropping”. The report the authorities were referring to was “Intelligence Installations in Norway: Their Number, Location, Function and Legality”, published by the Peace Research Institute of Oslo.

particular, because he had got his hands into news about the military installations of *Stril (Stridsledning)*, an aerial and control warning system., located in Gotland and Öland<sup>174</sup>.

Not only all the domestic laws discipline the *secret d'état*, they recognize also the crime of *espionage*, where it can be demonstrated that foreign States have come to possess information, to whom they have been transmitted and who collected them.<sup>175</sup> Conversely, the only thing that can place obstacles in a criminal investigation is the incompleteness of the sources of international agreements, given the fact that some of them are secret.<sup>176</sup> This does not mean that the legislative corpus is insufficient. On the contrary: the same element of secrecy of certain agreements sometimes is a good starting point to shed a light on the matter.

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174 Marchisio, pg. 20.

175 Artt. 257- 260 of the Italian Code of Criminal Procedure.

176 Flory M., Les bases militaires à l'étranger,pg.5.

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