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## A DISPUTED SEA: From Rescue to the Fight Against Traffickers

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“**T**he sea is filled with the dead”, no space remains “for the dead or the living” **lamented** the mayor of Lampedusa, Giusi Nicolini, on October 3rd 2013 after 366 people drowned shortly before reaching the island’s coasts. The images of coffins in lines in an airport hangar were from that day, as were the shouts of “murderer, murderer” directed at Angelino Alfano, then vice-president of the Italian government and minister of the interior. Less than two years later, on April 18th 2015, a fishing vessel containing more than 800 people sank in the Strait of Sicily. 28 people survived and the rescue teams recovered 24 bodies. The rest disappeared without trace. The then Italian prime minister, Matteo Renzi, **asked for** immediate answers: “Twenty years ago, we and Europe closed our eyes to Srebrenica. Today it’s not possible to close our eyes again and only commemorate these events later”.

Since then, over 16,000 more deaths have been counted (not including the disappeared, who do not figure in the statistics): 3,283 in 2014, 3,784 in 2015, 5,143 in 2016

and 3,139 in 2017. As De Genova points out (Garelli et al., 2017: 5), the normalisation of the deaths in the Mediterranean is what has to a certain extent led to its naturalisation as a border. Since then myriad political statements and an arsenal of measures have been deployed to help “reduce the number of irregular migrants and save lives at sea” (as Donald **Tusk**, the President of the European Council, put it). Everybody has spoken about saving lives, but what has changed in a short space of time is how: rescue missions have given way to fighting the traffickers, and we have moved from the state monopoly on the coordination of maritime rescue to the criminalisation of the NGOs that replaced them. How has this change come about? What resistance has it faced? What have been its consequences and its main limitations?

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**The Italian government’s Operation Mare Nostrum represented more of a quantitative leap than a qualitative one. What changed substantially was the public debate, whose focus shifted from fear of irregular immigration to the need to save lives.**

**While in 2015 the NGOs performed 14% of the rescues in the central Mediterranean route, in 2017 this percentage was over 40%.**

**In recent years, the Mediterranean has become a border performance: a theatrical show that unfolds through crisis, through photos and political statements.**

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### **From Mare Nostrum to Operation Sophia**

Fishermen and merchant ship captains were the first people saving lives in the Mediterranean. Italian Coast

Guard boats soon came along too. Their objective was security and border control, but they could not escape the obligation to save lives at sea. In 1997, for example, the Italian Coast Guard argued that carrying out returns to Tunisia was impossible due to the obligation, imposed by international maritime law, to assist migrants in difficulty and transport them to Italian coasts. From that time on, the Coast Guard's resources were increased. Although they remained fundamentally border control operations, saving lives also figured among their priorities. Though not yet part of the official discourse, the regulations included it and it was carried out in practice.

However, the sinking on October 3rd 2013 changed both politics and policies. From that day on, the need to save lives became a priority. As Renzi had in April 2015, the then European Commissioner for Home Affairs, Cecilia Malmström, decried this Europe as not the one we wanted. The Italian government responded by setting up Operation Mare Nostrum, which entailed a considerable increase in the means available for patrolling the international waters in the Strait of Sicily. The leap was more quantitative than qualitative. What did change substantially was the public debate, whose focus shifted from fear of irregular immigration to the need to save lives. In addition, Operation Mare Nostrum gave the Italian authorities a monopoly on rescue on the high seas,

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coordinating the operations and distributing the arrivals between the different ports. Although it seems paradoxical, this central role for the state allowed and even encouraged the entry of non-state actors. It was under the Operation Mare Nostrum umbrella that the NGOs returned to the Mediterranean, this time with no fear of being accused of people trafficking.

Operation Mare Nostrum lasted little more than a year, from October 18th 2013 to December 31st 2014, and rescued over 170,000 people. Despite the efforts to *Europeanise* it at both political and financial level, European Union support was half-hearted. The British government alleged that a Europe-level Operation Mare Nostrum would have a pull effect and would encourage migrants to risk their lives. Though saving lives remained the main argument, it was now used to justify the opposite policy, that is, the end of the rescue operations and even more control and returns to countries such as Libya and Turkey. Knowing that they weren't going to be rescued or that they would be immediately returned, who would dare to risk their lives? "Drown an immigrant to save an immigrant", as one journalist put it in the British newspaper *The Telegraph*. The argument was that more control and returns, fewer deaths. The humanitarian and securitisation discourses thus went hand in hand (Andersson, 2014). The result was Operation Triton, which had far fewer resources, and focussed, fundamentally, on border control.

But the second great tragedy on April 18th 2015 changed the politics and policies again. Jean-Claude Juncker, president of the European Commission, gave a full mea culpa. In the parliamentary debate that followed that extraordinary meeting on April 23rd, Juncker recognised that ending Operation Mare Nostrum had been a mistake with a high cost in human lives. As a result, he announced that he would triple the budget to Operation Mare Nostrum levels. According to him, this was "restoring something that we had lost along the way" and "a return to normality". Not only in terms of budget but also in intent. Frontex would place rescue at the centre of its operations and would perform it outside member states' territory, in international and even Libyan waters. But the most direct result of that April 18th was the setting up of Operation Sophia, whose main goal was also saving lives. Not this time "in search and rescue mode" but in fighting and combatting the traffickers (Garelli and Tazzioli, 2018).

Made in the image of Operation Atalanta, whose goal was to stop the piracy in the Horn of Africa and the Indian Ocean, Operation Sophia had the main objective of indentifying, catching and destroying traffickers' boats. In just under two years, a triple turn was therefore enacted. First, protection was no longer guaranteed by rescue and disembarkation on Italian coasts, but by preventing the departure of migrants from North African coasts. The researchers Glenda Garelli and Martina Tazzioli (2018) characterised it as "preventative rescue". Second, the target was no longer the migrants but the boats that transported them. Third, at a discursive level, the guilt was shifted to the traffickers. The argument was that destroying their boats saved the migrants from falling into slavery. The more inhumane and savage the portrayal of the other side – the traffickers – became, the more humane and free of responsibility the European border appeared. This again saved the disjuncture between humanitarianism and the securitisation of the border: controlling the borders and fighting against the traffickers was the best way to *save lives*.

The same focus was strengthened with the **Action Plan** against the illegal trafficking of migrants implemented in May 2015. The plan justified the fight against the traffickers not only as facilitators of irregular border crossings but as exploiters and abusers of migrants. "Smugglers treat migrants as goods, similar to the drugs and firearms that they traffic along the same routes", the document says. But the argument takes an extra turn: it is traffickers' lack of scruples that primarily explains the deaths on the border. The words of the text leave no room for doubt: "To maximise their profits, smugglers often squeeze hundreds of migrants onto unseaworthy boats – including small inflatable boats or end-of-life cargo ships – or into trucks. Scores of migrants drown at sea, suffocate in containers or perish in deserts. Over 3,000 migrants are estimated to have lost their lives in the Mediterranean Sea in 2014". A few weeks after Jean-Claude Juncker's mea culpa, the European Union seemed to stop feeling responsible. Thus the shift was made from guilt to condemnation, from rescue to the fight against traffickers, from saving lives at sea to saving lives in a preventative way by leaving them on the land.

## A disputed sea

Helena Maleno, journalist and defender of human rights on the southern Spanish border, **has referred** to the Mediterranean as a “sea at war”. In relation to the *Aquarius*, she recalled “images not so different from boats full of people fleeing war, overcrowded and looking for a safe port”. War is also any conflict with over 1,000 deaths per year. Beyond whether it is a sea at war or not, the Mediterranean is undoubtedly a “disputed sea”, a space of contention between different European Union institutions and between them and the member states: between Italy and France, between Italy and Spain, between Italy and the rest of the EU; between civil society and states, between cities and their national governments. The sea has also become a physical space that is disputed by humanitarian organisations, immigrants, traffickers and coastguards. After some shifts, what is at stake is who defines what saving lives means, which lives should be saved, and who should take responsibility. The cases of the *Iuventa*, *Open Arms* and the *Aquarius* shed some light on this dispute, which is as real as it is symbolic and in which it is sometimes difficult to know who is who.

In May 2016, a group of German activists bought a boat with the aim of saving lives in the Mediterranean and protesting against European policies. The boat was renamed the *Iuventa* and over the next 14 months they saved over 14,000 lives. They were known for their radical political positions, and for rescuing as many people as fitted on board, always close to the Libyan coast. In July 2017, the Italian authorities seized the boat with the accusation that they were “facilitating illegal immigration”. They had for some time been the object of a police investigation that employed secret surveillance, embedded informants and the participation of various state agencies, including agents associated with anti-mafia campaigns. The statement accuses them of working with the traffickers, from whom they are alleged to have received the immigrants with the aim of taking them towards Europe. Although nobody has been charged, in April 2018 the Italian supreme court confirmed the seizure of the boat.

The *Iuventa* is not an isolated case, it forms part of a smear campaign against NGOs that began months before the case started. In December 2016, the Gefira Foundation, a Dutch think tank defending a far-right identity philosophy, **declared** that it had proof that an “NGOs armada” was working shoulder to shoulder with the traffickers. “They all claim to be on a rescuing mission, but are they?”, they asked. Also in December 2016, the *Financial Times* referred to a Frontex report that showed alleged collusion between NGOs and traffickers. The consequences arrived soon after. In February 2017, a prosecutor from Catania announced the creation of a working group to investigate maritime rescue work. His **questions** were not so different from those of Gefira: “Do these NGOs all have the same motivations? And who is financing them?” In July 2017, days before the seizure of the *Iuventa*, the Italian government announced a new code

of conduct for regulating the activities of NGOs. Half – the *Iuventa* group of activists among them – did not sign: they alleged that its implementation would mean less time in rescue areas and therefore more deaths. According to Pierluigi Musarò, Professor at the University of Bologna, quoted by the journalist Daniel **Howden**, the importance of this code of conduct lay precisely in having cast an institutionalised form of suspicion over the NGOs.

The seizing of the *Iuventa* may also be read from another perspective. Violeta Moreno-Lax, Professor at the Queen Mary University of London, **quoted** by the journalists Zach Campbell and Chloe Haralambous, said the judge’s decision effectively seeks to expel the *Iuventa* from the central Mediterranean. This same argument could be extended across the whole group: the criminalisation of the NGOs has dramatically reduced their presence in the area. This is a fundamental step in the history of maritime rescue in the Mediterranean: we have explained that the NGOs arrived with Operation Mare Nostrum to assist or work under the coordination of the Italian authorities. The progressive withdrawal of the Italian government first, and the European Union later, meant the NGOs little by little took their place. While in 2015 the NGOs performed 14% of the rescues on the central Mediterranean route, in 2017 this percentage was over 40% (*El País*, 15 May 2018). Since 2017, however, everything seems to indicate that

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the intention of European governments is for the NGOs to also end up withdrawing. The argument is the same as ever, the same that Jean-Claude Juncker rejected after the tragedy on April 18th 2015: that the rescue operations act as a pull factor, that more rescue boats means more immigrants and, as a result, more deaths.

Two recent episodes shed more light on the terms of this “disputed sea”. In March 2018, a boat from the Spanish NGO Proactiva Open Arms was detained in Sicily accused of promoting irregular immigration. This time, however, they were not accused of collaborating with the traffickers, but of not collaborating with the Libyan Coast Guard, which wanted them to hand over the migrants rescued. Trained and financed by the European Union – and particularly the Italian authorities – the Libyan Coast Guard has recently come onto the scene to take control of the rescues. Its role is search, rescue and return. Its task is to do exactly what a European boat cannot legally do, that is, return migrants to Libya, a country where, according to the United Nations, they are exposed to a real risk of torture as well as violation of the most fundamental human rights. By doing this, the European boats would be breaching the principle of non-refoulement. But isn’t handing the migrants to the Libyan Coast Guard an indirect form of the same thing? Surprisingly, the investigating judge in the Open Arms **case** concluded that the fact that “landing in a Libyan port could signify the resumption of a problematic life situation (...) is of no relevance”.



So, given all this, who are the Libyan Coast Guard? Before the start of 2017 no unified guard existed – each city had its own local body. It is known that in many cases they worked alongside the local militias and the traffickers themselves, as well as those in charge of the detention centres in the south of the country. Traffic, rescue, return and detention all often lay in the hands of connected groups. In February 2017, the members of the European Council **agreed** to train, equip and assist the national coastguard so that, in exchange for aid, it would take charge of sealing the Libyan coast. The United Nations and the European Commissioner for Human Rights have denounced cases of abuse against returned migrants. As with the *Open Arms*, numerous conflicts with the NGOs operating in the area have also been documented. Nevertheless, not cooperating with them could represent a crime. So which ones should not be cooperated with? Who are the real

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traffickers? On the Libyan coasts it is not always easy to know who is who. According to **Campbell**, they may be fishermen, “engine fishers”, fishermen-smugglers or migrants who become smugglers shortly before leaving. Whoever they are, international maritime law obliges to rescue any boat in difficulty. In today’s Europe, nevertheless, that could be a crime, depending on who is or was accompanying them.

Finally, the case of the *Aquarius* shows other edges to this “disputed sea”. On June 10th 2018, the Italian minister of the interior, Matteo Salvini, announced on Twitter that he was closing Italian ports to the *Aquarius*, a vessel chartered by the NGO SOS Méditerranée, which was carrying over 600 people on board. Beyond Salvini’s media-friendly gesture, the action itself was nothing new: for example, in 1991 the port at Bari was closed to a ship from Albania and in 2004 it was the turn of *Cap Anamur*, a German NGO vessel. As **the** researcher Simon McMahon has pointed out, on all these occasions, the Italian government has sought to pressure its European partners to take joint responsibility for the situation. This always turns out to be a bluff, as the ships were facing Italian coasts and the International Convention on Maritime Search and Rescue obliges them to open their ports sooner or later. The novelty this time was the level of media exposure. In recent years, the Mediterranean has become a border performance. We are attending a theatrical show that unfolds through crisis, through photos and political statements. This time the gesturing has been extreme: by the new Italian government, needing to demonstrate its hardline anti-immigration policies; by the new Spanish government, wanting to stand apart from the departing government for its humanitarianism; and by the European Union, horrified by the Italian government’s gesture and praising the Spanish government’s hospitality without so much as a self-conscious blush.

In the case of the *Aquarius*, cities have reemerged on the scene. Not for the first time: They did it in 2013, when the mayor of Lampedusa skewered her prime minister by inviting him to join her to count the dead and “look the horror in the face”; or in 2015, when the mayor of Barcelona

Ada **Colau** condemned the cynicism of the part of Europe that “cries, shouts, wants them to be saved, for them not to die” but which at the same time prefers them “not to come, to go away, to disappear, to not exist and not to have to see them on the TV, and much less on our streets”. This time cities rebelled against the closing of Italian ports: the mayors of Palermo, Naples, Reggio Calabria and Messina offered their cities; so did the autonomous community of Valencia and the city of Barcelona, this time with a more like-minded central government that was prepared to accept the offer. As on other occasions, cities took the opportunity to condemn the cruelty of their states. Faced with dehumanised, paralysed governments incapable of responding to a humanitarian emergency, cities again presented themselves as their antithesis, ready to welcome and to take action. “We are humans, with a big heart. Naples is ready, without money, to save human lives”, as the city’s **mayor** put it.

### Consequences and limitations

There is no evidence that proves fewer rescues means fewer migrants and therefore fewer deaths. The data instead contradict the supposed “pull effect” of rescue operations. A group of researchers from the Forensic Architecture agency at Goldsmiths, University of London, **has shown that** rescue operations, increasingly in the hands of the NGOs, do not explain higher 2016 arrivals on Italian coasts in 2016. This same study indicates, on the other hand, that the fight against the traffickers has had an effect on crossing practices and conditions. This fight has made the vessels insecure in a way that places migrants’ lives at risk almost from departure. This leads to a double contradiction. First, under the pretext of saving lives, the lives of the migrants have become increasingly difficult, and crossing borders increasingly expensive and dangerous. In 2017, though arrivals fell, deaths at sea rose proportionally **by 75%**. Second, given the increasingly precarious crossing conditions, the obligation to rescue has become something that is even more urgent and unavoidable.

Despite the data, European policies continue to be governed by these two principles: fight against the traffickers to reduce departures and reduction of the rescue operations to avoid the pull effect. As well as being of questionable logic, applying these two principles has its difficulties. On the one hand, fighting against the traffickers in cooperation with Libya, one of the most failing, corrupt and violent states in the world, is a serious problem in itself. As **Pere** Vilanova recently pointed out, it is a problem of effectiveness: any agreement with a non-state is doomed to failure. But it is also a problem of legitimacy: how can agreements be made with those who are behind the very factors that encourage the migrants to take to the sea? On the other hand, reducing the maritime rescue operations means taking sides against the part of Europe that places rescue above all else. The dispute is unending and uncomfortable. International and European laws make rescue compulsory and it is not easy to escape the legal obligation to open the ports to vessels in need. No announcement in this direction can go further than mere political gesture.

How then can we explain the fall in the number of arrivals on Italian coasts? According to the IOM, in 2016 181,436 arrived, in 2017 119,310 and in 2018 (mid-way through the year) 42,845. The reason for this is that the real border policy is not taking place in the Mediterranean but further away, in the countries of origin and transit. That's where European states elude the controls of their own citizens and their own laws. That's where there is no dispute or legal responsibility. That's where the chance of continuing towards the north is really blocked. Because the impunity with which these states act makes migration control more effective. And because, ultimately, it is easier to prevent them leaving than to prevent them arriving. In that extraordinary meeting on April 23rd 2015 it was already stated: ultimately the objective is to prevent potential migrants reaching the shores of the Mediterranean. This means that more deaths on the route is not the issue. This is less about preventing the deaths than about preventing them happening before our eyes. As Bauman said (2002), it is about "keeping the problem out of sight and out of mind" but not necessarily "out of existence".

**Cities have again presented themselves as the antithesis of their governments: ready to welcome and to take action.**

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