Italy, the Mediterranean as a political space, and implications for maritime migration governance

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Introduction

On 23 February 2012, in the case *Hirsi Jamaa v Italy* [2012], Application no. 27765/09, the European Court of Human Rights (ECtHR) condemned Italy for violating the human rights and the principle of *non-refoulement* of 24 individuals who left Libya on a dinghy boat with the aim of reaching Italy, as the country operated policies of interception and pushbacks to Libya in 2008 and 2009. Less than two years later, on 18 October 2013, after the shipwreck of a dinghy boat only half a mile off the coast of Lampedusa, in which 366 people died, Italy began an extensive active search and rescue (SAR) operation, named *Mare Nostrum* with the aim of assuring a presence in the central Mediterranean.

While the socio-political contexts are different, these two incidents raise important questions on why Italy's approach to maritime migration has changed over time and what the normative, legal and political implications of these episodes are. What can explain such changes in policies and in the configuration of the sea as a border? What is the relevance of the sea as a political space in these discussions? What are the implications in the understanding of concepts such as sovereignty and borders?

This paper aims at answering these questions by focusing on the space of the sea. It will argue that the two different maritime migration policies that can be identified in the Italian context in the early 2010s (extraterritoriality and humanitarianism) can be associated with different ways of understanding the sea, namely either as a border-zone that acts as a buffer to mainland Italy, or as space of humanitarian intervention. These unveil a gap between the legal framework and the practice of maritime migration governance[1] and reflect changes in the political dimension. Such changes consequently offer a reconsideration of concepts of sovereignty, borders and boat migration, and which this paper seeks to explore so to contribute to the existing literature on how migration affects key political constructs.

This paper focuses on the early 2010s for reasons of clarity, as at the time of writing the more recent events in Italy and the Mediterranean are still developing and their political and social consequences are still unfolding. It is nonetheless essential to underline how dynamics in the Mediterranean are continuously changing, which in turn supports the understanding that their socio-political and conceptual interpretations are not absolute but, on the contrary, flexible. Taking into account these considerations, this paper will present only a brief reflection of the situation post-2014, which nonetheless supports the argument that the sea is a politically-charged space within which understandings of sovereignty and borders can evolve and change.

Legal dimension

The sea

International maritime law establishes that the waters up to 12 nautical miles (22 km ca) from the baseline of a coastal state are considered 'territorial waters', and consequently should be understood as part of the territory of a State on which national sovereignty and national jurisdiction are applied, as according to UNCLOS (1982 art.2, para.1).

[1] This paper understands maritime migration 'governance' as 'rules, norms and practices that constrain or constitute behaviour' related to maritime migration (Betts 2010: 6). While 'governance' is a contested concept, this definition provides a comprehensive framework that encompasses different components of the political process. For a discussion on governance, see: Betts (2011); Kuntz et al. (2011); Newland (2005). Moreover, while recognising that governance refers to a multiplicity of actors beyond the state, I will refer to the latter as the main analytical level of this research.

It is generally agreed that the most contentious areas of the sea are formed by the contiguous zone and the high seas, especially because of their vague definition and the complex legal characteristic that they present. The contiguous zone extends for 12 nautical miles beyond territorial waters and, unlike these, must be claimed by states. According to UNCLOS (1982, art.33a), in the contiguous zone a state might exercise the control necessary to 'prevent infringement of…immigration…and [other] regulations within its territory or territorial sea'. However, because this portion of sea is not considered part of the sovereign territory of a state, the fact that states can effectively enforce certain sovereign rights (control and prevention of infringement) makes the separation between territorial waters and the contiguous zone difficult to effectively enforce, especially in relation to irregular migration (Scovazzi 2014)[2].

According to UNCLOS (1982, art.89), no claims of sovereignty can be validly advanced by any state in the high seas, meaning that no part of the high seas can be claimed as a state's own; however, this does not exempt states from their international obligations under international law, such as the principle of *non-refoulement*, search and rescue (SAR) and assistance (Goodwin-Gill 2011). Nonetheless, given the difficulty in enforcing compliance to international norms in the high seas, states have in several occasions exploited its complex legal regime in order to bypass such obligations, often by claiming to be respecting those same principles that they were violating.

While I will address these issues more in detail below, what is evident is that despite a legal spatialisation of the sea, the very geographical nature of the environment makes such division difficult to enforce, consequently affecting the ways in which maritime and international law are exercised. Despite the existence of a legal framework regulating states' rights and responsibility at sea, the political reality emerges as different. Before addressing this point, it is therefore necessary to understand what is the legal basis of states' rights and obligations at sea.

Maritime law and international law

Maritime law has changed considerably over time. While, beginning with 17th century Dutch jurist Hugo Grotius' book *Mare Liberum* there has been a long-standing association of international waters, and the sea more generally as a 'no man's land' outside of any sovereign jurisdiction (Costello 2016), more recently the legal understanding has evolved to emphasise that 'the high seas are not a legal vacuum where states may do as they please, but an expanse open to all to engage in lawful activities' (Butler 1992: 218). As a matter of facts, the space of the sea is not exempted from international human rights and maritime law, which on the contrary impose obligations on states beyond their territories, be it land or waters (Aalberts and Gammeltoft-Hansen 2014).

In fact, the core overlap of human rights and maritime law is the obligation of rendering assistance to any person found at sea in danger of being lost, for which states should promote the establishment, operation and maintenance of an adequate and effective search and rescue service, also in cooperation with neighbouring countries (UNCLOS 1982, art.98, para.2). The duty of states to provide assistance to people in distress at sea through the establishment of SAR regions (SRR) and SAR services is also regulated by the SAR Convention which states that 'assistance [shall] be provided to any person in distress at sea…regardless of their nationality, status of such a person or the circumstances in which that person is found' (SAR Convention 1979, Annex, ch.2 para.1.10). Together with assistance,

[2] Quite crucially, Italy has never claimed its contiguous zone, despite referring to it in the *Testo Unico Sull'Immigrazione,* (Unified Acts on Immigration, D.LGS 286/1998 art.12 para.9-bis). This, as I will later explain, could have implications in the way in which Italy has related to the sea especially during its pushback operations in the late 2000s.

disembarkation can be seen as the pillar of the 'safety at sea' regime, whereby those rescued should be brought 'in the most appropriate place(s)' (SAR Convention 1979, Annex, ch.4 para.8.5)

These last points are particularly important for two reasons: first, there is no clear definition of what 'distress' is, and on the contrary it has been subject to different interpretations in different situations (Aalberts and Gammeltoft-Hansen 2014). Arguments against the deployment of *active* SAR operations in the Mediterranean is based on the idea that situations of distress are caused on purpose by migrant smugglers and boat people in order to be rescued, therefore questioning the efficacy of the SAR system and its unintended consequences to perpetuate movement (Heller and Pezzani 2016b). Second, duty of assistance is also highly connected to the principle of *non-refoulement*: the lack of a clear definition of what a 'place of safety' constitutes has been subject to critiques of the possible return of individuals to places where their life would be seriously threatened (Goodwin-Gill 2011).

As a principle of peremptory norm under international law and cornerstone of refugee law and human rights law, *non-refoulement* does not have territorial limitations, meaning that states have the obligation to comply with the principle even beyond their sovereign jurisdiction, as in the case of the high seas. Specifically, Goodwin-Gill (2011) argues that *non-refoulement* is closely associated to the right of individuals to apply for asylum, and the duty of states to allow asylum-seekers to seek for international protection, despite not having any obligation to provide it. Consequently, according to this interpretation, *non-refoulement* includes the obligation of states not to return individuals in a country where their right to apply for asylum would be hampered.

In the Italian context, such principles are referred to in several texts of national and international law that Italy has ratified, including the 1951 Refugee Convention, the Italian Navigation Code (art.489-490), UNCLOS and the SAR Convention. Moreover, it is crucial to consider Italy's membership in the European Union (EU) and, specifically, to Frontex. While the mandate of the organisation is of 'improving the coordination of operational cooperation between Member states in the field of border management' (Provision 3 and 4, Council Regulation (EC) No. 2007/2004), referrals to principles of search and rescue and *non-refoulement* (Regulation (EU), 1168/2011; Regulation (EU) 656/2014) have been added so to increase its 'humanitarian' record.

This is to say that the legal framework on which Italy's political action developed is grounded on the idea that safety at sea should be a priority and a principle towards which states must comply, through the establishment of SAR activities (including SRR), assistance and disembarkation cooperation, and *non-refoulement*, this latter without territorial limitations. However, despite the existence of such framework, political interpretations have often allowed states to bypass such obligations. To understand these dynamics, three 'themes' will be analysed: space, borders and the sea; sovereignty and responsibility; and the 'boat people' discourse.

The political dimension: how the legal is interpreted

The concepts of sea, borders and space are essential to understand how the gap between legal and political dimensions of maritime migration governance emerges and develops over time. I argue that space can be understood as a social construct, through which the flexibility of the sea and of the borders acquire different meanings in different settings, therefore reflecting different policies of maritime migration. This is strictly related to the second theme. Focusing on the concepts of sovereignty and responsibility is essential to understand why such a gap emerges and why it changes over time. Arguably, notions of 'neo-Westphalian' sovereignty and the tension with international law have been crucial for the development of the Mediterranean as a political space, while the idea of 'emergency politics' has

important repercussions on how sovereignty is exercised. Finally, this has implications for the maritime migration discourse, which acts as a framework in which such processes take place. In fact, focusing on the (de-)construction of the figure of the 'boat people' allows the research to develop a deeper understanding of how the political dimension changes over time.

Space, sea and borders

Lefebvre (1991: 39, emphasis in original) argues that space can be understood as a container that is reified only through its contents, and '*lived* through its associated images and symbols'. Arguably developing from the tendency to see space as an abstract network rather than a material location, according to Steinberg and Peters (2015), in social sciences the sea tends to be understood as a uniform mass that divides the privileged space of society, the land. In fact, at sea the 'control of place, its transformation into property and…fortification of that property's limits through fences and boundaries are impossible in the unknowable, [un-inscribable] space of the [sea]' (Steinberg and Peters 2015:249). While, as observed above, legal divisions of the sea exist, it is undeniable that these are rendered somehow inadequate given the nature of the environment: compliance to international standards and monitoring of migration are often contested especially because of the absence of clear borders to enforce (Scovazzi 2014; Triandafyllidou and Dimitriadi 2013)[3]

However, arguing that the space of the sea is 'insubstantial' (Steinberg and Peters 2015: 249) and that it does not play a crucial role in the development of political action would be reductive; on the contrary, it is especially its fluidity and the complexity given by its nature that can shed light on the gap between the legal and the political dimensions of maritime migration governance.

In this context, I argue that constructivism is a useful theory to understand how this gap develops. Through a constructivist lens, space is not seen as a given entity but it is moulded and transformed following power relations. Consequently, it can be argued that different policies of maritime migration reflect different constructions of the sea as a political space that differ from the legal framework, and that hence are the product of different relations at play.

In fact, space emerges as a politically charged dimension, intertwined with power relations that contribute to the very same constitution of 'space' as such. While according to Massey (2009) both the establishment and the refusal to generate relations among different parties produce space, the process of production never ends; on the contrary, space is always open to the political and consequently never finite. In what Massey defines 'power-geometry' (2009: 19), power is not external to already pre-constituted entities (e.g. countries) but it is their relationality that generates space. I also argue that focusing also on other 'entities', such as 'boat people' provides useful insights of how space and policy change are intertwined.

These considerations acquire significance especially when associating the concept of the sea to the one of border, and consequently understanding the sea *as* border. While it is generally understood that there is no overarching theory of borders (Brunet-Jailly 2005, Konrad 2015), Van Houtum (2005: 675) argues that 'in the constructivistic, dominant wing of the debate on [borders]…there are no natural borders', as all political borders are 'human-made products'. However, this is not necessarily the case in the space of the sea. In fact, while the sea (in its entirety) can be constructed as a political border-zone (either for protection to the mainland or intervention for SAR operations), a criticism that can be raised when considering the space of the Mediterranean is the fact that the sea can be seen as both natural border

[3] One notable exception to this is Australia's maritime migration policy.

and social construct at the same time. While this paper will approach the latter aspect, it is essential to consider that the natural-physical space of the sea as a border has become crucial for the smuggling industry to perpetrate movement across the sea towards Europe (Heller and Pezzani 2016a; 2016b), effectively making both the physical and the political characteristics of the sea important elements to consider in relation to maritime migration governance.

In this context, the scholarship on 'borders in motion' provides a useful analytical framework to understand how the sea as a political space can change despite the existing legal framework. Among those attempting to theorise borders, Konrad (2015: 5) argues that borders are always in motion, and 'space is differentiated and institutionalised through the generation of borders'. Consequently, the construction of borders beyond the traditional nation-state delimitation can be seen as process through which space and relations are generated (Konrad 2015; Green 2010). However, other than simply an entity of international politics that can be moved across a map, 'the significance of borders….changes over time', corresponding to different moments of socio-political reality (Fassin 2011: 215**;** Green 2010).

This is important for maritime migration governance; for example, despite the existence of a legal framework that obliges states to SAR of people in distress, the transformation of the sea from a border-zone to a space of humanitarian intervention has consequences on how 'boat people' are understood, and consequently how policies are developed and sustained over time. This allows the research to focus on the border as a process 'in motion', through which political, economic and social relations are 'relocating' as the very same border changes and moves – even physically. As Green argues (2010: 271), the 'border itself is ongoing, multiply layered, multisided and multiply performed', implying that changes in how borders are understood influence and are influenced by political action.

However, as the 'moving' characteristic of the border offers a useful analytical framework, it is crucial to consider the normative consequences of such a flexible approach, especially in relation to the idea of the nation-state and sovereignty. While borders remain relevant in terms of the role of the state in ensuring protection to citizens (as opposed to non-citizens), Zapata-Barrero argues that 'the link between borders and sovereignty is not as apparent as it [once] was' (2013: 5), suggesting a critical consideration of key concepts such as sovereignty.

Therefore, policies of interception or humanitarianism towards maritime migration can be seen as processes that craft the space of the sea in different ways. It is in relation to these 'configurations' that the gap between legal and political understanding of the sea emerges and along which the political dimension evolves. More importantly, they give scope for different interpretations of 'sovereignty' that are key to understand why maritime migration policy has changed in the Italian context.

Sovereignty and responsibility

The analysis of the two different policies of maritime migration governance identified, extraterritoriality and humanitarianism, contributes to a reconsideration of the understanding sovereignty. In the former, sovereignty can be analysed through a 'neo-Westphalian' framework, in which protection of the territory is associated to the flexible nature of borders. The shift to humanitarianism can be contextualised within the 'European migration crisis', within which I argue the Lampedusa Tragedy contributed to the development of a politics of emergency, through which international law is not understood as a constraint on sovereignty, but on the contrary serves to extend sovereignty beyond the territorial space through the respect of obligations at sea.

a. From Westphalian to Neo-Westphalian Sovereignty

Deriving from the Treaty of Westphalia in 1648, sovereignty in international relations refers both to 'a state's place in the international order and its capacity to act as an independent and autonomous entity' and 'a supreme power/authority within the state' (Heywood 2000: 37). The Treaty identifies the 'nation-state' as the unit of the international system, in which the boundaries of the state as a political community coincide with the boundaries of the nation as a people unified by common traditions and culture. As borders are seen as the 'natural' and fixed characteristic of the state (Van Houtum 2005), consequently political theory has understood the sovereign's traditional function as the one of protecting borders from external (military) threats in order to maintain the integrity of the nation-state.

However, as observed by many, the development of processes of globalisation has generated phenomena, such as migration, that could be seen as inherently challenging the integrity of borders and the ability of states to control them (Dauvergne 2004; Miller 2007). For example, Guild affirms that 'the exercise of the state's capacity to determine its order as regards its borders is found in its laws on immigration and border controls on the movement of people' (2009: 179). Similarly, Dauvergne argues that the very essence of the state has developed in such ways to be directly linked to the phenomenon of migration, as 'control of migration is interpreted…as being somehow intrinsic to what it is to be a nation, to "statenness"' (2003: 4). Discussions have arisen on whether immigration actually poses a threat to sovereignty, which scholars have analysed through the literature on securitisation, integration and control (Bigo 2016; Boswell 2007a; Pugh 2004 among others) and through which justifications to the right of states to limit immigration have been developed (Miller 2007).

In this discussion Gibney's understanding of 'partiality' of sovereignty is useful. Gibney argues that 'in the partial view…states, in their role as representatives of communities of citizens, are morally justified in enacting entrance policies that privilege the interests of their members' (2005: 23), which recalls the 'liberal paradox' on migration theorised by Boswell (2007b).

When applying the 'partial view' to the concept of flexible borders, it could be argued that pushbacks and policies of interception acquire a political dimension that highly contrasts with the legal framework of obligations at sea, and that on the contrary provides scope for states to exercise sovereignty by constructing borders beyond their national territories. Specifically, such policies of extraterritoriality towards migration can be referred to as what I call 'Neo-Westphalian' sovereignty.

I define 'neo-Westphalian' in the sense that sovereignty is still associated to the concept of protection of territory and borders, but it refers to their flexible nature. The impossibility to define clear frontiers at sea has given space for states to exercise power for migration control beyond their territory (Aalberts and Gammeltoft-Hansen 2014; Triandafyllidou and Dimitriadi 2013), therefore developing a discourse related to the 'flexible border' to protect. This is not evident only through the policies of interceptions at sea that construct a border beyond the territorial waters, but also in the immigration law that Italy developed throughout the 2000s. For example, while Italy has not still officially claimed its contiguous zone beyond the territorial waters, art.12 para.9-bis of the 2009 Unified Act on Immigration affirms that Italian navy and police ships can stop and search boats or ships 'encountered in the territorial sea or *the contiguous zone*' if there is a 'valid reason for believing [they are] involved in the illegal transportation of migrants' (emphasis added). In this context, it could be argued that the reference to the contiguous zone and interpretation of the legal framework could be seen as an attempt to 'add layers' in which law can be enforced outside the territorial waters, as a way to ensure that irregular migrants do not reach the Italian land territory, therefore exploiting the flexible nature that the border can assume.

Therefore, 'neo-Westphalian' can be understood in the sense that while the 'threats' that sovereignty has to face have been changing, considering that 'migration control has been strongly associated with national sovereignty, sovereignty is under threat in a variety of ways, [and that] the strongest counters to those threats are elements of migration [control]' (Dauvergne 2003: 3), Italy can be seen as exercising such sovereignty in the space of the Mediterranean through the policies of pushbacks and interceptions that it operated in the late 2000s.

This is related to how sovereignty is exercised. Traditional political theory understands sovereignty to be exercised only within the boundaries of the nation-state; this is reiterated also in the legal dimension, for which 'enforcement of …jurisdiction is confined to [a state's] own territory' (Dixon 2013:149). However, as instances of extraterritoriality have shown, states have increasingly more scope to exercise sovereignty outside their own boundaries. While, as the case of *Hirsi v Italy* [2012] will show, the extraterritorial dimension does not exempt states from their international obligations, Gammeltoft-Hansen and Vedsted-Hansen (2016: 4) argue that 'by geographically shifting or outsourcing law enforcement…States believe that they can insulate themselves from legal liability', therefore generating a gap between the legal and the political dimensions. Therefore, 'the current SAR regime is essentially a new geopolitics of the high seas', as while the existence of a positive obligation to SAR through assistance and disembarkation has been established, a new 'sovereignty game' has been created as 'migration control in the high seas and in foreign SAR regions is used strategically to avoid…responsibilities' (Aalberts and Gammeltot-Hansen 2014: 451).

Consequently, despite the existence of the international legal framework that should regulate states' behaviour at sea in relation to maritime migration, nonetheless the practical reality offers a very different view (Goodwin-Gill 2011). The law establishes that 'sovereign jurisdiction takes second place to international law, customary law and universal norms concerning the aid and rescue of people in peril at sea' (Pugh 2004: 51). However, at sea, unlike on land, 'the precise division and content of sovereign rights and obligations remains contested and [subjected] to varying interpretations' (Aalberts and Gammeltoft-Hansen 2014: 441).

Therefore, it could be argued that through the policies of extraterritoriality that Italy operated in the late 2000s, the Mediterranean is constructed as a border-zone that acts as a buffer space to the protection of mainland Italy. As the case study will show, sovereignty is exercised through the attempt of shifting responsibility of migration control beyond Italian borders into the space of the Mediterranean.

b. International law and 'emergency politics'

Given this background, I wish to argue that while extraterritoriality has been exploited to bypass international obligations, the contrary also holds true; in the space of the sea, processes of externalisation give scope for humanitarianism to emerge and develop a policy of rescue through the respect of international obligations.

Aalberts and Gammeltoft-Hansen (2014: 445) have affirmed that despite human rights and international obligations having a universal dimension, their practical implementation 'pays homage to the larger framework of sovereignty, in which territory and borders remain the main reference point'. This provides an essentially negative understanding that sees extraterritoriality as a way to bypass international obligations. However, I argue that extraterritoriality can also represent an exercise of sovereignty through which respect of international obligations and human rights is maintained, especially when contextualised within the framework of 'emergency politics'. Two points need to be

considered: how the core functions and sovereignty of the state are interpreted and what this entails in a context of emergency.

As mentioned above, it is widely understood that a core function of the state is protection; it is crucial, however, to understand what or who the recipients of such protection are. With the emergence of international law, discussions have developed in relation to the responsibility of states to ensure respect for human rights, impartiality and 'global justice' while questioning the feasibility to do so (Gibney 2005; Miller 2007; Rancière 2004).

While on the one hand the emergence of international law and human rights has been understood as a *limitation* to state sovereignty (Dixon 2011), on the other hand their understanding as overarching frameworks of the international system have contributed to a 'thickening' of sovereignty not just as rights but also as obligations and responsibility beyond a state's own citizens (Aalberts and Gammeltoft-Hansen 2014: 444). Miller argues that 'when basic rights are threatened…this triggers a responsibility on the part of [states] to come to the aid of those whose rights are imperilled' (2007: 197). This notion is useful when relating to Rancière's discussion on 'biopower', in which sovereign power is associated to control over life, and 'state power has concretely to do with bare life[, which is] a life between life a death' (2004: 301-302). Applying this argumentation in the context of maritime migration, Tazzioli (2015, 65-66) argues that 'the rights of the migrants' life at risk are actually rights that reflect on the states' duties not to make and let them die'. Therefore, sovereignty is exercised through the respect of international obligations and human rights that ensure the safety of individuals.

This understanding of sovereignty highly differs from its 'neo-Westphalian' counterpart, and on the contrary, resonates with a policy of humanitarianism that in the Mediterranean has been initiated through the military-humanitarian Operation *Mare Nostrum* during the European migration crisis (Cuttitta 2014; Tazzioli 2015). Specifically, Fassin and Pandolfi (2010: 10) affirm that

> '[the] logic of intervention…rests on two fundamental elements: the temporality of the emergency, which is used to justify a state of exception, and the conflation of the political and moral registers manifested in the realisation of operations which are at once military and humanitarian.'

While the analysis of the Operation *Mare Nostrum* will develop on these paradigms, I argue that the 'state of exception' referred to by Fassin and Pandolfi reflects the *internalisation* by Italy of those universal principles and international obligations within the space of the sea, which have been perpetrated through the temporary military-humanitarian Operation *Mare Nostrum*. While this could sound paradoxical, as the sea beyond the territorial waters is not subject to any sovereignty, I argue that the cultural and symbolic association of Italy with the Mediterranean has exceptionally contributed to the projection of Italy's responsibility towards boat people in the space of the sea.

In fact, 'contemporary interventionism…is legitimised in terms of a moral obligation… [and states] engaged with extralegality and extraterritoriality [are] justified, in their view, by the legitimacy of their actions and the *mobility of their sovereignty*' (Fassin and Pandolfi 2010: 7-11, emphasis added). Therefore, rather than exploiting sovereignty norms against responsibility by referring to its state-centric legal and political framework, sovereignty is extended and expressed through the respect of international obligations also in extraterritorial settings. This is reflected mainly in the fact that, while Italy and Malta have been disputing the extension of their respective SRR (Times of Malta 2009), the extension of the Operation *Mare Nostrum* went well beyond both the Italian and the Maltese zones of responsibility. In this context, the extension of the SRR is projected in the space of the Mediterranean

on which Italy assumes sovereignty and responsibility for assistance, effectively rendering the sea an Italian zone of humanitarian intervention.

In addition, Martin *et al.* (2014) argue that crises can be understood by focusing on those 'triggers' that generate a policy of humanitarianism as a response; specifically, 'casualty has been of paramount concern in framing responses' (Martin *et al.* 2014:7-9). Therefore, the Lampedusa Tragedy, in which 366 people died only half a mile off the coast of Lampedusa can be seen as a 'stressor' in which the proximity of the incident, in terms of distance, gravity, and symbolic association to the Mediterranean has contributed to the shift in policies that are reflected in the space of the sea.

These different conceptualisations of sovereignty help understand why policies of maritime migration in the Mediterranean have changed. While the framework of the 'emergency', the incident of the Lampedusa Tragedy and the discussion on sovereignty present contextual/structural and conceptual factors behind the change in policies, another crucial aspect to focus on is the one of 'boat people' as principal referent of such policies.

Boat people

The salience of maritime migration arguably develops form the fact that individuals with different claims and needs share the same restricted space of the boat that, placed in the 'uncontrollable' (Steinberg and Peters 2015: 249**)** space of the sea requires a politics of rescue that precedes political dynamics associated with migration control and refugee protection. In fact, 'boat people, whether refugees or migrants, are protected by special provisions in custom and law relating to safety and rescue at sea' (Pugh 2004: 50).

In the general discourse about migration, while there has been an attempt to maintain a political distinction between refugees and migrants especially in terms of policy development, such difference is becoming increasingly contested. The idea that 'voluntary' migrants exploit the asylum system in order to bypass immigration law restrictions sparked considerable debate on the advantages and limitations on maintaining such a dichotomy (Feller 2005; Dauvergne 2004). The emergence of the 'bogus asylum-seeker' discourse has had the consequence of creating scope to overcome such dichotomy, reflected for example in the academic commitment in generating new terminology such as 'mixed migration'[4].

The association of boat people to 'mixed migration' is a useful analytical framework to understand the changes in the political dimension of maritime migration. In fact, the concept of mixed migration that refers, broadly speaking, both to 'mixed movements' and 'mixed motivations' (Crisp 2009; Feller 2005; Pugh 2004) allows the research to focus on how different policies have developed in the Mediterranean and in how the sea itself can be conceptualised in different ways. Pugh (2004: 51-53) argues that while on the one hand the image of boat people is associated to the 'threat' of irregular migration, on the other hand 'it has created…a regime infused with humanitarian values that reflect solidarity among seafarers'. In this context, notions of constructivism are useful in understanding how different policies developed towards the same phenomenon of 'boat migration'.

I argue that while on the one had the construction of boat people as irregular – and therefore unwanted migration – has justified a policy of extraterritoriality in which the sea is seen as a border to the mainland, on the other hand a process of 'deconstruction' is more useful to understand how humanitarianism

[4]For the discussion on the forced/voluntary migration dichotomy discussion, see Crisp (2008); Feller (2005), Van Hear *et al.* (2009).

emerges as a policy of maritime migration governance. In fact, understanding 'boat people' as lives to save before dividing them into categories of mobility provides the basis for a humanitarian policy in which sovereignty is exercised through a policy of rescue grounded on the international obligation of safety at sea (Tazzioli 2015), and in which the sea can be seen as a space of intervention for such policies. Maritime migration consequently can be seen as a complex discourse, which emerges as crucial when contextualising the Italian response to the phenomenon in the space of the sea in which they occurred.

Theory in practice: politics of maritime migration governance

Extraterritoriality: the Italy-Libya deals and the Hirsi v Italy *incident*

Under Prime Minister Silvio Berlusconi, just a few months after the creation of his IV Cabinet in 2008, Italy signed the Treaty of Friendship, Partnership and Cooperation (the so-called Benghazi Agreement), as a way to normalise and decide on key aspects of the relations between Italy and Libya. The terms of the deal stipulated that Italy would provide ships and staff to patrol the 2000 km of Libyan coasts, as well as to strengthen the cooperation on the governance and management of irregular migration that was initiated in a previous Protocol signed in 2007 (Benghazi Agreement 2008, art.19 para.1). This latter document, then amended in 2009 with the Executive Protocol[5], established a joint mission in which Libya agreed to patrol both its coastline and international waters, while Italy committed to supply vessels and personnel on a temporary basis (2007 Protocol, art.3). While none of the documents mentions rules related to pushbacks to Libya of people intercepted at sea by Italy or within Italian waters, according to Giuffré (2013: 706) the interpretation of the documents 'implicitly entails recognition of the underlying purpose… [of restricting] undocumented migration to Europe through a program[me] of technical and police cooperation with Libya'. Crucially, no mention to human rights provisions or status determination is made within the documents (Giuffré 2013).

Therefore, while 'neither the 2007 and 2009 technical Protocols, nor the 2008 Partnership Treat, stand *per se* as the legal basis of [pushbacks]' as they do not refer explicitly to policies of interception, 'it is likely that further instruments, which are not readily available, have played a key role in shaping the pushback campaign' (Giuffré 2013: 701-704), such as exchange of notes, fax or telephone consent or informal accords. Consequently, while the three documents cannot be accepted as the normative and legal basis for justifying the pushbacks, 'this series of agreements, taken as a whole, constitutes the legal framework within which the 2009 pushbacks were performed' (Giuffré 2013: 705). This shows how Italy developed a narrow legal framework that arguably gives a pretext to avoid responsibilities at sea by shifting control towards Libya.

The *Hirsi v Italy* [2012] case happened within this political and legal framework. As reported by the ECtHR in the judgment of the case, the boat with around 200 passengers on board was intercepted in the high seas by Italian authorities 35 nautical miles south of Lampedusa, which is within the Maltese SRR. Italian authorities returned the boat to Tripoli without informing the passengers of the destination or taking any steps for identification or status determination, violating principles of refugee law and customary international law such as the right to seek asylum and *non-refoulement*. At the press conference held on 7 May 2009, the day following the incident, the then Minister of the Interior Maroni affirmed that the policies of interception 'represented an important turning point in the fight against

[5] The 2009 Executive Protocol is still unpublished as of August 2017, and most information is retrieved from Giuffré **(**2013**)**.

clandestine immigration' (*Hirsi v Italy* [2012], para.13), emphasising once again the interpretation of the legal framework as a way to bypass obligations.

While, as noted by Resolution 1821 (2011) of the Parliamentary Assembly of the Council of Europe, 'the absolute priority in the event of interception at sea is the swift disembarkation of those rescued to a "place of safety"' (*Hirsi v Italy* [2012], para.27.5.1 citing the text), in the *Hirsi v Italy* case it could be argued the 'object of security' of the interceptions carried out were not the individuals themselves but the state and its territory.

Gammeltoft-Hansen (2008: 4) affirms that the policies of interdiction and pushbacks 'aim at reconquering the efficiency of the sovereign function to control migration, by trying to either deconstruct or shift correlate obligations vis-à-vis refugees and other persecuted persons to third States'. Supporting this claim, I argue that maritime migration governance operated through policies of extraterritoriality is associated with a construction of the sea as a space in which the projection of Italy's sovereignty reinforces concepts of the mainland as a territory to defend in face of the external threat of unwanted migration. The sea, including the territorial waters, can be understood as a border-zone that acts as a buffer space, and in which sovereignty related to migration control is shifted towards Libya.

The ways in which the sea is constructed as a border-zone is reflected in the ways in which Italy's sovereignty is projected towards the Libyan maritime space. This argument can be related to Massey's theorisation of space being the product of complex processes of power, in which, specifically in the case of Italy and Libya, the asymmetric power relations resulted in an expansion of the sea as a border and buffer zone further from Italy and closer to the Libyan coast. In a note shared by the Senate and the Italian Centre for International Studies it is affirmed that in the fight against 'illegal' immigration Italian authorities 'have sought a solution to this long-standing problem by signing a treaty to stop the migratory flux to depart', in a way that not only strengthens Libya's operative capacity but assures a better protection and control of the Italian border (Iacovino 2010: 2). Specifically, following the increase in maritime migration to Europe and the inefficacy of the Common European Asylum System to limit the inner movement through irregular means, rendering disembarkation impossible became one of the main strategies of maritime migration governance, which in the Italian case, was achieved by externalising border control to Libya (Heller and Pazzani 2016b; Triandafyllidou and Dimitriadi 2013).

Sovereignty in this context is associated with the traditional understanding of protection of the territory: as affirmed by Kumin (2014: 310), 'states increasingly see international waters as an area to which they can extend their borders and border control measures….to prevent unauthorised arrivals'. According to the 2007 Protocol, 'surveillance, search and rescue operations shall be conducted in the *departure and transit areas* of vessels used to transport clandestine immigrant, *both in Libyan territorial waters and in international waters*' (art.2, emphasis added). Similarly, the 2009 Protocol 'by supplying Libyans with six vessels on a *permanent* basis (replacing the Italian flag with a Libyan one), significantly shifts [the] control of illegal migration to Europe' towards Libya (Giuffré 2013: 713, emphasis in original). Sovereignty is exercised through the deconstruction of responsibility in such a way that is conducive to Italy's interests of border control, by shifting responsibility towards the Libyan territory.

In addition, while Italy justified its recognition of Libya as a safe country in virtue of its ability to sign bilateral agreements, the Court recognised that this element was not sufficient to identify Libya as a place of safety for returned individuals, especially in light of the poor human rights record of the country and of the fact that it is not a signatory of the 1951 Refugee Convention (*Hirsi v Italy* [2012], para.180). It is especially on this basis that Italy was found guilty of violating the principle of *non-refoulement.* This recalls Goodwin-Gill's argument on the existence of a 'corresponding obligation on states not to frustrate the exercise of the right to seek asylum in such a way as to leave individuals at risk of

persecution or other relevant harm' (2011: 445). Consequently, while Italy sought to shift the responsibility of migration control beyond its territory, the Court stated that it 'has found that a Contracting State has, exceptionally, *exercised its jurisdiction outside its national territory* [which] took form of collective expulsion', and that 'as regards the exercise by a State of its jurisdiction on the high seas…the special nature of the maritime environment cannot justify an area outside the law' in which individuals are not covered by the protection of human rights (*Hirsi v. Italy,* para.178, emphasis added).

Also in this case, those intercepted at sea are constructed as irregular migrants rather than people in need of international protection and assistance: the clearest evidence is given by the fact that the Italian authorities did not carry out any kind of status-determination procedure, while political personalities like the then Interior Minister Maroni reinforced the discourse on interceptions as part of the fight to 'illegal immigration'. This contributes to 'distanc[ing] their plight from human rights abuse….and their need of humanitarian assistance' (Pugh 2004: 53**)**, supported also by the fact that none of the official documents sealing the deal refers to issues of status determination, provision of refugee rights and safe disembarkation.

The practical implementation of policies of extraterritoriality at sea by Italy reflects the prevailing of the logic of border control on policies aimed at ensuring the provision of human rights and the respect of international obligations. Consequently, the policies of extraterritoriality implemented by Italy until the early 2010s make emerge an understanding of the sea as a buffer-zone, in which the construction of the Mediterranean as a border is associated to an understanding of 'neo-Westphalian sovereignty' conducive to the protection of mainland Italy from the arrival of unwanted migration.

Humanitarianism and the Operation Mare Nostrum

In this section I wish to argue that processes of externalisation give scope for humanitarianism to emerge as a crucial policy for providing assistance and save lives at seas. Specifically, I aim at focusing on how the policies of humanitarianism operated by Italy from late 2013 to late 2014 can be associated with the sea as a space of humanitarian intervention, in which Italy exercises its sovereignty beyond the given borders and territorial waters by reference to its international obligations. Contrarily to the policies of interception and pushbacks, referred to in the literature as politics of 'non-assistance' (Heller and Pezzani 2016a, 2016b), I argue there is a deconstruction of the mixed migration discourse, in which individuals are seen as bare 'lives to save'. These changes can be understood by relating to conceptual (in relation to sovereignty) and structural/contextual (in relation to the crisis and the Lampedusa Tragedy) factors that have arguably influenced the shift in policy.

In fact, recalling the discussion on emergency above explicated, which argues that the logic of intervention is grounded on the temporality of the emergency and conflation of the political with the moral in the creation of military-humanitarian action, I argue that one of the most crucial examples of these processes developing is the one of the Lampedusa Tragedy and the ways in which it triggered the establishment of the military-humanitarian Operation *Mare Nostrum.*

While boat arrivals were not a new phenomenon in Italy, the capsizing of the boat on 3 October 2013 which caused the death of 366 people happened only less than one mile off the coast of Lampedusa, triggering an unprecedented indignation in Italy and Europe on the (failing) policies of migration control at sea (Il Corriere 2013, Il Sole 24 Ore 2013). This brought the Italian government[6] to establish the military-humanitarian Operation *Mare Nostrum* only two weeks after the incident. With a cost of €9

[6] A coalition government guided by centre-left leader Enrico Letta.

million per month, the Operation lasted for over a year, before being dismissed at the end of 2014 (Italian Navy 2014).

Specifically, I argue that the sense of *proximity* of the event as a contextual factor contributed to a reconsideration of the policies of maritime migration governance within the context of the crisis[7]; this makes emerge a different conceptualisation of sovereignty associated to the symbolic importance of the Mediterranean for Italy, contributing to the development of a policy of humanitarianism that extended well beyond the Italian SRR[8]

a. Proximity, visibility and cultural dimension

The feeling of proximity was crucial to the shifting of maritime migration policies and crafting of the sea as a space of humanitarian intervention. While Italy had already implemented maritime operations, both unilaterally (Operation *Constant Vigilance*) and jointly with other EU member states (Operation *Aeneas*), these had mainly a patrolling mandate. On the contrary, Operation *Mare Nostrum* had for the first time a clear humanitarian goal of 'safeguarding human life at sea and bringing to justice the human smugglers that manage migration flows' (Italian Navy 2014). Specifically, proximity can be conceptualised in terms of visibility, both as geographical closeness and number of deaths, and in terms of cultural association to the sea, in which the Mediterranean acquires a symbolic dimension.

Concerning the idea of visibility, the Lampedusa Tragedy was the first time such an event happened so close to the Italian coast, and it was then regarded as one of the worst maritime disasters in the region since the end of World War II (Heller and Pazzani 2016a). In one of his closing speeches relating to the Operation, Interior Minister Alfano (2014a: 5) affirmed that the tragedy happened 'under our eyes...engaging Italy, also emotionally, more than any other country' in the crafting of a prompt response. The considerable impact the event had on the Italian society is also evident not only in the outcry it generated at the high levels of the political leadership and in the public opinion, but also in the fact that Italy declared three days of national mourning and state funerals for the victims (Alfano 2013).

As affirmed by Cuttitta (2014: 26) 'this particular incident caused an unprecedented sensation in Italy and Europe alike – because of both the larger number of people involved, and the fact that it happened so close to European soil'. Images of floating bodies and debris were shared consistently across the media, increasing the visibility of the incident, and in the common understanding, the event is referred to as 'tragedy', 'hecatomb' and 'massacre' (Il Corriere 2013; La Repubblica 2013; Tazzioli 2015).

The public outcry developed after the incident is associated with the cultural dimension that the Mediterranean and the policy of humanitarianism have acquired in Italy. The creation of the Operation *Mare Nostrum* has often been framed as the result of the remarkable effort by Italy to assume its responsibility and 'do its duty' towards the issue of death at sea (Alfano 2013, 2014a, 2014b; Renzi 2015); this was also underlined by Prime Minister Renzi in a speech at the Lower Chamber of the Parliament in October 2015 when discussing the evolving role of Italy at sea, in which he reaffirmed the importance of 'Italian values' in the development of a system of assistance in such a 'symbolic place for Italy and Europe' (2015: 2-3). In this context, the Operation *Mare Nostrum* and the extension of the SRR well beyond the one previously established (albeit never fully declared) could represent the ways

[7] It is difficult to understand what the crisis constitutes; however, the increasing inflow of maritime migration since the early 2010s has been framed in the Italian context as 'immigration emergency'

[8] It is crucial to consider the issue of proximity is only one of the factors in place; others, mainly referring to internal politics, have been crucial for the development of migration policies: for example, it is essential to consider Italy witnessed four different governments (across the political spectrum) over 8 years.

in which the Mediterranean is imagined as a space of projection of Italian sovereignty and responsibility towards death at sea. This is evident in the discourse generated around the operation.

For example, the very name of the Operation recalls the idea of identity connected to space. The Latin name of the Operation translates in Italian as *mare nostro,* our sea, referring to how the Romans spoke of the Mediterranean 'in quite an absolute way [as a space] which the Romans had made their own' (Abulafia 2003: 133). It contributes to the establishment of a connection between the 'us' and the sea, promoting the idea that 'our' identity is intrinsically linked to the space of the Mediterranean.

While discussion has emerged in relation to who constitutes the 'us' (Pallister-Wilkins 2015; Sigona 2014**),** it is essential to notice how the discourse associating the Italian identity to the Mediterranean has been reinforced by parliamentary debates, in which responsibility to act is framed as deriving from a 'feeling of humanity, a sense of Mediterranean community [and] from that Mare Nostrum' to which the Italian identity is associated (Chaouki 2013: 31-32). Similarly, the day following the tragedy, Interior Minister Alfano referred to the need to engage with the Mediterranean as the 'lake' in which Lampedusa and Italy should act as a trampoline and support to the region (Alfano 2013: 30), in a way internalising the space of the sea and reducing it in figurative dimensions, and therefore more manageable and on which more responsibility can be claimed.

The construction of the sea as a space of humanitarian intervention is therefore connected to the symbolic importance that the Mediterranean has in the Italian context. However, while the episode of the Lampedusa Tragedy could represent the superficial trigger of policy change, reference to structural factors are also crucial to fully understand the social dynamics at play and how sovereignty can be conceptualised through the respect for international obligations.

b. Humanitarianism, emergency and boat people

Fassin and Pandolfi (2010: 11) argue that the politics of humanitarianism are built on 'a paradigm that asserted the right to intervene in the name of the lives to be saved', in which the temporal nature of the emergency allows for a repositioning of policies beyond the existing legal framework and, sometimes, even beyond the law in terms of extraterritorial intervention. In relation to the Operation, this is evident in several factors. First, the very same mandate of the Operation sets the basis for the deployment of the humanitarian policy, as the goal is to 'avoid death at sea' (Italian Navy 2014). Second, the temporal and emergency nature of the Operation *Mare Nostrum* emerges as defining of its development.

As emphasised by Alfano (2014b) at its termination, *Mare Nostrum* was since the beginning created as a temporary emergency operation, although the exact timeframe of action was never specified. The lack of public documentation on the *travaux préparatoires* of the Operation as well as of parliamentary debate on the topic implies a lack of public scrutiny on the creation of such operation that lets transpire a feeling of urgency in its development. The short period of time that passed between the incident that triggered the change of policy and the lack of previous debate on a possible active SAR operation in the Mediterranean allegedly shows the urgency with which the logistics of the operation were prepared, and consequently also the re-consideration that Italy had of the Mediterranean as a space of humanitarian intervention. According to Carrera and den Hertog (2015) *Mare Nostrum* was also launched unilaterally without informing the EU, despite talks by Immigration Commissioner Malmström immediately after the Lampedusa Tragedy of a potential Frontex SAR operation being implemented, and despite internal disagreements within the Italian political system on the need and feasibility of such an operation, with the exponents of the right-wing party Northern League being strongly opposed to its implementation.

Follis (2015: 53) argues that 'thinking and planning for an emergency…clearly does involve developing a clear grasp of someone's obligations, which requires learning from the specifics of past mistakes and their tragic outcomes'. The idea that Italy has 'done its duty' in relation to maritime migration through the Operation *Mare Nostrum* emerges as a repeated narrative, as to emphasise the crucial role that Italy has willingly decided to play in such a situation (Renzi 2015), especially given the urgency with which the operation was developed[9]. In terms of spatialisation, the shift towards a humanitarian policy could represent a shift also from the conceptualisation of the sea as a space in which Italy is seeking to avoid responsibility to one in which Italy accepts its obligations towards the individuals in distress.

The development of such policies of humanitarianism in Italy recalls Massey's argument on the "microphysics of power", for which

> 'politically, what matters is not only the initiating policy statements and formal definitions, definitions…but the socio-political practices of their realisations. And these practices will reflect and depend on everything from the general political culture of the nation to the behaviour of the individuals". (Massey 2009: 22)

In practical terms, the extension of the Operation Mare Nostrum 'up to the Libyan coasts' (Alfano 2014a; 2014b; Heller and Pazzani 2016b: 10) could reflect both the mobility of borders and the projection of sovereignty and responsibility that Italy assumed in relation to the individuals attempting to cross the Mediterranean. The absence of a clear map presenting the operative range and the vagueness found in the official documents and speeches relating to the actual extension of the Operation *Mare Nostrum* can provide an interesting narrative, which acquires salience when related to the Joint Operation *Triton* later implemented by the EU agency Frontex. In fact, while for the latter the exact extension was firmly stated as of 30 nautical miles from Italian and Maltese coasts since its deployment (Frontex 2014), the extension of Mare Nostrum results as vaguer, with the full extension never exactly defined: this could reflect the embracing by the Italian Operation of virtually the whole space of the Mediterranean as a space of responsibility.

On this regard, Massey's argument of space as the product of power relations emerges once again as a useful framework to understand the dynamics in place in the Mediterranean. While in relation to the policies of extraterritoriality the asymmetric power relations resulted in the creation of a buffer-zone and shifting of responsibility towards Libya, which were reflected also in the areas where the pushbacks were operated, in the context of the European migration crisis the extension towards Libya assumes a different characteristic: as Fassin and Pandolfi (2010: 13) argue, 'the urgency of the situation and the danger to victims…justif[y] the exception of intervention…humanitarian intervention is still a law of the strongest'.

Bearing in mind the political turmoil that Libya underwent in the early 2010s, characterised by the lack of a stable government and *de facto* absence of a sovereign power, Italy's involvement with SAR operations 'up to the Libyan coasts' could be seen as the attempt to take action against Libya's failure of sovereignty. This is believed to be among the causes of the increased flows of people towards Europe both because of the civil war, that caused the flight of people from the country, and because of the alleged corruption of the Libyan coastal police in favouring departures and sustaining the smuggling industry while at the same time engaging in 'preventive *refoulement*' measures (Cuttitta 2014). In this context, 'the jurisdictional lines of SAR zones that served to allocate responsibility…vanished, and the

[9]For the narratives on Italy and its duty at sea, see the Speech on 24 September 2014 of Prime Minister Matteo Renzi at the United Nations Generaly Assembly; the Press Conference on 31 October 2014 of Ministers Alfano and Pinotti on Operation Triton; and Joint Press Conference of the Italian Prime Minister Matteo Renzi and the Maltese Prime Minister Joseph Muscat on 9 April 2015.

Italian state extended its claim to rights and obligations at sea far beyond its normally accepted perimeter, even into Libyan territorial waters' (Heller and Pezzani 2016b: 10).

Therefore, the idea of 'emergency' presents a structural framework within which to contextualise the shift of policy towards humanitarianism. While this is clearly referred to an understanding of sovereignty that is grounded on respect for international obligations of safety at sea, this is even more evident when referring to the maritime migration discourse.

In fact, in the contexts of 'crisis' and 'emergency', discourses relating to the nature of maritime migration are crucial, and through them it can be observed how the power relations between Italy and boat people contribute to the crafting of the sea as a political space. While, as observed above, the policies of extraterritoriality referred to boat people as irregular migrants, the emphasis on the human nature of movement has contributed to the development of an unprecedented policy of humanitarianism in which the sea is seen as a space of intervention.

Specifically, according to Musarò (2016)**,** through policies of humanitarianism at sea 'border control is redefined with a moral imagination that puts emphasis on human vulnerability'. Rather than 'border control' as traditionally imagined for the purposes of security protection, the presence at sea is conducive to the policy of SAR and assistance that 'puts the rescue of migrants at the core both of discourses and of effective interventions' (Tazzioli 2016: 5). In this context, the sea is understood as a space to protect in the sense of avoiding becoming the *Cementerium nostrum,* 'a massive graveyard' (Nair 2015). This is also supported by the words of Interior Minister Alfano (2013: 29), who, the day after the Lampedusa Tragedy, raised an important point in relation to the role of the state in providing 'protection' when affirming that 'to protect the border means to protect the citizens but also to protect from death those who cross those borders'. This recalls the above discussion on the understanding of sovereignty as respect for human rights and international obligations, in which the figure of 'boat people' is ultimately deconstructed into 'lives to save'.

Conclusion and reflections

By presenting the case study of Italy and the Mediterranean, this paper has argued that there is a gap between the legal and the political dimension of maritime migration governance and that the latter has changed over time, affecting how key political concepts are understood and conceptualised. Focusing on the sea as a mobile border sheds light on how such changes developed, as space is not static or empty, but it is understood as a political construct reflecting different interests and power relations. The flexible context of the sea and the impossibility to enforce political borders in such an environment generates a discussion that bypasses fixed constructions of sovereignty and, on the contrary, highlights how analysing the very same space of the sea produces different understandings in different situations.

The paper has focused on two case studies to present this argument – the *Hirsi v Italy* incident, and the Operation *Mare Nostrum.* Their analysis reflects a change from a politics of extraterritoriality towards one of humanitarianism, which can be explained both by conceptual and structural/contextual factors. These reflect different ways of understanding sovereignty ('Neo-Westphalian, or 'humanitarian') which is associated with space and the importance of the context in defining it.

Further research should complement this analysis by considering how other elements are crucial in defining such situation. A study that focuses in detail on domestic Italian politics would present how the changing internal dynamics of the State, especially in relation to the four different governments that

Italy experienced in eight years, which surely has played a key role in the changing politics of maritime migration governance over time.

Future discussion should also focus on different contexts and levels of analysis that this paper has omitted. While future research should focus on the EU level and how policies of extraterritoriality and humanitarianism are intertwined with the complex system of sovereignty and borders of the EU, an even more crucial analysis should focus on the role of human agency in the space of the sea. Specifically, claims that the smuggling industry has exploited policies of humanitarianism as a way to sustain movement across the sea have been key to the end of the Operation *Mare Nostrum,* as it was criticised for providing a pull factor to irregular migration (Heller and Pezzani 2016b**)**. This could also develop in terms of the figure of the migrant 'resisting' the border, and in which the nature of the environment could provide an interesting analysis of how the interplay between structure and human agency develops.

Within this context, NGOs have played a key role in providing humanitarian assistance at sea after Italy discontinued Operation *Mare Nostrum* in 2014. Starting with the Migrant Offshore Aid Station (MOAS) in 2014, by late summer 2016, 13 humanitarian ships where operating in a non-well-defined search and rescue area throughout the Mediterranean, concentrating mainly in the central route. Their SAR activity has become so crucial within the region that several, including judicial and political institutions in Italy and elsewhere have started condemning it on the basis that if favours crossings and human smuggling. In August 2017, Italy requested NGOs operating in the Mediterranean to sign a 'code of conduct' in order to be able to keep their activities going, strongly limiting the humanitarian potential.

It is worth considering how the concept of sovereignty has been affected by such dynamics in ways that challenge its traditional understanding. The reconfiguration by Italy, and the EU at large of the Mediterranean as a buffer border zone is evident through the various military operations aiming at patrolling borders, rather than implementing SAR activities, that have been deployed after 2014[10]. It can also be argued that Europe-at-large's lack of proximity with the Mediterranean has influenced political decisions over time, as non-Mediterranean countries limited their engagement in SAR and maritime operations in general. On the other hand, non-sovereign actors such as NGOs acquired significance in keeping the Mediterranean a humanitarian space of intervention, in what Tazzioli (2016: 5) has defined 'an issue that involves civic responsibility…[where] the idea behind the project is to intervene in spaces that are usually restricted to state authorities, controlling and demanding that they operate in a prompt and adequate way for rescuing migrants at sea'. Considering how political theory has focused on the transfer of sovereignty to supranational institutions such as the EU, it would be interesting to reflect on whether in this case sovereignty is being 'distributed' beyond its traditional, state-centred focus to non-state actors, effectively exercising sovereign responsibilities at sea. This also suggests a continuously changing interpretation on the sea as a political space, which is perceived differently by different actors.

In conclusion, this paper has provided an overview of the policies of maritime migration in Italy in the early 2010s. It reinstates the need to focus spatially also on the sea, which only recently has become subject of study especially in relation to migration, and how different actors and institutions affect its political configuration. By showing how key political concepts like sovereignty and borders are affected by migration, it emerges that far from being 'uninscribable', the sea is a politically charged space that shapes and is shaped by social dynamics.

[10] Namely, Operation *Triton* and Operation *Sophia.*

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