

The EU Humanitarian Border and the Securitization of Human Rights: The ‘Rescue-Through-Interdiction/Rescue-Without-Protection’ Paradigm*

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Abstract

This article looks at securitization/humanitarianization dynamics in the EU external sea borders to track and critique the substantial transformation of the role played by human rights in the Mediterranean. Mapping the evolution of maritime engagement up to the ‘refugee crisis’, it is revealed how the invocation of human rights serves paradoxically to curtail (migrants’) human rights, justifying interdiction (‘to save lives’), and impeding access to safety in Europe. The result is a double reification of ‘boat migrants’ as threats to border security and as victims of smuggling/trafficking. Through a narrative of ‘rescue’, interdiction is laundered into an ethically sustainable strategy of border governance. Instead of being considered a problematic (potentially lethal) means of control, it is re-defined into a life-saving device. The ensuing ‘rescue-through-interdiction’/‘rescue-without-protection’ paradigm alters the nature of human rights, which, rather than functioning as a check on interdiction, end up co-opted as another securitization/humanitarianization tool.

Keywords: securitization; humanitarian border; humanitarianization; Frontex; refugee crisis

Introduction

There has been increasing recognition of the EU’s subjection to human rights when intervening at sea in successive reforms of the Schengen/Frontex *acquis* (Carrera and den Hertog, 2016a, 2016b; Rijpma, 2013, 2016; Rijpma and Vermeulen, 2015) – taken by some as a success case of comprehensive criticism by non-state actors (Slominski, 2013). This has been mirrored by an evolution of the rhetoric employed to justify European involvement in the Mediterranean, accompanied by a parallel development in the perception of ‘boat migrants’. Although the tools employed (interdiction) and end result (diversion) remain the same, EU discourse reflects a change from a ‘pure’ securitizing logic of raw pre-emption of unauthorized movement, with irregular movers portrayed as near-criminals (Guild, 2009), towards an increasingly human rights-friendly narrative that depicts migrants as victims and smugglers as perpetrators of death and abuse at sea. In both cases, maritime intervention is presented as vital, with interdiction fulfilling the double role of ‘combating illegal immigration’ and ‘saving the lives of migrants’.¹ The paradox this dual function entails has been resolved through an implicit re-conceptualization of what ‘saving’ and ‘life’ mean, via an approach that selects and reduces (migrants’) human rights.

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¹ Arts 1–2, European Border Surveillance System Regulation 1052/2013, [2013] *OJ* L295/11 (‘EUROSUR’).

Indeed, a ‘new’ humanitarianism (Chimni, 2000) emerges from the EU’s ‘borderization’ of the Mediterranean (Cuttitta, 2014a; van Houtum and van Naerssen, 2002). One that objectifies migrants as threats (‘a risk’) to border security and as victims (‘at risk’) of smuggling/trafficking (Aradau, 2004), (*de facto*) dispossessing them of the (legal) agency and (full) rights that come with the lives supposedly saved. Human rights obligations are largely disclaimed – through blame games and accountability gaps (Pollak and Slominski, 2009; Rijpma, 2010; Ripoll-Servent, 2017) – and access to protection ultimately denied.

While legal amendments have accompanied a change in official language, giving rise to an account where ‘saving lives’ features as top priority, this has not resulted in an equal transformation of practices on the ground. Neither policy goals, nor their underpinning rationale or the means to achieve them have been revised. The reduction of unauthorized arrivals remains the constant goal, and interdiction the constant tool to attain it (European Council, 2017; Niemann and Speyer, 2017). What has changed is the way in which ‘interdiction’ has been configured and portrayed, from the prime border/migration control mechanism into a ‘necessary’ life-saving device (Pallister-Wilkins, 2017). In the background, a humanitarianized ‘rescue-without-protection’ model legitimizes action, sparing migrants the instant dangers of irregular voyages, but without (real) opportunities to action their rights.

While ‘interdiction’ expands to encompass a continuum of exception and control that begins in countries of origin/transit and continues after retrieval at sea, ‘rescue’ is shrinking to its corporeal component (*cf.* Durieux, 2016). Classic techniques of deflection or *non-entrée* (Hathaway, 1992, p. 40), “disrupting’ journeys *en route*’ (Mountz, 2010, p. 136), align with ‘exclusion-upon-arrival’ measures, impeding access to asylum procedures² or making them ineffective (Kernerman, 2008, pp. 247–248). ‘Automatic removals’ upon landing without adequate opportunities to file for international protection – also called ‘immediate *refoulement*’³ – are characteristic of this trend. Their final ‘effect’ is to prevent ‘boat migrants’ from reaching safety,⁴ excluding them from territory, rights or both (Cuttitta, 2017, p. 2).

This article focuses on this development, spanning the start of EU-sponsored intervention at sea since the inception of Frontex up to the height of the ‘refugee crisis’ (Niemann and Zaun, 2017), tracing the evolution of the ‘rescue-through-interdiction’ paradigm crystallized over the past 10 years. It will reveal how the language of humanitarianism has been co-opted and de-naturalized to respond to the immediate necessities of migrants in distress, but neglecting the causes of crossings and the consequences of pre-emption, thereby disfiguring the substance of human rights. Adopting a normative/critical-legal approach, relying on the literature on ‘humanitarian borders’ (Walters, 2011), the article will expose the ‘false dichotomy’ between securitization and humanitarianism (Perkowski, 2016, p. 334), unpacking their relationship to human rights. This third rationality at work in the EU-ropean ‘borderscape’ (Brambilla, 2015; Rajaram and Grundy-Warr, 2007) is under-researched and requires investigation (Neilson, 2010, pp. 127–128). Although it may appear as a counterbalance to securitization/humanitarianization dynamics – especially if the distinction between humanitarianism as gift vs human rights as

² ECtHR, *M.S.S. v. Belgium and Greece*, Appl. 30696/09, 21 January 2011.

³ ECtHR, *Sharifi v. Italy and Greece*, Appl. 16643/09, 21 Oct. 2014, para. 219.

⁴ ECtHR, *Hirsi Jamaa v. Italy*, Appl. 27765/09, 23 February 2012, para. 180.

entitlement is emphasized (Calhoun, 2010, p. 37; Pallister-Wilkins, 2015, p. 59) – the following will show how human rights, too, have become an artefact of the 'governmentality of unease' (Bigo, 2002), justifying restrictive policies of border/migration control. The problematization of the ensuing 'securitization of human rights' will be the main contribution to the ongoing debate.

I. Securitization and Humanitarianization

The portrayal of (irregular) migration as a 'security problem' has been normalized in prevailing political discourse both at domestic and EU level (Huysmans, 2000, 2006). Bigo has dissected the process by which the reality of cross-border movement has been 'securitized'⁵ to create a dominant 'truth' about the danger posed by unchecked arrivals that casts the unauthorized entrant as an 'enemy', menacing 'the homogeneity of the State' (Bigo, 2002, p. 67). Such characterization catalyzes fears and justifies the adoption of (restrictive) measures to manage the 'threat' they represent – based on the myth that transboundary flows can, and should, be controlled to avoid 'invasion' (De Haas, 2008). The securitization of migration engenders continuous anxiety, calling for continuous vigilance to anticipate and minimize risks, legitimizing policies of permanent exceptionality. Under this optic, EU border policing, as facilitated/co-ordinated by Frontex, has been framed as a set of 'securitizing practices' pertaining to this process (Campesi, 2014; Franko Aas and Gundhus, 2015; Léonard, 2010; *cf.* Neal, 2009; Perkowski, 2012).

In the Mediterranean, against a backdrop of spiralling fatalities (IOM, 2017), the narratives of 'tragedy', 'emergency' and 'crisis' intersect with the securitization discourse (van Reekum, 2016), articulating demands for 'urgent action' that reinforce the security response (Jeandesboz and Pallister-Wilkins, 2014, 2016) – helping also to re-frame it as merciful and key to guarantee migrant survival (Carling and Hernández-Carretero, 2011). Security, in this context, is permeated by 'humanitarianism' construed as life-saving conduct predicated on principles of humanity (Barnett and Weiss, 2008, p. 11). By turning border crossing into a humanitarian issue, border interventions can be substantiated on compassionate grounds. However, as Pallister-Wilkins and others have demonstrated, instead of opposing the securitization logic, 'humanitarianized' controls intertwine with it, engendering a new form of 'ethical policing' that simultaneously 'cares and controls' (Pallister-Wilkins, 2015, 2017; Ticktin, 2011). Humanitarianism (re-)presents interdiction as benign and performed in the interest of migrants. Migrant safety and border security are thereby seemingly conciliated (Williams, 2016). The depiction of the Mediterranean borderland as a space of crisis/tragedy/emergency serves to concentrate on the 'here and now' of shipwrecks, concealing underlying structural defects in EU border design (Pallister-Wilkins, 2016), and to discard considerations of concomitant rights as less/non-urgent. Migrants, in this 'crisified' environment, are thus recognized a claim to be rescued, but little more.

Conversely, a rule-of-law-abiding understanding of human rights would embrace the whole gamut of legal entitlements (Craig, 1997), such as to leave any country,⁶ to

⁵ 'Securitization' herein corresponds to the 'set of interrelated practices, and the processes of their production, diffusion, and reception/translation that bring threats into being' (Balzacq, 2011, p. xiii).

⁶ Art. 2(2), Protocol 4, European Convention on Human Rights, [1950] *C.E.T.S.* 5 ('ECHR').

asylum,⁷ or to *non-refoulement*,⁸ allowing access to the full protection they entail (Moreno-Lax, 2017), without artificially severing them from mere physical survival. It would recognize the material and procedural facets thereof to facilitate, rather than frustrate, their exercise, in line with the principles of dignity and equality.⁹ And to that end, it would acknowledge their nature not as ‘theoretical and illusory’, but as ‘practical and effective’ safeguards,¹⁰ requiring concrete provision of the means necessary to enjoy them in practice – so that forced migrants are not forced back into misery.

Instead, the ‘humanitarianization’ of border-sea entrenches the management of pain and pity as part of the EU external frontiers architecture. And with Mediterranean crossings becoming a matter of life and death (Albahari, 2006, 2015), irregular crossers are not only classed as threats, but also as victims to be ‘saved’. The approach is (supposedly) ‘migrant-centred’ (Vaughan-Williams, 2014, pp. 2–3). It (strategically) interweaves border security with human security vocabulary that helps enhance the legitimacy and reputation of securitizing forces. The resulting ‘humanitarian government’ cares-through-control/controls-through-care in the name of the preservation of life and the alleviation of suffering (Fassin, 2007, p. 151). Sympathy, *charitas* – rather than rights and legal agency – are the ‘moral reason’ of this modality of government (Fassin, 2012). As the next section demonstrates, the ensuing humanitarian(–ized) border, premised on ‘rescue’ *qua* relief of pressing needs, neglects the breadth of formal obligations, centering on benevolent assistance to resolve the ‘urgent’, thereby consolidating the securitization rationale.

II. The ‘Rescue-Through-Interdiction’ Model

Although irregular migration by sea is not the principal source of irregular migration in EU-rope, with overstayers constituting the biggest group (EUROSTAT, 2017), both media attention and EU operational efforts have disproportionately concentrated on maritime activities (COWI, 2009; EPSC, 2017; Ramboll, 2015). Nevertheless, the overwhelming majority of border deaths occur at sea (Brian and Laczko, 2016; IOM, 2017). Non-rescue episodes and *refoulement* incidents are mostly due to disagreement on the extent of legal responsibilities accruing in the maritime context. Interdiction has been conflated with search and rescue (SAR), and SAR duties then ‘detached’ from human rights obligations (Moreno-Lax, 2011).

The EU’s approach to the applicability of human rights at sea remains unclear. Common European Asylum System (CEAS) instruments, for example, have been designed to apply only within Member States’ territorial jurisdiction, excluding international waters.¹¹ There is also no structural link made in Schengen and Frontex law to CEAS legislation, with both the Schengen Borders Code (SBC) and the European Border and Coast Guard Regulation (EBCGR) omitting any mention of the CEAS.¹²

⁷ Art. 18, Charter of Fundamental Rights of the European Union, [2010] *OJ C* 83/389 (‘CFR’).

⁸ Arts 3 ECHR, 19 CFR, and 33, Convention relating to the Status of Refugees, 189 *U.N.T.S.* 150 (‘CSR51’).

⁹ Arts 1 CFR and 14 ECHR.

¹⁰ *Hirsi* (n 4), para 175.

¹¹ Art. 3(1), Reception Conditions Directive 2013/33/EU, [2013] *OJ L*180/96 (‘RCD’); Art. 3(1), Asylum Procedures Directive 2013/32/EU, [2013] *OJ L*180/60 (‘APD’); and Art. 3(1), Dublin Regulation 604/2013, [2013] *OJ L*180/31 (‘DR’).

¹² Schengen Borders Code Regulation 2016/399, [2016] *OJ L*77/1 (‘SBC’); and European Border and Coast Guard Regulation 2016/1624, [2016] *OJ L*251/1 (‘EBCGR’).

This ambiguity is also epitomized by Frontex' equivocal relationship with human rights, notwithstanding formal submission of its founding Regulation (FR) to the Charter of Fundamental Rights (CFR) and the SBC,¹³ which subjected border interventions, from the start, to 'the rights of refugees and persons requesting international protection, in particular as regards *non-refoulement*'.¹⁴ Rather than considering respect and protection of the EU *acquis* as a legal precondition for engagement in operational action, the Agency initially took human rights as a 'strategic choice' (Frontex, 2009b, p. 4), on the understanding that legal responsibility rests 'primarily' with the Member States¹⁵ – it lacking executive powers of its own and being merely a facilitator/co-ordinator of Member States' co-operation.

This position has changed through subsequent reforms – co-existent with the securitizing/humanitarianizing process discussed above. However, continuous rule specification may have served to present EU/Frontex/Member State action as compliant with human rights, but it has not decidedly reinforced the rule of law in the Mediterranean (*cf.* Slominski, 2013). While the existence (and, somewhat, the content) of migrants' human rights has been acknowledged, their extraterritorial applicability has not been fully clarified, and neither have the powers and procedures required to realize them in practice.

The first phase of evolution goes from Frontex' inception up to the adoption of the 2010 Maritime Guidelines Decision (MGD) – subsequently replaced by the 2014 Maritime Surveillance Regulation (MSR).¹⁶ This period is characterized by a defensive stance by the EU/Frontex/Member States, disclaiming extraterritorial human rights duties and unlinking international protection from the 'fight against illegal immigration' on which border action was to concentrate. In turn, the second stage can be said to commence after the introduction of the MGD, purported to remedy the most appalling concerns – though only within Frontex-co-ordinated operations. Chronologically, this coincides with the Arab Spring and is marked by the gradual introduction of humanitarian language in public documentation, somehow mirroring the actual humanitarian crisis unfolding in Syria and North Africa. A third phase starts with the *Hirsi* judgment, condemning Italy's push-backs, and the MSR, bringing about adaptation strategies to the new legal landscape. Building on *Mare Nostrum*, *Triton* and *Triton+*, during the final phase, the EU comes up with a solution that transforms cross-border movement/international protection issues into matters of militarized law-enforcement. Operation *Sophia* exemplifies this twist,¹⁷ shifting attention from the migrants themselves to the smugglers/traffickers that facilitate their transit. These new logics, as will be disclosed, have found corroboration in the latest Frontex reform (EBCGR) (*cf.* Niemann and Speyer, 2017).

¹³ Recital 22, Frontex Regulation 2007/2004, [2004] OJ L349/1 ('FR').

¹⁴ Art. 3(b) SBC.

¹⁵ Para. 13, Frontex Fundamental Rights Strategy ('FRS'). Available online at: http://frontex.europa.eu/assets/Publications/General/Frontex_Fundamental_Rights_Strategy.pdf. Last accessed: 9 October 2017.

¹⁶ Maritime Guidelines Decision 2010/252/EU, [2010] OJ L111/20 ('MGD'); and Maritime Surveillance Regulation 656/2014, [2014] OJ L189/93 ('MSR').

¹⁷ EUNAVFORMed Decision 2015/778/CFSP, [2015] OJ L122/31. Its mandate has been extended until 31st December 2018. See European Council Press Release 494/17, 25 July 2017.

2.1. (Phase 1) Testing the Waters

Phase 1 in the development of the ‘rescue-without-protection’ paradigm is illustrated by operation *Hera*, launched in July 2006, to assist the Spanish authorities with irregular arrivals in the Canary Islands (Carrera, 2007). The operation was deployed in several phases. During *Hera I*, a total of 6,076 were returned from Spanish territory until October 2006 – with Frontex assisting with the identification of migrants, but for ‘intelligence purposes only’ (ILPA, 2009) – and ‘close to 5,000 ... could be stopped from setting off’ (Frontex, 2006, p. 12) through collaboration with Senegal and Mauritania. *Hera II* overlapped with the first operation, prolonging it until December, with the goal of reinforcing maritime surveillance by dissuading migrant boats from leaving the African coast. According to the Spanish Commander-in-Chief, ‘boats containing a total of 1,243 people [were] intercepted and returned to shore’, adding that when located ‘within 24 miles off the coast they [were] *immediately returned*’ by Senegalese/Mauritanian authorities (*BBC News*, 2006). From April to November 2007, *Hera III* fused the two dimensions of *Hera I* and *Hera II*, with the explicit aim ‘to stop migrants from leaving the shores on the long sea journey and *thus* reducing the danger of losses of human lives’ (Frontex, 2007a). The outcome was ‘more than 1,000 migrants ... *diverted back* to their points of departure’ (Frontex, 2007b).

Despite the ‘respect’ owed to the EU Charter and ‘the principles recognised by Article 6(2) [TEU¹⁸]’ that Frontex-co-ordinated action was supposed to ‘observe’,¹⁹ the human rights to *non-refoulement*, to seek asylum, and, crucially, to leave any country including one’s own were not considered to apply in this extraterritorial setting of diffuse collaboration with third countries. Yet, the implementation of the SBC did require the Agency and the Member States not only to ‘respect the rights [and] observe the principles’ enshrined in the Charter, but also to actively ‘promote the application thereof’ within the scope of their respective powers.²⁰

Instead of raising concerns, *Hera*’s results were praised as a success. It was the ‘diverting’ of ‘would-be immigrants’ boats back to their points of departure’ (Frontex, 2009a) that produced ‘a notable reduction in the number of migrants arrived to Canary Islands’ (Frontex, 2009b, p. 43). Thus, during this period, a ‘pure’ securitization paradigm dominated EU border governance (and discourse); the objective of combating unwanted flows being all-pervading. But it is also in this phase when the equivalence of interdiction/prevention-of-departure to rescue/saving-of-lives started gaining terrain.

2.2. (Phase 2) Watered Down Humanitarianism

Phase 2 of this chronology is exemplified by *Hermes* and parallel Member State action in the Central Mediterranean, which represents a prolongation of the interdiction/rescue equation – though expanding the one while limiting the other. *Hermes* was first deployed in 2007 (Frontex, 2007c, p. 20), but it is as a consequence of the Arab Spring that it became most controversial. *Hermes 2011* was framed as a solidarity mechanism towards the Member States most affected by migratory flows, as part of a package intended to

¹⁸ Treaty on European Union, [2010] OJ C83/13 (‘TEU’).

¹⁹ Recital 22 FR.

²⁰ Art. 51(1) CFR.

resolve the 'migration crisis' in the Mediterranean (Extraordinary European Council, 2011, p. 10).

By April 2011, 430,000 persons had fled Libya. And, although a mere 20,000 arrived in Malta and Lampedusa (Malmström, 2011), instead of enhancing reception capacities, the EU chose to reinforce border controls. *Hermes 2011*'s stated goal was 'to implement coordinated sea border activities to control illegal migration flows from Tunisia towards South of Italy' (Frontex, 2011b). In such a climate, non-rescue incidents multiplied and 'more than 1,200 people ... [were] unaccounted [for]' in March–May 2011 (UNHCR, 2011).

The 80 per cent decrease in arrivals witnessed that year in *Hera*'s operational area was matched by an 'almost nine-fold increase' of incoming migrants in *Hermes*' operational zone, suggesting a diversion effect. The two phenomena were, however, not connected. The Central Mediterranean inflow was entirely attributed to 'the civil war in Libya'. Yet, rather than considering fleers presumptive war refugees, they were portrayed as violators of Schengen rules, presented as 'apprehended migrants' – with a lateral mention of some amongst them being 'saved' (Frontex, 2011a, pp. 49–50).

This timid inclusion of humanitarian language in Frontex' Annual Report clashes with the forceful terms of the MGD – binding since 2010 – placing clear SAR and *non-refoulement* obligations on participating units. The Decision required conduct of Frontex-co-ordinated maritime operations 'in a way that does not put at risk the safety of the persons intercepted or rescued', explicitly demanding that 'no person shall be disembarked or otherwise handed over to the authorities of a country in contravention with the principle of *non-refoulement*', with the 'special needs of ... persons in need of international protection ... considered throughout all the operation'.²¹

Instead, next to *Hermes*, Italy persuaded Tunisian authorities to conclude an agreement to prevent departures and accept 'direct repatriation' with 'simplified procedures' (Italian Ministry of Interior, 2011). Although several of the intercepted migrants 'indicated an intention to apply for international protection' (Frontex, 2011c), according to direct eyewitnesses, 'people [were] removed ... within one or two days of arrival' (Amnesty International, 2011), making it implausible they were given 'a real and adequate opportunity' to request asylum and/or appeal expulsion decisions in line with fair processing standards.²² Neither a 'serious examination of the merits' of their cases nor 'access to an effective remedy' with 'automatic suspensive effect' was granted.²³ So, despite the humanitarian nature of the crossings, originating from the Arab Spring, available data suggest that human rights were not effectively observed, notwithstanding the 'saving lives' rhetoric.

2.3. (Phase 3) Strasbourg Coming to the Rescue?

The 'rescue-without-protection' trend consolidated in the Italian/EU strategy, despite the *Hirsi* judgment. During the third phase of evolution, although it was known from the beginning that structural impediments prevented *Triton* from becoming a genuine SAR action, since '[SAR] at sea is a competence of the Member States [not Frontex]' (JHA

²¹ Paras 1.1–3, Annex, Part I, MGD.

²² *M.S.S.* (n 2), para. 313.

²³ *M.S.S.* (n 2), paras 321 and 293.

Council, 2013), its ‘contribution to saving lives’ was highlighted as a major legitimizing factor (Frontex, 2015b).

The background to *Triton* is provided by the Italian push-backs of 2009, where at least 900 migrants were returned to Libya ‘without proper assessment of their possible protection needs’ (UNHCR, 2009). Regardless of its obvious human rights implications, the underpinning Italian-Libyan collaboration was portrayed as having ‘a positive impact’, because ‘on the humanitarian level, fewer lives ha[d] been put at risk, *due to fewer departures*’ – clearly depicting interdiction as life-saving. Conversely, whether ‘the right to request asylum as well as other human rights [were] respected in Libya’ remained ‘unconfirmed’ (Human Rights Watch, 2009, p. 37) – as if saving lives alone exhausted legal obligations.

The practice was condemned in *Hirsi*, which clarified the extraterritorial applicability of *non-refoulement* – at least under the ECHR – and the unsustainability of immediate hand-overs to third countries without prior verification of on-site conditions through proper procedures and appeals, regardless of presumptions of safety and on-paper commitments to respect human rights (Moreno-Lax, 2012). Consequently, push-backs had to stop – their continuation had anyway become impracticable after Gaddafi’s ousting and the war in Libya.

The change of approach was also prompted by the mass drownings of October 2013 off Lampedusa (*BBC News*, 2013a and 2013b). Italy then launched its hybrid (SAR/military) operation *Mare Nostrum* (Cuttitta, 2014b, 2017), while the EU Council expressed ‘its deep sadness’ and asserted that ‘determined action should be taken ... to prevent the loss of lives at sea and to avoid that such human tragedies happen again’ (European Council, 2013, p. 46). The solution proposed, though, was not to open channels for legal transit and safe arrival – like humanitarian corridors or asylum visas (Fundamental Rights Agency, 2015), but to reinforce ‘the fight against trafficking and smuggling’, ‘not only in the territory of the Member States but also in the countries of origin and transit’, calling for the enhancement of Frontex’ activities (European Council, 2013, p. 47).

Mare Nostrum was terminated a year later because of excessive costs and a perceived ‘call effect’ attracting continuous arrivals. Frontex-led *Triton* took over, but with a much less ambitious remit (Carrera and den Hertog, 2015). Pursuant to its mandate, ‘while saving lives [was] an absolute priority’, still the focus was ‘primarily border management’ (Frontex, 2014a). Despite the grand language deployed by the European Council to justify the expansion of Frontex’ capacities, at the end of the day, ‘Frontex is not a search and rescue body’ (European Commission, 2014) and its tasks were not extended to that effect.

Neither were enforcement or supervisory powers *vis-à-vis* the Member States granted. How the duty to ensure ‘compliance with ... [EU] Charter ... obligations regarding access to international protection ... [and] the principle of *non-refoulement*’ was to be guaranteed remained hence unspecified.²⁴ The 2011 Frontex Recast Regulation (FRR) had codified the MGD prohibition of disembarkation in contravention of *non-refoulement*, requiring that the ‘special needs’ of protection-seekers be not just considered, but ‘addressed’ as part of the binding obligation to ‘protect human rights’.²⁵ Yet, no specific procedural steps, facilities or legal safeguards were indicated to warrant such result.

²⁴ Art.1(2), Frontex Recast Regulation 1168/2011, [2011] OJ L304/1 (‘FRR’).

²⁵ Art. 1a FRR.

The outcome of *Triton* totalled 14,500 recoveries during the first two months of patrols (before the mission's upgrade in 2015), 'including some 4,350 rescued with the direct participation of vessels and aircraft co-financed by Frontex' (Frontex, 2014b, p. 18). But which follow up action was undertaken in these cases rests unreported. What is known is that many requested asylum on arrival (EUROSTAT, 2015). Still, Frontex insisted on recording these crossings as 'illegal' (Frontex, 2014b, pp. 44–45), portraying protection-seekers as 'irregular entrants'.²⁶ The Agency also avowed that, upon disembarkation, 'most resources were devoted to their *immediate care*, and not towards screening' (Frontex, 2014b, p. 44) – which is anomalous; Frontex' explicit obligation was to develop identification/referral mechanisms, while provision for material needs fell on national authorities.²⁷ Procedural deficiencies at landing sites – in what became the 'hotspots' (ECRE, 2016) – have subsequently been denounced as an extension of the registration/return logic of border controls, impeding access to adequate procedures (Moreno-Lax, 2016, p. 11).

The MSR had entered into force in the intervening time, making abundantly clear that operational plans 'should include [*dedicated*] procedures ensuring that persons with international protection needs ... are identified and provided with appropriate assistance, including access to international protection'.²⁸ Defective/non-compliance with this crucial duty corroborates the 'minimalist humanitarianism' underpinning EU/Italian efforts, despite changes to the legal framework. The Code of Conduct (CC) – a soft-law instrument adopted to implement hard-law obligations stemming from the 2011 Recast Regulation – also required participants in Frontex-led missions to '*promote ... that persons seeking international protection [be] recognized ... informed ... about their rights ... and referred to the national authorities responsible for receiving their asylum requests*'.²⁹ But, as the Frontex Fundamental Rights Officer (FRO) has confirmed, the development of an 'Access-to-Procedures' tool only commenced in 2015 with dissemination foreseen from 2016 (Frontex, 2015a, p. 13), hence buttressing the finding that the 'rescue-through-interdiction'/'rescue-without-protection' model (in its expanded form) largely continued in practice.

2.4. (Phase 4) from (Pre-Emptive) Humanitarianism to (Proactive) Militarization

The paradigm has radicalized during the final phase of this timeline, taking a hyper-securitized/militarized turn, exemplified by the launch of EUNAVFORMed Operation *Sophia*, a CSDP inter-governmental action supporting *Triton* (CSDP Council, 2015), the involvement of NATO in the Aegean, and the emergence of 'shooting-to-kill' policies at sea. The objective seems to be to 'protect' the 'protectors' of EU borders and support action against smugglers/traffickers, marking a move from 'defensive' to 'offensive' borders that proactively seek to destroy the (only) means of mobility left to unauthorized crossers – even at the expense of the human rights (and life) of 'boat migrants'.

²⁶ Cf. Art. 31 CSR51.

²⁷ RCD (n 11).

²⁸ Recital 17 and Art. 4(3) MSR.

²⁹ Art. 5, Code of Conduct for all Persons Participating in Frontex Activities ('CC'). Available online at: http://frontex.europa.eu/assets/Publications/General/Code_of_Conduct_applicable_to_all_persons_participating_in_Frontex_operational_activities.pdf. Last accessed: 9 October 2017.

Faced with a death toll of 1,500 within a few days in April 2015 (*The Guardian*, 2015a, 2015b), a *Ten-Point Action Plan* was adopted, based on the reinforcement of Mediterranean operations, but ‘within the mandate of Frontex’ (European Council, 2015b), and concentrated on preventing departures (or accelerating removals). The main novelty was a proposal to deploy an EU-led naval force as part of ‘[a] systematic effort to capture and destroy vessels used by the smugglers’ (European Council, 2015a), so as ‘to better contain the growing flows of illegal migration’ (European Council, 2015).

In response, *Triton*’s budget and geographical scope were expanded, to help Frontex ‘fulfil its dual role of co-ordinating operational border support ... and helping to save the lives of migrants at sea’ (European Commission, 2015, p. 3). Yet, in keeping with the Agency’s competences, *Triton* + could not be turned into a ‘proactive’ SAR operation. According to its Executive Director, this could, moreover, create a ‘pull factor’ (*The Guardian*, 2015c). No importance was given to ‘push factors’ in this framework (MPI, 2015) – let alone to the entitlements of irregular crossers under international and EU law.

Simultaneously, plans to militarize the response to Mediterranean flows were set in motion. The ‘war on smugglers’ was submitted as the ultimate goal of the EUNAVFORMed, dismantling their business model by apprehending and destroying the means used for the smuggling traffic (Avramopoulos, 2015). Three operational phases were distinguished for the rollout of the operation, including phases 2 and 3 to be carried out in international waters and within Libyan domain – thus requiring concrete authorization by either Libya or the UN Security Council (EEAS, 2015).

In October 2015, a Security Council Resolution authorized Member States to intervene (only) on the high seas, using ‘all measures commensurate to the specific circumstances’ to ‘inspect’, ‘seize’ and ‘dispose of’ migrant vessels, so as to ‘disrupt the organised criminal enterprises engaged in migrant smuggling and human trafficking’ off the Libyan coast. Although the Security Council also urged for these activities to be performed ‘in full compliance with international human rights law’, it did not indicate how the disruption of smuggling/trafficking rings could be achieved without ‘undermin[ing] the human rights of individuals’³⁰ – in fact, there have since been incidents of violence, death, and ‘pull backs’ in unclear circumstances (Sea-Watch, 2016, 2017).

The first two six-monthly reports on *Sophia* confirm the diversion effect feared by EU Defence Chiefs advising on the operation (UKHL, 2016). They had augured the mission would backfire, diverting migration to alternative routes, and (paradoxically) intensifying smuggling (EEAS, 2015a, pp. 13, 37; EEAS, 2015b). While, ‘prior to the start of the operation there was an even split’ between the Central and the Eastern Mediterranean routes, intensified patrolling of the Libya-Italy strip initially shifted pressure to the Aegean (EEAS, 2016a, p. 3). The implementation of the EU-Turkey Statement (European Council, 2016b), requiring Turkey to impede irregular exit and readmit ‘[a]ll new irregular migrants crossing ... into Greek islands’, lowered daily arrivals from over 1,700 to around 81 (European Commission, 2016, p. 2). The blockage of the Aegean route thus re-shifted flows to Libya (EEAS, 2016b, pp. 3–4). But the deterrent effect ‘predicated on dissuading migrants from crossing the Mediterranean’ has not materialized (EEAS, 2016a, p. 17); ‘irregular migration across the Mediterranean [has] continued at around the same levels’ (EEAS, 2016b, p. 9). By contrast, death tolls have increased, beating new records in

³⁰ Paras 5, 8, 10–12, UNSC Resolution 2240(2015).

2015 and 2016 (IOM, 2017). The likelihood of perishing at sea – despite enhanced surveillance and EUROSUR round-the-clock activity – has mounted from 'one [in] 269 arrivals ... [to] one for every 47' in the Central Mediterranean (UNHCR, 2016).

The initial diversion of smuggling traffic to the Eastern Mediterranean prompted the intervention of NATO – now consolidated in Operation *Sea Guardian* (NATO, 2016b). The military alliance is, since February 2016, on a mission very similar to *Sophia* – but outside EU structures and beyond any accountability avenues – with the ambition to contribute to 'the international efforts to stem the illegal trafficking and illegal migration in the Aegean' (NATO, 2016a). Although NATO units are only formally 'tasked to conduct reconnaissance, monitoring and surveillance of illegal crossings', when encountered with distress situations, they apparently rescue and return migrants *directly* to Turkey (*EUobserver*, 2016a and 2016b) – disregarding their rights to leave and to *non-refoulement*. At the same time, it is expected the operation 'could definitely help save lives ... and ... help break the criminal gangs that are trafficking migrants ... into Europe' (*The Guardian*, 2016), which justifies its presence (while escaping democratic oversight).

A final move towards the militarization of controls is constituted by the 'normalization' of firearms use by Frontex-co-ordinated patrols. Several unredacted incident reports, leaked to the press, disclose routine recourse to weapons 'as part of the "standard rules of engagement" for stopping boats at sea' in the Aegean (*The Intercept*, 2016). This has resulted in several – if rare – instances of migrants being injured or even killed. Although the alleged purpose is 'not to prevent boats from crossing the sea border, but to stop the smugglers', nevertheless, 'the effect ... appears to be the same'. Pursuant to the rules of engagement of the Greek Coast Guard, 'shooting to disable a vehicle is legal if done to prevent someone from illegally entering or exiting the country, *if they have a firearm*' (*The Intercept*, 2016). Yet, it has never been proven that 'the driver of [any] refugee boat was armed', as noted by the EU Ombudsman (O'Reilly, 2016). Leggeri, in his reply as Executive Director of the Agency, has expounded that the use of weapons is (formally) in conformity with Frontex law – which indeed extends legal coverage to firearms recourse as part of the accepted/'standardized' range of practices of border control; hence providing (or even legitimizing) the conditions of possibility for similar accidents to recur.³¹ Notwithstanding the danger (and patent lack of proportionality) this entails in situations involving overcrowded/unseaworthy vessels in distress, he also defended that 'law enforcement officers are entitled to *the right of self-defence*' (Leggeri, 2016). Paradoxically, therefore, in a final twist of the 'rescue-without-protection' model, it may result that the life to be rescued is eventually that of the rescuers themselves.

The recent EBCG Regulation will not change this landscape – securitizing dynamics being harmonized as the norm. The new instrument contains an overabundance of human rights 'endorsement clauses', according to which human rights should define the mandate of the Agency,³² its tasks and responsibilities during maritime operations,³³ in relation to 'referral', 'screening' and 'debriefing',³⁴ and when co-operating with third countries.³⁵ But none develops the detail necessary for their prescriptions to materialize in

³¹ Art. 40 EBCGR.

³² Arts 1, 6(3), 34 EBCGR.

³³ Art. 16(d) EBCGR.

practice. They limit themselves to proclaiming the need for EBCG teams to ‘comply with Union and international law’ and to ‘observe fundamental rights’ without elaboration.³⁶ And the thorny issue of apportionment of ‘shared responsibility’ for their correct implementation is conspicuously resolved with a clause that reiterates the ‘primary’ responsibility of Member States ‘for the management of *their* sections of the external borders’ and the Agency’s duty to ‘support’ the application of EU measures.³⁷ Yet Frontex has not been vested with interdiction or SAR competence at all. It will not collect data on border-deaths, nor will it need to structure operations on that basis to *actually* ‘save lives’ (Franko Aas and Gundhus, 2015, pp. 10–14; Rijpma and Vermeulen, 2015); it will just be empowered to suspend/terminate them in cases of ‘serious’ or ‘persistent’ human rights violations (however defined), if it sees fit.³⁸

It is expected that the operationalization of human rights provisions be developed in the (soft-law) Code of Conduct. Article 35 EBCGR expounds, in this connection, that the Code ‘shall lay down procedures intended to guarantee ... respect for fundamental rights with particular focus on ... persons seeking international protection’. If so, this will have no legally-binding force.³⁹ In this situation, whether the new ‘complaints mechanism’ will palliate *ex post* any potential infringement is doubtful – especially considering that the FRO will have no decisional powers, there will be no appeals, and no remedies foreseen to that end.⁴⁰ At most, Frontex will be able to ‘request’ the Member State concerned to remove the officer found to have violated human rights from the mission in question or the common pool of border guards.⁴¹ And this only within Frontex-coordinated initiatives – whether Member States acting alone have extraterritorial protection duties under EU law remains contested (cf. Moreno-Lax, 2017, pp. 289–298).⁴² Legal amendments seem thus cosmetic, reactive to mounting criticism, but devoid of effective substance that triggers real change on the ground (cf. Slominski, 2013).

III. Problematizing the ‘Rescue-Without-Protection’ Paradigm

Under the ‘rescue-through-interdiction’ model – especially in its final phase – smugglers/traffickers have been reconfigured into the immediate causers of unauthorized migration and exploitation, with migrants victimized and ‘protected’ from abuse through their neutralization – regardless of other consequences on their legal agency and rights. The initial proposition, presenting ‘illegal immigration’ and ‘uncontrolled’ transit as a scourge to eradicate, has been nuanced and detailed. It is no longer just the irregular flow *per se* which arouses fear, but mostly its ‘uncontrollable’ movement, the focus of securitizing impetuses therefore now concentrating primarily on its facilitators. In the process, migrants are doubly victimized, as smugglers’ prey and as shipwrecked. This move allows, in turn, for the double reification pointed out above (as threats to border security and as

³⁴ Arts 16(3)(l) and 18(4)(a)-(b) EBCGR.

³⁵ Art. 54 EBCGR.

³⁶ Art. 40(2) EBCGR.

³⁷ Art. 5 EBCGR.

³⁸ Art. 25 EBCGR.

³⁹ Para. 32 FRS.

⁴⁰ Art. 72 EBCGR.

⁴¹ Art. 72(8) EBCGR.

⁴² European Court of Justice, C-638/16 *X and X* [2017] ECLI:EU:C:2017:173.

subjects of smuggling/trafficking), which translates in the parallel transfiguration of human rights, which come to play a series of separate, complementary/contradictory roles.

Indeed, human rights justify maritime intervention; rescue/interdiction is undertaken in their name. But 'human rights' denote a multi-layer concept, encompassing the abstract value on which the EU project is founded,⁴³ which border policy shall preserve,⁴⁴ the human rights of the migrant-threats/victims (especially the right to life), and – the case arising – the human rights of the rescuers to self-defence. Correlations between these different levels of abstraction and immediacy allow for practical hierarchies to emerge. In the act of interception/rescue, faced with the imminent danger of the crime of smuggling/trafficking being perpetrated, the border guard may be confronted with a dilemmatic choice: either to protect the border or to protect the migrant (or even to protect himself), as there will be occasions in which all may not be reconciled (*cf.* Williams, 2016). The protection of the abstract value of human rights that 'border integrity' represents may require concrete human rights sacrifices – so smuggling/trafficking is prevented. This is the moment in which the right to life of 'boat migrants' may shrink to a mere right to survival (*if* the circumstances allow) and perceived threats to the physical soundness of the rescuer, the rescuees, or the border itself met with violence and armed force, that is, with the conceivable (total or partial) destruction of the human rights of those eventually *refouled*, injured or killed, who become victims of the protection of human rights.

This is how human rights become securitized. The process constitutes a securitization (that of human rights) within a larger (already 'normalized') securitization (that of migration). The triangulation between human rights *qua* fundamental value (that the border 'protects'), the human rights of rescuees, and the human rights of rescuers allows for a complex constellation, including claims that measures 'outside the normal bounds of political [and legal] procedure' are required (Buzan *et al.*, 1998, p. 25). The superimposition of the different kinds of 'human rights' within an already securitized field prompts moves, if not the invocation of 'a special right' of self-preservation on the part of the Sovereign, through its representatives, 'to use whatever means are necessary to block [security threats]' (Wæver, 1995, p. 55). It is the defence of (a certain facet of) human rights that 'border integrity' symbolizes that justifies the attack on (one of the other dimensions of) human rights. Proximate and more distant notions of the same clash and discord, justifying the annihilation of (some) human rights so that (other) human rights can prevail. This omnifarious nature of human rights serves to downplay the real-world impact of maritime action on the concrete (human) rights of 'boat migrants'. Human rights become both the means and the end of the securitizing process; hijacked as the tool and artefact of securitization (Balzacq, 2008, p. 79).

The conceptual separation between the smugglers/traffickers and the smuggled/trafficked provides abstract support to this re-presentation. The neutralization of smugglers/traffickers, not directly through action focusing on them, but by targeting the means they employ to transport migrants, is key. The enemy is irregular movement *as such*. This objectivation of the threat makes a violent reaction ethically more palatable, ignoring that the split can hardly materialize in practice. Action targeting smuggling/migrant boats runs an immanent 'high risk of collateral damage including the loss of life', as recognized by

⁴³ Art. 2 TEU.

⁴⁴ Arts 67 and 77, Treaty on the Functioning of the European Union [2010] OJ C83/47 ('TFEU').

the very planners of Operation *Sophia* (*EUobserver*, 2015). It *de facto* equates to action being taken against the smuggled/trafficked themselves, behind a veil of a more neutral crime-prevention/victim-protection activity. The presentation of the operation as a kind of ‘humanitarian intervention’ (Kennedy, 2004) from the ‘front line’ of EU’s war against smuggling/trafficking constitutes the last stage in the objectification of protection-seekers that the humanitarianization of borders entails. A theoretical rescue through the neutralization of their facilitators serves to divert attention from the migrants (and their rights) to the means of cross-border crime – as if there were alternatives to reach safety in Europe otherwise. Through the mobilization of ‘war-like’ images, the ‘minimalist humanitarianism’ infused in EU-ropcan border work gives way to a new, militaristic type of intervention that discounts not only individual rights, but their very holders as well.

This transformation of action focusing on the war on smuggling, that is, on the destruction of the means for irregular transit, also affects the core substance of law. Human rights are dangerously transformed in this process, from the main limits to interdiction, subjecting Frontex/EU/Member State action to the rule of law, into the very justification for engagement in it. The ‘all-out war’ on smuggling/trafficking is substantiated in this transformation of the function of human rights, with interdiction portrayed as a *solution*, rather than as the *problem* and principal obstacle facing ‘boat people’ in their quest for protection (de Vries *et al.*, 2016).

Throughout the evolution of EU-sponsored/Frontex-co-ordinated/Member State maritime intervention traced above, it is possible to discern not just the absence of meaningful engagement with human rights in practice, but also notice a proactive co-option of human rights into a border/migration control mechanism – as the justifiers of courses that actually undermine the position and legal protection of migrants. How is this achieved? The final step, alongside the objectification of the threat signalled already and the de-construction of human rights into different layers that can be hierarchized, is the re-conceptualizing of the ‘life’ that is rescued through interdiction into a ‘life-without-full-rights’; a (human) life that is severable from the (human) rights that should come with it. This is not exactly a ‘bare life’ (Agamben, 1998) – Agamben’s dichotomous archetype requires either total exclusion from rights or complete legal plenitude (Lemberg-Pedersen, 2017, pp. 51–52; Neilson, 2010, p. 134). The EU’s stance is not one of utter non-recognition, but rather of selective (non-)access to rights.

The ‘new’ humanitarianism that Chimni identified (referred to as ‘minimalistic’ or ‘pre-emptive’ here) contributes to this re-arrangement. There is no fixed or ‘objective’ definition of humanitarianism (Calhoun, 2008, p. 73); it can concentrate on the advancement of human rights or limit itself to ‘saving lives’ (Barnett and Weiss, 2011). The fluidity of its conceptualization as anything/everything ‘concerned with or seeking to promote human welfare’ (Chimni, 2000, p. 244) allows it to modulate the boundaries between law and charity and adopt a selective approach to human rights. So understood, humanitarianism calls for a focus away from ‘humanness-according-to-law’ towards an all-encompassing, self-absolving ‘humanness-per-se’ (Cuttitta, 2014b, p. 214) within-and-beyond the law, blurring the distinction between compassion and entitlement. Humanitarianism, speaking in the name of mankind, also blurs the lines between means and ends, legitimizing recourse to any means necessary to achieve the higher ends of humanity, including security and recourse to force. Humanitarian practices, thus classified, escape critique and opposition. This means that even war (on migrant smuggling or otherwise) can

be portrayed as a humanitarian endeavour (Kennedy, 2004). Humanitarian vocabulary can camouflage the most naked exercise of power and justify a divestiture of rights provided that that (is perceived to) 'protect'. Human rights, filtered through humanitarianism, can be selected, abridged, or even put at the service of a policy of containment through interdiction. The absence of strict compliance with law is compensated by the ideal (or mirage) of humanitarianism.

The reduction of 'life' to a 'life-without-full-rights' and the transmutation of human rights as conceptually detachable from bodily subsistence is what allows interdiction to be revamped, from a potentially lethal interference with the rights of protection-seekers into a medium for their realization. This equally transforms, in the process, what should have been considered an international protection issue (that of 'boat people' risking their lives to reach safety in Europe and claim asylum under the CFR) into one regarding security and the fight against crime, demanding policing responses, rather than action that addresses the deeper flaws of a border regime that leaves no alternatives but an illegal, perilous voyage across the Mediterranean.

Conclusions: Annuling (Migrant) Rights in the Name of (Human) Rights?

The general human rights clauses progressively inserted in EU/Frontex law have not translated into actual compliance in practice. They only apply to Frontex-co-ordinated action, do not apportion responsibilities clearly, and fail to regulate sufficient procedural detail. They strike instead as formulaic assertions of *a priori* compatibility of maritime activities with the obligations they entail.

Non-refoulement, for example, is framed as an exception to the rule of disembarkation 'in the third country from which the vessel is assumed to have departed'. Only '[i]f that is not possible' (due to legal/factual impediments), will interdicted/rescued persons be brought to EU territory.⁴⁵ The bias is towards prevention of irregular movement. And this, as elaborated above, rather than being taken as a 'problem' for access to protection (or at least an interference with human rights), is proposed as a 'solution' to avoid loss of life.

Instead of truly adjusting to human rights, the result of subsequent legal reforms has been for interdiction to be (re-)presented as a human rights-implementing tool with a multi-purpose function. It is now used as a risk-deterrent to counter (irregular migration) threats, as a humanitarian mechanism that recovers migrants in distress and rescues them from abuse by their facilitators, and as a weapon in the 'war on smugglers', while impact on actual (human/migrant) entitlements is silenced or discounted as a side effect (Williams, 2016).

Remarkably, the ineffectiveness of interdiction to meet any of these goals is never questioned. Available data show that 'more controls' have not translated into 'more deterrence' – with maritime flows exponentially increasing over the past 20 years (Fargues and Di Bartolomeo, 2015). Nor has it meant lesser irregular entries through the Mediterranean route – with detections of clandestine arrivals also on the rise (EUROSTAT, 2017). It has not even reduced death rates overall – with fatalities peaking in the last period (IOM, 2017). What available information suggests is primarily a diversion effect towards ever more dangerous routes (iMap, 2016). Attachment to

⁴⁵ Art. 10(1) MSR.

interdiction thus appears politically motivated, rather than empirically justified (European Council, 2016a, p. 3). In parallel, the diminution, in (quality/quantity of) human rights, that this conception of '(semi-)life' (that interdiction is supposed to spare) entails, is completely neglected.

The desperate situation of irregular Mediterranean crossers attests to the urgency of a change of paradigm. One that abolishes the 'rescue-through-interdiction'/'rescue-without-protection' model and lives up to the full dignity of 'boat migrants', recognizing that they may have good reasons (if not rights) that 'lead them justifiably to seek access to our territory' (European Council Tampere Conclusions, 1999, p. 3). Such an alternative model of 'accessible-protection-in-practice' needs investment in genuine SAR and the opening of channels for safe and legal arrival (Moreno-Lax, 2017, pp. 457–459). It requires an inversion of priorities: a return to de-securitized borderlands and the integral re-subjectification of 'boat migrants' – in line with rule of law standards.⁴⁶

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References

- Agamben, G. (1998) *Homo Sacer* (Stanford, CA: Stanford University Press).
- Albahari, M. (2006) 'Death and the Moral State'. CCIS Working Paper, No. 136.
- Albahari, M. (2015) *Crimes of Peace* (Philadelphia, PA: University of Pennsylvania Press).
- Amnesty International (2011) 'Italy: Findings and Recommendations to the Italian Authorities following the Research Visit to Lampedusa and Mineo', 21 April. Available online at: <http://www.amnesty.org/en/library/info/EUR30/007/2011/en>. Last accessed: 9 October 2017.
- Aradau, C. (2004) 'The Perverse Politics of Four-Letter Words: Risk and Pity in the Securitisation of Human Trafficking'. *Millennium*, Vol. 33, No. 2, pp. 251–78.
- Avramopoulos, D., JHA Commissioner, (2015) 'Remarks', SPEECH/15/4840, 23 April.
- Balzacq, T. (2008) 'The Policy Tools of Securitization: Information Exchange, EU Foreign and Interior Policies'. *JCMS*, Vol. 46, No. 1, pp. 75–100.
- Balzacq, T. (ed.) (2011) *Securitization Theory* (London: Routledge).
- Barnett, M. and Weiss, T.G. (2008) 'Humanitarianism: A Brief History of the Present'. In Barnett, M. and Weiss, T.G. (eds) *Humanitarianism in Question* (Ithaca: Cornell University Press), 1–48.
- Barnett, M. and Weiss, T.G. (2011) *Humanitarianism Contested* (London: Routledge).
- BBC News* (2006) 'Stemming the Immigration Wave', 10 September. Available online at: <http://news.bbc.co.uk/2/hi/europe/5331896.stm>. Last accessed: 9 October 2017.
- BBC News* (2013a) 'Mediterranean 'a Cemetery' - Maltese PM Muscat', 12 October. Available online at: <http://www.bbc.co.uk/news/world-europe-24502279>. Last accessed: 9 October 2017.
- BBC News* (2013b) 'Lampedusa Boat Tragedy: Migrants 'Raped and Tortured'', 8 November. Available online at: <http://www.bbc.co.uk/news/world-europe-24866338>. Last accessed: 9 October 2017.

⁴⁶ Art. 2 TEU.

- Bigo, D. (2002) 'Security and Immigration: Toward a Critique of the Governmentality of Unease'. *Alternatives*, Vol. 27, No. Special Issue, pp. 63–92.
- Brambilla, C. (2015) 'Exploring the Critical Potential of the Borderscapes Concept'. *Geopolitics*, Vol. 20, No. 1, pp. 14–34.
- Brian, T. and Laczko, F. (2016) 'Introduction: Migrant Deaths around the World in 2015'. In Brian, T. and Laczko, F. (eds) *Fatal Journeys* (Vol. 2) (Geneva: IOM).
- Buzan, B., Wæver, O. and de Wilde, J. (1998) *Security* (Boulder/London: Lynne Rienner).
- Calhoun, C. (2008) 'The Imperative to Reduce Suffering: Charity, Progress, and Emergencies in the Field of Humanitarian Action'. In Barnett, M. and Weiss, T.G. (eds) *Humanitarianism in Question* (Ithaca: Cornell University Press), 73–97.
- Calhoun, C. (2010) 'The Idea of Emergency: Humanitarian Action and Global (Dis)order'. In Fassin, D. and Pandolfi, M. (eds) *Contemporary States of Emergency* (New York: Zone Books), 29–58.
- Camposi, G. (2014) 'Frontex, the Euro-Mediterranean Border and the Paradoxes of Humanitarian Rhetoric'. *Southeast European Journal of Political Science*, Vol. 2, No. 3, pp. 126–34.
- Carling, J. and Hernández-Carretero, M. (2011) 'Protecting Europe and Protecting Migrants? Strategies for Managing Unauthorised Migration from Africa'. *British Journal of Politics and International Relations*, Vol. 13, No. 1, pp. 42–58.
- Carrera, S. (2007) 'The EU Border Management Strategy: FRONTEX and the Challenges of Irregular Immigration in the Canary Islands'. CEPS Working Document, No. 261.
- Carrera, S., and den Hertog, L. (2015) 'Whose Mare? Rule of Law Challenges in the Field of European Border Surveillance in the Mediterranean'. CEPS Paper in Liberty and Security, No. 79.
- Carrera, S., and den Hertog, L. (2016a) 'A European Border and Coast Guard: Fit for Purpose?' CEPS Commentary, 24 February. Available online at: <https://www.ceps.eu/publications/european-border-and-coast-guard-fit-purpose>. Last accessed: 9 October 2017.
- Carrera, S., and den Hertog, L. (2016b) 'A European Border and Coast Guard: What's in a Name?' CEPS Paper in Liberty and Security, No. 88.
- Chimni, B.S. (2000) 'Globalization, Humanitarianism and the Erosion of Refugee Protection'. *Journal of Refugee Studies*, Vol. 13, No. 2, pp. 243–63.
- COWI Ltd (2009) 'External Evaluation of [Frontex]', 15 January. Available online at: <http://www.statewatch.org/news/2009/may/frontex-eval-report-2009.pdf>. Last accessed: 9 October 2017.
- Craig, P. (1997) 'Formal and Substantive Conceptions of the Rule of Law: An Analytical Framework'. *Public Law*, Vol. 21, pp. 467–87.
- CSDP Council (2015) 'Council launches EU Naval Operation to Disrupt Human Smugglers and Traffickers in the Mediterranean', Press Release 482/15.
- Cuttiitta, P. (2014a) 'From the *Cap Anamur* to *Mare Nostrum*: Humanitarianism and Migration Controls at the EU's Maritime Borders'. CLEER Working Papers, 2014/7.
- Cuttiitta, P. (2014b) 'Borderizing' the Island: Setting and Narratives of the Lampedusa 'Border Play'. *ACME: An International E-Journal for Critical Geographies*, Vol. 13, No. 2, pp. 196–219.
- Cuttiitta, P. (2017) 'Delocalization, Humanitarianism and Human Rights: The Mediterranean Border between Exclusion and Inclusion'. *Antipode*. <https://doi.org/10.1111/anti.12337>.
- De Haas, H. (2008) 'The Myth of Invasion: The Inconvenient Realities of African Migration to Europe'. *Third World Quarterly*, Vol. 29, No. 7, pp. 1305–22.
- De Vries, L., Carrera, S., and Guild, E. (2016) 'Documenting the Migration Crisis in the Mediterranean'. CEPS Paper in Liberty and Security in Europe, No. 94.
- Durieux, J.-F. (2016) 'The Duty to Rescue Refugees'. *International Journal of Refugee Law*, Vol. 28, No. 4, pp. 637–55.

- ECRE (European Council on Refugees and Exiles) (2016) 'The Implementation of the Hotspots in Italy and Greece: A Study' (Brussels: ECRE). Available online at: <https://www.ecre.org/wp-content/uploads/2016/12/HOTSPOTS-Report-5.12.2016..pdf>. Last accessed: 9 October 2017.
- EEAS (European External Action Service) (2015) 'High Representative/Vice-President Federica Mogherini's Remarks at the UN Security Council', 11 May. Available online at: http://eeas.europa.eu/statements-eeas/2015/150511_03_en.htm. Last accessed: 9 October 2017.
- EEAS (2015a) 'Military advice on the draft Crisis Management Concept for a possible CSDP operation to disrupt human smuggling networks in the Southern Central Mediterranean', Council doc. 8802/15, 12 May. Available online at: <https://wikileaks.org/eu-military-refugees/press.html>. Last accessed: 9 October 2017.
- EEAS (2015b) 'Recommendations on the draft Crisis Management Concept for a possible CSDP operation to disrupt human smuggling networks in the Southern Central Mediterranean', Council doc. 8824/15, 12 May. Available online at: <https://wikileaks.org/eu-military-refugees/press.html>. Last accessed: 9 October 2017.
- EEAS (2016a) 'EUNAVFORMED – Operation Sophia Six Monthly Report: 22 June to 31 December 2015', Working Doc. EEAS(2016) 126, 17 February. Available online at: <https://wikileaks.org/eu-military-refugees/EEAS/EEAS-2016-126.pdf>. Last accessed: 9 October 2017.
- EEAS (2016b) 'EUNAVFORMED – Operation Sophia Six Monthly Report: 1 January to 31 October 2016', Working Doc. EEAS(2016) 1587, 30 November. Available online at: <http://statewatch.org/news/2016/dec/eu-council-eunavformed-jan-oct-2016-report-restricted.pdf>. Last accessed: 9 October 2017.
- EPSC (2017) 'Irregular Migration via the Central Mediterranean'. EPSC Strategic Notes, Issue 22.
- EUobserver* (2015) 'EU Border Chief Wants Protection From Armed Smugglers', *EUobserver*, 28 May. Available online at: <https://euobserver.com/justice/128875>. Last accessed: 9 October 2017.
- EUobserver* (2016a) 'NATO Enters the Migration Control Business', *EUobserver*, 18 February. Available online at: <https://euobserver.com/opinion/132309>. Last accessed: 9 October 2017.
- EUobserver* (2016b) 'NATO to Take Migrants Back to Turkey, If Rescued', *EUobserver*, 23 February. Available online at: <https://euobserver.com/foreign/132418>. Last accessed: 9 October 2017.
- European Commission (2014) 'Frontex Joint Operation 'Triton'—Concerted Efforts to Manage Migration in the Central Mediterranean', MEMO, 7 October.
- European Commission (2015) 'European Agenda on Migration', COM(2015) 240, 13 May.
- European Commission (2016) 'Progress Report: Fourth Report on the Progress made in the implementation of the EU-Turkey Statement', COM(2016) 792, 8 December.
- European Council (1999) 'Tampere Conclusions', Unnumbered, 15–16 October. Available online at: http://www.europarl.europa.eu/summits/tam_en.htm. Last accessed: 9 October 2017.
- European Council (2013) 'Presidency Conclusions', EUCO 169/13, 25 October.
- European Council (2015a) 'Statement', EUCO/18/15, 23 April.
- European Council (2015) 'Presidency Conclusions', EUCO 22/15, 26 June.
- European Council (2015b) 'Ten-point Action Plan on Migration', Press Release IP-15-4813, 20 April.
- European Council (2016a) 'Bratislava Declaration and Roadmap', Statements and Remarks 517/16, 16 September. Available online at: <http://www.consilium.europa.eu/media/21250/160916-bratislava-declaration-and-roadmapen16.pdf>. Last accessed: 9 October 2017.
- European Council (2016b) 'EU-Turkey Statement', Press Release 144/16, 18 March. Available online at: <http://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/pdf>. Last accessed: 9 October 2017.
- European Council (2017) 'Malta Declaration', 3 February. Available online at: <http://www.consilium.europa.eu/en/press/press-releases/2017/01/03-malta-declaration/>. Last accessed: 9 October 2017.

- EUROSTAT (2015) 'Infographic: Asylum Applications 2014', June. Available online at: <http://ec.europa.eu/eurostat/news/themes-in-the-spotlight/asylum>. Last accessed: 9 October 2017.
- EUROSTAT (2017) 'Statistics on Enforcement of Immigration Legislation', 19 July. Available online at: http://ec.europa.eu/eurostat/statistics-explained/index.php/Statistics_on_enforcement_of_immigration_legislation. Last accessed: 9 October 2017.
- Extraordinary European Council (2011) 'Declaration', EUCO 7/1/11/REV1, 20 April.
- Fargues, F. and Di Bartolomeo, A. (2015) 'Drowned Europe'. MPC Policy Brief, 2015/05.
- Fassin, D. (2007) 'Humanitarianism: A Nongovernmental Government'. In Feher, M. (ed.) *Non-governmental Politics* (New York: Zone Books), 149–60.
- Fassin, D. (2012) *Humanitarian Reason* (Berkeley, CA: UCA Press).
- Franko Aas, K. and Gundhus, H.O.I. (2015) 'Policing Humanitarian Borderlands: Frontex, Human Rights and the Precariousness of Life'. *British Journal of Criminology*, Vol. 55, pp. 1–18.
- Frontex (2006) 'General Report' (Warsaw: Frontex). Available online at: <http://frontex.europa.eu/about-frontex/governance-documents/2006>. Last accessed: 9 October 2017.
- Frontex (2007a) 'A Sequel of Operation HERA Just Starting', Press Release, 15 February. Available online at: <http://frontex.europa.eu/news/a-sequel-of-operation-hera-just-starting-uy631h>. Last accessed: 9 October 2017.
- Frontex (2007b) 'HERA III Operation', Press Release, 13 April. Available online at: <http://frontex.europa.eu/news/hera-iii-operation-It9SH3>. Last accessed: 9 October 2017.
- Frontex (2007c) 'General Report' (Warsaw: Frontex). Available online at: <http://frontex.europa.eu/about-frontex/governance-documents/2007>. Last accessed: 9 October 2017.
- Frontex (2009a) 'HERA 2008 and NAUTILUS 2008 Statistics', Press Release, 17 February. Available online at: <http://frontex.europa.eu/news/hera-2008-and-nautilus-2008-statistics-oP7kLN>. Last accessed: 9 October 2017.
- Frontex (2009b) 'General Report' (Warsaw: Frontex). Available online at: <http://frontex.europa.eu/about-frontex/governance-documents/2009>. Last accessed: 9 October 2017.
- Frontex (2011a) 'General Report' (Warsaw: Frontex). Available online at: <http://frontex.europa.eu/about-frontex/governance-documents/2011>. Last accessed: 9 October 2017.
- Frontex (2011b) *Hermes 2011*, Frontex Archive of Operations, Undated. Available online at: <http://frontex.europa.eu/operations/archive-of-operations/aWEw6x?slug=hermes>. Last accessed: 9 October 2017.
- Frontex (2011c) 'Update Joint Operation Hermes 2011', Press Release, 11 March. Available online at: <http://frontex.europa.eu/news/update-to-joint-operation-hermes-2011-7DII LZ>. Last accessed: 9 October 2017.
- Frontex (2014a) 'Frontex Launches Call for Participation in JO Triton', Press Release, 26 September. Available online at: <http://frontex.europa.eu/news/frontex-launches-call-for-participation-of-the-eu-member-states-in-joint-operation-triton-b9nupQ>. Last accessed: 9 October 2017.
- Frontex (2014b) 'General Report' (Warsaw: Frontex). Available online at: <http://frontex.europa.eu/about-frontex/governance-documents/2014>. Last accessed: 9 October 2017.
- Frontex (2015a) 'Annual Report on the Implementation of EU Regulation 656/2014 of the European Parliament and of the Council of 15 May 2014 establishing rules for the surveillance of the external sea borders'. Reg. No. 15069 (Warsaw: Frontex). Available online at: <http://frontex.europa.eu/about-frontex/governance-documents/2015>. Last accessed: 9 October 2017.
- Frontex (2015b) 'General Report' (Warsaw: Frontex). Available online at: <http://frontex.europa.eu/about-frontex/governance-documents/2015>. Last accessed: 9 October 2017.
- Fundamental Rights Agency (2015) *Legal Entry Channels to the EU for Persons in Need of International Protection: A Toolbox*, March. Available online at: <http://fra.europa.eu/en/publication/2015/legal-entry-channels-eu-persons-need-international-protection-toolbox>. Last accessed: 9 October 2017.

- The Guardian* (2015a) 'Migrant Boat Disaster: Rescue Hopes Led to Sinking in Mediterranean', 15 April. Available online at: <http://www.theguardian.com/world/2015/apr/15/migrant-boat-sinks-mediterranean-passengers>. Last accessed: 9 October 2017.
- The Guardian* (2015b) '700 Migrants Feared Dead in Mediterranean Shipwreck', 19 April. Available online at: <http://www.theguardian.com/world/2015/apr/19/700-migrants-feared-dead-mediterranean-shipwreck-worst-yet>. Last accessed: 9 October 2017.
- The Guardian* (2015c) 'EU Borders Chief Says Saving Migrants' Lives 'Shouldn't Be Priority' For Patrols', 22 April. Available online at: <http://www.theguardian.com/world/2015/apr/22/eu-borders-chief-says-saving-migrants-lives-cannot-be-priority-for-patrols>. Last accessed: 9 October 2017.
- The Guardian* (2016) 'NATO Launches Naval Patrols to Return Migrants to Turkey', 11 February. Available online at: <https://www.theguardian.com/world/2016/feb/11/nato-launches-naval-patrols-to-return-migrants-to-turkey>. Last accessed: 9 October 2017.
- Guild, E. (2009) *Security and Migration in the 21st Century* (London: Polity).
- Hathaway, J.C. (1992) 'The Emerging Politics of *Non-Entrée*'. *Refugees*, Vol. 91, pp. 40–1.
- Human Rights Watch (2009) 'Pushed Back, Pushed Around', 21 September. Available online at: <http://www.hrw.org/en/node/85582/section/9>. Last accessed: 9 October 2017.
- Huysmans, J. (2000) 'The European Union and the Securitization of Migration'. *JCMS*, Vol. 38, No. 5, pp. 751–77.
- Huysmans, J. (2006) *The Politics of Insecurity* (London/New York: Routledge).
- iMap (2016) developed by Frontex, ICMPD and Europol. Available online at: <http://www.imap-migration.org>. Last accessed: 9 October 2017.
- Immigration Law Practitioners Association (IPLA) (2009) Letter Ref. 12425/19 Dec. 2008.
- The Intercept* (2016) 'Shoot First: Coast Guard Fired at Migrant Boats, European Border Agency Documents Show', 22 August. Available online at: <https://theintercept.com/2016/08/22/coast-guard-fired-at-migrant-boats-european-border-agency-documents-show/>. Last accessed: 9 October 2017.
- IOM (International Organisation for Migration) (2017) *Missing Migrants Project*, 9 October. Available online at: <https://missingmigrants.iom.int/mediterranean>. Last accessed: 9 October 2017.
- Italian Ministry of Interior (2011) 'Immigrazione, siglato l'accordo tra Italia e Tunisia', 6 April. Available online at: <http://www.regioni.it/news/2011/04/06/immigrazione-siglato-laccordo-tra-italia-e-tunisia-48788/>. Last accessed: 9 October 2017.
- Jeandesboz, J. and Pallister-Wilkins, P. (2014) 'Crisis, Enforcement and Control at the EU Borders'. In Lindley, A. (ed.) *Crisis and Migration* (London: Routledge), 115–35.
- Jeandesboz, J. and Pallister-Wilkins, P. (2016) 'Crisis, Routine, Consolidation: The Politics of the Mediterranean Migration Crisis'. *Mediterranean Politics*, Vol. 21, No. 2, pp. 316–20.
- JHA Council (2013) Council doc. 14612/13, 10 October.
- Kennedy, D. (2004) *The Dark Sides of Virtue* (Princeton, NJ: Princeton University Press).
- Kernerman, G. (2008) 'Refugee Interdiction Before Heaven's Gate'. *Government and Opposition*, Vol. 43, No. 2, pp. 230–48.
- Leggeri, F. (2016) 'Letter by Frontex Executive Director, on Recurrent Use of Weapons by Coast Guards within Frontex Operations', LAU/MAPE/18824b/2016.
- Lemberg-Pedersen, M. (2017) 'Effective Protection or Effective Combat? EU Border Control and North Africa'. In Gaibazzi, P., Dünnwald, S. and Bellagamba, A. (eds) *EurAfrican Borders and Migration Management* (Basingstoke: Palgrave Macmillan), 29–60.
- Léonard, S. (2010) 'EU Border Security and Migration into the European Union: Frontex and Securitisation through Practices'. *European Security*, Vol. 19, No. 2, pp. 231–54.
- Malmström, C., JHA Commissioner, (2011) 'Letter to the Hungarian Presidency', ARES(2011) 413505.

- Migration Policy Institute ('MPI') (2015) *Before the Boat: Understanding the Migrant Journey*, May. Available online at: <http://www.migrationpolicy.org/research/boat-understanding-migrant-journey>. Last accessed: 9 October 2017.
- Moreno-Lax, V. (2011) 'Seeking Asylum in the Mediterranean: Against a Fragmentary Reading of EU Member States' Obligations Accruing at Sea'. *International Journal of Refugee Law*, Vol. 23, No. 2, pp. 174–220.
- Moreno-Lax, V. (2012) '*Hirsi v Italy* or the Strasbourg Court v Extraterritorial Migration Control?' *Human Rights Law Review*, Vol. 12, No. 3, pp. 574–98.
- Moreno-Lax, V. (2016) 'Europe in Crisis'. Red Cross EU Office Study, 5 February. Available online at: <https://redcross.eu/positions-publications/europe-in-crisis-facilitating-access-to-protection-discarding-offshore-processing-and-mapping-alternatives-for-the-way-forward>. Last accessed: 9 October 2017.
- Moreno-Lax, V. (2017) *Accessing Asylum in Europe* (Oxford: Oxford University Press).
- Mountz, A. (2010) *Seeking Asylum* (Minneapolis: University of Minnesota Press).
- NATO (2016a) 'NATO Defence Ministers Agree on NATO support to assist with the Refugee and Migrant Crisis', Press Release, 11 February. Available online at: http://www.nato.int/cps/en/natohq/news_127981.htm. Last accessed: 9 October 2017.
- NATO (2016b) 'NATO launches new Operation Sea Guardian', Press Release, 9 November. Available online at: http://www.nato.int/cps/en/natohq/news_137427.htm. Last accessed: 9 October 2017.
- Neal, A.W. (2009) 'Securitization and Risk at the EU Border: The Origins of Frontex'. *Journal of Common Market Studies*, Vol. 47, No. 2, pp. 333–56.
- Neilson, B. (2010) 'Between Governance and Sovereignty: Remaking the Borderscape to Australia's North'. *Local-Global Journal*, Vol. 8, pp. 124–40.
- Niemann, A. and Speyer, J. (2017) 'A Neofunctionalist Perspective on the 'European Refugee Crisis': The Case of the European Border and Coast Guard'. *JCMS*, Vol. 56, No. 1, pp. 23–43.
- Niemann, A. and Zaun, N. (2017) 'Introduction: EU Refugee Policies in Times of Crisis'. *JCMS*, Vol. 56, No. 1, pp. 3–22.
- O'Reilly, E. (2016) Letter by Mrs O'Reilly, EU Ombudsman, and Mr Muiznieks, Council of Europe Commissioner for Human Rights, to Mr Leggeri, Executive Director of Frontex, 23 September. Available online at: <http://www.statewatch.org/news/2016/sep/eu-frontex-ep-letter.pdf>. Last accessed: 9 October 2017.
- Pallister-Wilkins, P. (2015) 'The Humanitarian Politics of European Border Policing: Frontex and Border Police in Evros'. *International Political Sociology*, Vol. 9, pp. 53–69.
- Pallister-Wilkins, P. (2016) 'Interrogating the Mediterranean 'Migration Crisis''. *Mediterranean Politics*, Vol. 21, No. 2, pp. 311–15.
- Pallister-Wilkins, P. (2017) 'Humanitarian Rescue/Sovereign Capture and the Policing of Possible Responses to Violent Borders'. *Global Policy*, Vol. 8, No. 1, pp. 19–24.
- Perkowski, N. (2012) 'A Normative Assessment of the Aims and Practices of the European Border Management Agency Frontex', RSC Working Paper Series, No. 81.
- Perkowski, N. (2016) 'Deaths, Interventions, Humanitarianism and Human Rights in the Mediterranean 'Migration Crisis''. *Mediterranean Politics*, Vol. 21, No. 2, pp. 331–5.
- Pollak, J. and Slominski, P. (2009) 'Experimentalist but not Accountable Governance? The Role of Frontex in Managing the EU's External Borders'. *West European Politics*, Vol. 32, No. 5, pp. 904–24.
- Rajaram, P.K. and Grundy-Warr, C. (eds) (2007) *Borderscapes* (Minneapolis: University of Minnesota Press).
- Ramboll Management Consulting (2015) 'External Evaluation of the Agency under Article 33 of the Frontex Regulation', July. Available online at: <http://frontex.europa.eu/assets/>

- Publications/General/Final_Report_on_External_Evaluation_of_Frontex.pdf. Last accessed: 9 October 2017.
- Rijppma, J. (2010) 'Frontex: Successful Blame Shifting of the Member States?' Real Instituto Elcano, ARI 69/2010, 13 April.
- Rijppma, J. (2013) 'The Patrolling of the European Union's External Maritime Border: Preventing the Rule of Law from Getting Lost at Sea'. In Del Vecchio, A. (ed.) *International Law of the Sea* (The Hague: Eleven Publishing), 77–99.
- Rijppma, J. (2016) 'Frontex and the European System of Border Guards'. In Fletcher, M. and Herlin-Karnell, E. (eds) *The European Union as an Area of Freedom Security and Justice* (London: Routledge), 217–44.
- Rijppma, J. and Vermeulen, M. (2015) 'EUROSUR: Saving Lives or Building Borders?' *European Security*, Vol. 24, No. 3, pp. 454–72.
- Ripoll Servent, A. (2017) 'A New Form of Delegation in EU Asylum: Agencies as Proxies of Strong Regulators'. *JCMS*, Vol. 56, No. 1, pp. 83–100.
- Sea-Watch (2016) 'Sea-Watch is Pressing Charges against Libyan Coast Guard', 16 November. Available online at: <https://sea-watch.org/en/sea-watch-is-pressing-charges-against-libyan-coast-guard/>. Last accessed: 9 October 2017.
- Sea-Watch (2017) 'Libyan Navy is Putting Sea-Watch Crew and Refugees into Danger during an Illegal Return Operation', 10 May. Available online at: <https://sea-watch.org/en/libyan-navy-is-putting-sea-watch-crew-and-refugees-into-danger-during-an-illegal-return-operation/>. Last accessed: 9 October 2017.
- Slominski, P. (2013) 'The Power of Legal Norms in the EU's External Border Control'. *International Migration*, Vol. 51, No. 6, pp. 41–53.
- Ticktin, M. (2011) *Casualties of Care* (Berkeley, CA: UCA Press).
- UKHL (United Kingdom House of Lords) (2016) *Operation Sophia, the EU's Naval Mission in the Mediterranean: An Impossible Challenge*, 14th Report - Session 2015–16 (London: UKHL) 13 May.
- UNHCR (United Nations High Commissioner for Refugees) (2009) 'UNHCR interviews asylum seekers pushed back to Libya', Press Release, 14 July. Available online at: <http://www.unhcr.org/news/briefing/2009/7/4a5c638b6/unhcr-interviews-asylum-seekers-pushed-libya.html>. Last accessed: 9 October 2017.
- UNHCR (2011) 'Hundreds Risk Return to Libya in Bid to Reach Europe by Boat', 17 May. Available online at: <http://www.unhcr.org/4dd27eea9.html>. Last accessed: 9 October 2017.
- Van Houtum, H. and Van Naerssen, T. (2002) 'Bordering, Ordering and Othering'. *Tijdschrift voor Economische en Sociale Geografie*, Vol. 93, No. 2, pp. 125–36.
- Van Reekum, R. (2016) 'The Mediterranean: Migration Corridor, Border Spectacle, Ethical Landscape'. *Mediterranean Politics*, Vol. 21, No. 2, pp. 336–41.
- Vaughan-Williams, N. (2014) "'We are Not Animals!'" Humanitarian Border Security and Zoopolitical Spaces in Europe'. *Political Geography*, Vol. 45, pp. 1–10.
- Wæver, O. (1995, 1995) 'Securitization and De-securitization'. In Lipschutz, R.D. (ed.) *On Security* (New York: Columbia University Press), 46–87.
- Walters, W. (2011) 'Foucault and Frontiers: Notes on the Birth of the Humanitarian Border'. In Brockling, U., Krasmann, S. and Lemke, T. (eds) *Governmentality* (London: Routledge), 138–64.
- Williams, J. (2016) 'The Safety/Security Nexus and the Humanitarianisation of Border Enforcement'. *The Geographical Journal*, Vol. 182, No. 1, pp. 27–37.