The Backlash Against Human Rights In The Mediterranean:

A Case Study of Relations Between Non-State Actors and the Italian State

by

Amalia Ordóñez Vahí

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Professor Roy Germano

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Professor Anna Di Lellio

A migrant boat is assisted by the Spanish NGO Proactiva Open Arms in October 2016 ©Aris Messinis

"'Are all these deaths really necessary?' is the question we systematically address to political powers. Why? Because we have taken the arbitrary and radical decision to help the people society has decided to sacrifice… Consequently, if humanitarian action is to be consistent, it will inevitably clash with the established order.

Jean Hervé Bradol, Former President of Doctors Without Borders France

Abstract

The year 2015 has become known as the beginning of the so-called "refugee crisis" in Europe, as over a million people arrived in the continent, mostly by crossing the Mediterranean and the Greek border. Figures from the United Nations High Commissioner for Refugees (UNHCR) for subsequent years show yearly arrivals ranging steadily between 300,000 and 120,000.

With the central Mediterranean being the busiest route, and after a series of high-profile shipwrecks, Italy launched a naval operation aimed at rescuing those attempting the sea crossing. A number of NGOs and civil society initiatives started to launch their own rescue missions to support the Italian effort, and in the absence of a common European operation. When Italy asked for more help from the EU, the response was to launch a security mission with no mandate for search and rescue, while the EU signed agreements with countries that international and human rights organizations deem unsafe, like Libya. While the aim of such agreements was deterrence, figures show that migration flows in the Mediterranean have remained steady, as the route became increasingly dangerous due to the lack of rescue operations.

The NGOs and civil society operations have thus become advocates for a legal and safe passage that enables migrants to reach Europe and prevents more deaths. They have pressured the states and the EU to comply with international legal obligations of rescue and assistance. Yet, in spite of this effort, the response, particularly of the Italian state, has consisted of backlash and criminalization.

This thesis examines the process leading to that backlash, and the interactions between state and non-state actors in relation to the migration context and the existing international legal framework.

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1.   Introduction

As of April 2020, the statistics compiled by the International Organization for Migration show that 16,351 persons[1] had crossed the Mediterranean and arrived in European shores since the beginning of the year. An estimate of 241 persons have lost their lives crossing the Mediterranean since the beginning of 2020. Although figures differ between different organizations and it does not seem to be possible to reach an exact count of arrivals and casualties, the Mediterranean –and especially the Central Mediterranean –has been considered the deadliest and busiest migration route in the world since 2014.[2] The frequent presence of the issue in media and political discourses has contributed to the creation of an emergency imaginary in the public mindset.

This thesis examines the intricacies of humanitarian rescue in what has become a highly politicized space, the Mediterranean Sea, and particularly in Italy. The country's unique political context, combined with the pressure of large migration flows and the lack of a homogeneous European response have turned the Mediterranean into a "humanitarian battlefield".[3]

In Italy, the development of this battlefield has undergone different stages, starting with state-led rescue efforts through its naval assets, shifting to the collaboration between political actors and non-governmental organizations, through the deployment of military operations to deter migration, and eventually leading to the withdrawal of institutional rescue operations and a politics of persecution and criminalization of rescue by non-state actors that emerged in this space as the official withdrawal left a rescue void. This thesis analyzes the process of backlash from the Italian state against

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[1] Figures from the Missing Migrants Project are approximate and data sets include from Spain, Italy, Cyprus, and Greece. Specific chart and comparisons with data from previous years can be accessed here: https://missingmigrants.iom.int/region/mediterranean
[2] The phrase "deadliest migration route" is often used to refer to the Mediterranean by human rights organizations like Human Rights Watch and Doctors Without Borders, as well as by think tanks, academics, and the media.
[3] This phrase used to refer to the Mediterranean was coined by Pierluigi Musarò, Associate Professor of Sociology at the Department of Sociology and Business Law and at the School of Political Science, University of Bologna.

the non-state actors carrying out rescue operations. While these organizations have defended their operations as fulfilling rescue duties established by international law, their missions have faced increased obstacles imposed by the Italian state, in what the organizations have denounced as a failure to meet the state's obligations under the international legal framework. As the case studied in this thesis shows, the state's stance has gone beyond unfulfillment, as it has actively prevented the organizations' operation in its territorial waters and the disembarkation in Italian soil of migrants rescued by the organizations' vessels.

How is it possible to understand this process of reversal in international human rights commitments in Italy, a state with an established democracy, rule of law, and which has been part of international human rights conventions and treaties for years?

The first way to look at this question is through the theoretical frameworks underpinning the processes of norm creation, diffusion, and socialization, as well as the influence of non-state actors over state policies. The role of the organizations included in this analysis is examined through their belonging in transnational advocacy networks that monitor states' actions and pressure them to comply with their international obligations.

Another angle from which to analyze the question is the intersection between sovereignty and migration, which helps to explain why states decide to take a step back on their commitments to international laws and norms. States allude to sovereignty as their fundamental prerogative, the inalienable power to control their territory and population. In the face of immigration, which is portrayed as an urgent threat to the state's territorial and population integrity, sovereignty is used to account for policies to control the entry of strangers into its territory and population. Often, states do so at the

expense of universally accepted human rights standards and laws to which the states are bound because states themselves have agreed so. In order to be able to circumvent those commitments without facing real consequences, framing of the issue is essential. This study examines how framing rescue in the Mediterranean as assisting the business of people smugglers helped the Italian state legitimize its attacks on the organizations carrying out the rescues and ground them in legislation.

Thirdly, the framing of the migratory flows into Italy as a humanitarian emergency helped create a sense of crisis and urgency demanding immediate action. The emergency framing has been used by state and non-state actors alike to serve different purposes. NGOs and civil society organizations used it to advocate for state rescue and new norms guaranteeing safe and legal migration into Europe. The emergency also propelled the rise of the populist far-right led by Matteo Salvini, who, portraying immigrants as threats and invaders in a crisis setting aided by the rescue NGOs, led a persecution campaign against them, which culminated in the institutionalized criminalization of rescue.

This thesis explores this process of backlash and persecution, with the aim of understanding the complexities involved in the politics of human rights involving migration, international norms, and humanitarian emergencies. To do so, it starts with a theoretical examination of the three angles described above, which are then applied through a case study to the context of rescue in the Mediterranean and the clash between state and non-state actors.

2.   Literature review

2.1 Transnational networks, civil society activism, and NGO influence

Transnational advocacy networks and their influence can be best analyzed from two theoretical points of view: liberalism and constructivism. Both frameworks developed in parallel to the growth of international non-state actors and norms and thus contested realism's state-centric approach. In a globalized, interconnected world, liberal and constructivist theories account for the variety of actors, aside from the state, intervening and defining international relations. These theories stress the role of cooperation between state and non-state actors and the importance of norms as opposed to the sole importance of national interest and state sovereignty. For these schools of thought, state interest and sovereignty are not only relegated by interdependence, but these concepts are open to change due to the influence of non-state actors. The advent of international institutions and international norms like human rights, or in this context, asylum and refugee norms, and the emergence and increased presence of transnational advocacy networks and NGOs since the second half of the 20th Century, question the primacy of the state and show how the international setting shall be analyzed taking into account the wide range of actors operating in it.

This is what Peterson (1992) does, as he dismisses state-centric views of world politics and contextualizes the relations between state and civil society in a transnational setting, explaining how issues spread among civil society actors from different national settings, and facing different levels of constraint. While this piece has some limitations due to the context in which it was written, as the author points how civil society evolves in the post-Soviet setting, most of the theoretical points he makes are still relevant: the fact that the state no longer monopolizes the public sphere, and that there is an international

society of "interlinked civil societies" (Ibid., pp. 375-376). These transnational actors are both very different and symbiotic, and their activities still depend on the states' consent. In spite of the increased presence of non-state actors, this does not mean that the state has lost its clout; states, he claims, "are not giving up their prerogatives," instead, they face evolving structures of political, economic and social relations, which are influenced and shaped by the networks operating in the international civil society (Ibid., p. 379).

Where liberalism stresses the symbiotic cooperation and interdependence among states, institutions, and non-state actors, constructivism highlights the defining role of norms, identities and values underpinning those relations. Keck and Sikkink (1998) put special emphasis on the idea that non-state actors promote norms that are incorporated into state practice through a series of advocacy and pressure tactics and eventually define the interactions between all the actors in domestic and international arenas (pp. 34-35). They differentiate between transnational actors and transnational advocacy networks (TANs): the former may contribute to reinforcing existing norms and paradigms, while transnational advocacy networks challenge them, redefine them, and negotiate new norms and cultural meanings. These authors define TANs as "actors who share specific values, principled beliefs, and a common discourse," (p. 2), who act motivated by these values and by the conviction that individuals can make a difference, as opposed to a rationalist idea of interests. In that regard, the contrast between transnational advocacy groups and the state defines their interactions, given the apparent dichotomy of human rights for most states: while enforcement of these norms is rarely in the state's interest, it is in their interest to "identify publicly with these norms" (Cárdenas 2007, p. 138).

These networks are horizontal, and their power resides precisely in those shared values and ideas, and the creative use of information and sophisticated political strategies to advance them. From a theoretical point of view, this constructivist approach explains the importance of norms, social relations, and values, while liberalism adds the importance of non-state actors in an interdependent world.

It is important to distinguish here between norms and laws. Weiner defines norms as "[agreed upon] principles of action that serve to guide, control or regulate proper and acceptable behavior […] upon members of a group" (1998, p. 434). Norms are different from laws in terms of the consequences of non-compliance: while in the case of unlawful behavior violators face criminal or civil punishment, in the case of norms, the consequences are shame and ostracism. (Ibid.) This distinction becomes especially relevant in the context of non-state actors, which posit not just norms related to ethics, morality and solidarity, but also the respect of existing laws, especially within the international law regime. It is precisely into this regime that norms have traditionally penetrated and cascaded, creating the wide range of international law mechanisms existing to govern the relations not primarily between states, but between states, individuals and non-state actors (Ibid., p. 435). The cascading is thus made possible first by the translation of norms into laws and standardized practices, and second by the desire of states to avoid being singled out for not following those norms.

The "boomerang pattern" conceived by Keck and Sikkink (1998) argues that a non-compliant actor is pressed to comply by other actors' rule-abiding conduct. Because transnational advocacy networks are not as powerful as states, the authors explain the four strategies they use to mobilize audiences around the ideas they are promoting:

information politics, symbolic politics, leverage politics, and accountability politics. In short, the transnational advocacy networks' actions are aimed at demanding responsibility from governments and pressuring them to change their behavior. Representing weaker actors before states, the networks frame the issues as straightforward moral dilemmas: there is right and wrong, and the states are doing wrong with their behavior that does not comply with internationally-accepted norms. NGOs are able to "mobilize shame" (Ibid., p. 23) because states care about their external image and credibility, so in theory, being shamed in this way should pressure them to change their approach to the issue. In the case of states not following those norms, transnational advocacy networks oppose and expose the state; however, simultaneously, they help the state achieve their aspiration of publicly identifying with human rights compliance, by pressuring and influencing them to abide by those rules. Following the boomerang pattern, because states do not want to be shamed and ostracized for their unruly behavior, they tend to accept those norms.

In terms of the influence of transnational advocacy networks, Keck and Sikkink claim that it can be divided into influence on agenda-setting, discursive positions, institutional procedures, policy change, and state behavior. The process of changing behaviors explained by the constructivist theorists of the boomerang pattern takes one step further from the liberal notion of state preferences. While both theories have in common the emphasis on the role of state-society relations in shaping state preferences and actions, liberals limit state consent to change as a result of changes to their own preferences and context (Moravcsik, 1997); constructivists argue that the transformation on state behavior is a result of "intersubjective construction of frames of meaning, […] the negotiation and malleability of states and interests" (Keck and Sikkink, 1998, p. 4). Further to this, the constructivist argument claims that, through transnational advocacy

networks, individuals and civil society can shape not only the preferences of their own states, but also of individuals and civil society groups in other states and, subsequently, the preferences of other states (Ibid., p. 214).

However, within constructivism different viewpoints point at varying degrees of asymmetry in state-society relations. While Keck and Sikkink develop ideas of how transnational advocacy networks can influence and shape state power, and provide examples of movements that have succeeded in transforming the discourse and norms, other authors, like Risse (2007, pp. 260-261) are careful to point that state-society relations shall be analyzed more in terms of interactions in bidirectional relationship. From this premise, the author then considers how each party affects each other in this mutual relationship, as such bi-directionality varies among different national settings based on legal, socioeconomic and historical backgrounds. According to Risse, transnational advocacy groups and international NGOs are not necessarily opposed to the state system, in fact, non-state actors usually rely on state funding, and in other cases, they provide information and capabilities to states. Yet, despite the varying degrees of bi-directionality of this relationship, he agrees that transnational advocacy networks and NGOs have an impact on world politics, and wonders why this is the case, and under what conditions this influence takes place. Risse points at international, institutional and domestic conditions, the linkages between the international and the national, and the transnational advocacy networks' strategies for socialization (Ibid., pp. 266-274). He engages with realist views that states only promote what he calls "soft norms" (human rights) if it is in their own economic and security interests, and considers that there are instances (like the cases presented by Keck and Sikkink) in which transnational advocacy networks have managed to impact state policies despite

state opposition (the cases of environmental rights, or the landmine banning treaties). Risse challenges the realist view that in a clash between states and non-state actors, the former would always prevail. To have greater likelihoods of success and achieving more influence, he argues, transnational advocacy groups need to interact with states in the setting of international organizations, which act as mediators and sometimes encourage the transnational groups' activity. He states, however, that these settings, like the EU, only provide transnational advocacy groups with more direct access to states, and is by no means a guarantee of impact, which seems clear in the context of this analysis, as states within the EU have been repeatedly unable to produce a unified approach. Paying special attention to the social structure of the international system, Risse argues that the international structure is essential for the materialization of transnational advocacy networks' influence: norms go through a series of stages, and the non-state actors' influence varies along these stages.

The idea of the life cycle of norms was developed by Finnemore and Sikkink (1998), who claim that first norms emerge, then they are accepted and finally they are internalized. Throughout these three phases, transnational advocacy networks have their greatest weight in the emergence stage, as they denounce the issues and the cases of state non-compliance with already-accepted norms; in other words, transnational advocacy groups frame the issues and launch the campaigns aimed at setting the international agenda for change. This triggers a process in which the main responsibility passes again to the state, which is now in charge of accepting and implementing the norms. Once this cascade has finished and norms have been internalized, they acquire a "taken-for-granted quality" (Ibid., p. 904) and the public does not debate about them.

While the norm creation and socialization process should finish with this stage, a growing trend is emerging of backlash or counteraction to previously accepted norms, a phenomenon that the boomerang pattern did not consider.

In fact, this process of reversal or backlash is one of the main findings that Risse, Ropp and Sikkink (2013) discuss as they revisit the evolution of their initial optimism around the impact of human rights norms on state behavior. The violations of these rights by countries that have traditionally been compliant challenges the basic propositions of the spiral model developed by the authors in their earlier work (Risse, Ropp, and Sikkink, 1999). Back then, the authors had presented the spiral model departing from the boomerang effect previously established by Sikkink and Keck (1998).

The spiral model is divided into five stages: a) *repression* activates the network of NGOs to denounce human rights violations, b) *denial*, in which the state refuses to accept those violations and resort to backlash, c) *tactical concessions*, in which the Government changes some behaviors at low cost, so as to content the NGOs pressuring it, d) *prescriptive status*, beginning of policy change, e) *rule-consistent behavior*, state changes behavior and is compliant with human rights norms. The authors allude to the cascading of norms proposed by Finnemore and Sikkink to explain the rapid advance of human rights; they point, however, that despite the growth in treaty ratification, this does not necessarily translate into compliance, as a matter of fact, in many cases right violations happen more often in states that have ratified human rights treaties (Risse, Ropp and Sikkink, 2013, p. 10).

According to the spiral model, democratic regimes either mostly comply with human rights or otherwise commit violations due to a lack of capacity, i.e. because they are unable to control police or military forces. In fact, in the original work, Risse and Ropp

(1999, p. 266) claimed that human rights norms had reached "consensual ('prescriptive') status," a consensus that entailed that sovereignty would no longer be "invoked to fight off accusations of severe human rights violations." However, as the authors themselves stated when revisiting this concept over a decade later, states considered compliant under the benchmarks of consolidated democracy and statehood may also commit violations of human rights. In this regard, Cárdenas (2007, p. 22) had claimed that a state with a robust system of rule of law is more likely to comply with its commitments because for them the stakes are higher in terms of international reputation.

Reviewing their spiral model, the proponents acknowledge that in developing this approach they had underestimated the possibility of states stagnating in the model, or even of reversal and backlash of their human rights commitments, citing the example of the US during the War on Terror, even when these commitments "are deeply embedded in both international law and domestic law" (Sikkink, 2013, p. 145). The example of the US shows how a Government can ignore pressure from domestic and international non-state actors by arguing a counter-norm that justifies its lack of a moral imperative to yield to the pressures (in the case of the US, the anti-terrorism norm, in the case of EU state, anti-smuggling). This, however, doesn't completely invalidate the spiral model, as even in cases of backlash by previously norm-abiding states, the democratic nature of these states allows for pressures from NGOs and human rights organizations to denounce those violations and demand accountability. Sikkink explains how states need to be morally vulnerable to those demands, which is difficult in the case of powerful states, which can compromise previous commitment to international norms and laws on the basis of security and sovereignty. Taking the American example, she concludes that many factors intervene to redirect the country's

path within the spiral model: a combination of sustained pressures, a change in the Administration, and the passage of time.

Finally, along these lines, Jetschke and Liese (2013) claim that sovereignty is the most common justification for human rights violations among states, which use sovereignty as a "counter-frame" to the spiral model logic, thereby legitimizing repression against NGOs (Ibid., pp. 37-39). They add that, by depicting the victims of those human rights violations as "perpetrators," "terrorists" or "evil," and portraying the human rights NGOs as "extensions of these movements" (Ibid., p. 41), states manage to delegitimize the pressure and advocacy from these actors. While the spiral model remains highly valid, its main shortcoming is that it originally overlooked the fact that, regardless of many successes in different movements, in reality, human rights norms are often subdued to state action even in well-established democracies, which suggests that the clash between state sovereignty and human rights remains ongoing and unsolved.

The spiral model has become the paradigm that expanded the theoretical and practical underpinnings of the boomerang pattern, and it has become the reference model for scholars attempting to study compliance and socialization of human rights norms. However, it seems clear now that the model requires to be adapted to the current context of globalization of international politics and relations, to account for new security paradigms and models of inter-state and intergovernmental relations, factoring in the connectedness of social movements, and non-state actors, and the mobility of persons and ideas.

2.2. State sovereignty, human rights, and migration

This section analyzes literature on the intersection between state sovereignty, human rights, and migration, paying special attention to the universal nature of human rights vis-à-vis the pushback on migration and human rights by states claiming their right to sovereignty.

Discussions about migration and the nation-state are often connected with notions of state sovereignty over how states exercise their power to control territory and population. Hannah Arendt's claim that "sovereignty is nowhere more absolute than in matters of emigration, naturalization, nationality, and expulsion" has become a recurring catchphrase in scholar debates about migration and sovereignty (1979, p. 278). Migration scholars like Carens acknowledge the point often made by that "the power to admit or exclude aliens is inherent in sovereignty and essential for any political community" (1987, p. 251). Dauvergne (2004, p. 588) points that migration has become the "last bastion of sovereignty," a tool for states to assert themselves, their national identities and their own power vis-à-vis the arrivals of external individuals, who are considered 'illegal.' Illegal migration becomes a provocation to state sovereignty, as it shows a lack of state control over one if its core foundations, which is territorial integrity. At the same time, migration impinges on another core foundation of the nation-state, which is its identity, to which the state responds reasserting itself with the aid of the "illegal" categorization. The capacity to label individuals as illegal becomes a vehicle for exercising sovereignty. In doing so, citizenship, or legal migration status, becomes the parameter to define individuals, as opposed to humanity –a distinction that enables us "to discard human rights in favor of citizen rights" (Mills, 1996, pp. 77-78). However, the existence of international treaties to protect the rights of refugees and asylum seekers points that borders are not just permeable [which they are, not just to

the movement of persons, but also of goods, ideas, and capital (Brown, 2010, pp. 20-25)], but that states agree to such permeability by committing themselves to these international instruments.

Despite the existence of such legal instruments, the materialization of their provisions varies among countries. Dauvergne argues that the 1951 United Nations Convention relating to the Status of Refugees (hereinafter "the Refugee Convention"), the principle of *non-refoulement*, and other obligations derived from commitment to this treaty do not contest state sovereignty because states commit themselves to it willingly. Due to the configuration of the treaty, states exercise their sovereignty because they have a wide margin of decision over who to accept, and because states have been able to overlook the provisions without actual consequences (Ibid., pp. 597-598). In this context, thus, the advocacy and pressure from the NGOs become essential in demanding compliance with not just the Refugee Convention, but also the international law of the sea [provided for by the United Nations Convention on the Law of the Sea, the International Convention on Maritime Search and Rescue (SAR), and the International Convention for the Safety of Life at Sea (SOLAS)], the European Convention on Human Rights, and the Universal Declaration of Human Rights. While there is no question that states have exercised their sovereignty to adhere to these treaties, the implementation of those commitments requires states to make concessions that may go against states' material interests. In ensuring the protection provided by those instruments, as Dauvergne points, human rights law hasn't been able to surpass in practice the distinction between legal and illegal individuals that, as marked above, becomes one of the main expressions of state sovereignty. Therefore, even if states are held accountable to their human rights commitments by non-state actors, in reality,

those in the illegal sphere lack access to make a claim for their human rights. Hence, at least in terms of fulfilling these commitments, it seems that the state really becomes the ultimate bulwark of sovereignty.

The question of sovereign authority in relation to the progress of human rights the increase in mobility due to globalization, protracted conflicts and climate change has also been discussed by Sassen (1996, pp. 59-98). She underscores the shift in international law and institutions towards the recognition of the universal, inalienable nature of human rights, regardless of individuals' nationalities. This shift has been made possible by the increased liability of states under the human rights regime, due partly to the mediation and pressure of non-state actors towards compliance. She goes as far as to claim that in terms of social civic and certain political rights, immigrants "have diluted the meaning of citizenship" (Ibid., p.95).

From a cultural or sociological point of view, this might hold true, however, looking at the legal framework, the situation does not seem that optimistic for migrants. As Dauvergne points, in practice, the state has the ultimate discretionary power, through several treaties and conventions, to grant citizenship and asylum. She rightly points that, while individuals have an internationally-recognized right to *non-refoulement*, i.e., to not be forcibly returned to an unsafe place, there is no right to asylum, and states have discretionary power over asylum applications; therefore, in order to have access and receive from the state the protections granted by human rights, one has to be able to claim those protections. Sassen also adds that NGOs increasingly intercede on behalf of individuals to claim their human rights; which turns the state into an "apparatus of a transnational order based on human rights" (Ibid., p. 97). This transnational order, she claims, is reconfiguring the traditional power of the state, among others, through the

emergence of forces like human rights treaties and humanitarian groups and organizations. While this notion is in accordance with the idea that humanitarian organizations and NGOs challenge state sovereignty, the backlash of the states to the pressure coming from these forces seems to point at the fact that sovereignty is still thriving, in spite of increasingly porous borders.

The configuration of sovereignty as a web of state and institutional interdependence, human rights norms, global capitalism and movements of capital and persons is also discussed by Seyla Benhabib (2013, pp. 94-116). This new landscape, she argues, needs the presence of global civil society and NGOs to demand accountability from states that turn to militarization and criminalization as "defensive responses [...] to reassert their sovereignty]" (Ibid., p.102). The state, she states, continues to be the "principal public actor" responsible for human rights norms (Ibid., p.90), while international institutions and transnational actors like NGOs monitor compliance. For Sassen, the internationalization of human rights norms develops simultaneously to the weakening of state sovereignty. Drawing on from the constructivist approach, Cárdenas (2016) agrees with this transformation of sovereignty through the emergence of international human rights norms; the debate, she claims, is between those who see human rights as limiting state sovereignty and those who acknowledge that ultimately these commitments are mere talk and states end up "having the last word" (Ibid., p. 32). According to Cárdenas, sovereignty has been transformed not just by transnational activist networks, but also by national human rights institutions, as these become a "self-restraining" instrument of the state (p. 33). However, these institutions have become a target of criticism from NGOs, who as independent actors act as watchdogs of the state and its attempts to whitewash the human rights violations committed when

compliance is not in the state's best interest. This argument highlights the role NGOs play in monitoring, naming and shaming, and demanding accountability from the state and its apparatus. In this sense, the creation of national human rights institutions as an effort from the state to appease criticism can be linked to the tactical concessions stage of the spiral model described in the previous section.

Applying these notions to the realm of migration, Betts (2009, pp. 43-47) argues that the international recognition of notions like "refugee" represent both a challenge to the traditional conception of sovereignty as the territory-state-citizen triad and a shift away from it, towards a "recognition of the need of states to earn sovereignty through their respect for human rights" (p. 45). Framing the issue from a constructivist point of view, he adds that states' responses to migration are part of the process that creates and defines sovereignty, that is, by creating boundaries, processes of inclusion and exclusion and building the figure of the 'other' opposed to the national identity, states are developing their notion of sovereignty, which is therefore not a fixed concept, but a socially constructed one. In terms of the relation with human rights, Betts claims that the socialization of human rights norms shows that sovereignty is not absolute, but that states trade-off between human rights and their own sovereignty (p. 54). In terms of human rights norms and their relation with migration and sovereignty, the constructivist approach he comments on alludes to the creation, development and dissemination of norms on burden-sharing, and the role that international institutions and non-state actors would play in this process (p.90). However, this suggestion overlooks the potential opposition or backlash from states defending their sovereignty, which has repeatedly happened in Europe over the last five years, and highlights the entrenched tension between sovereignty and migration in the current context.

In response to the constructivist approach, realism would argue that migration weakens state sovereignty, because it is oppositional to national identity, the country's history, traditions, and its ideas of citizenship and nationality (Meyers, 2000, pp. 1251-1252). Yet, the main weakness of realism for analyzing this case is that it takes the state as the main actor and unit of analysis. However, in practice, human rights laws and norms applicable to migration, rescue, and asylum, regulate the relations between states and non-state actors. Nevertheless, realism can account for the focus on securitization and militarization in the name of national security (Ibid., p. 1265). In fact, Weiner (1992) has established five categories into which may fall the perceptions of migrants as threats to the receiving country: opposition to the Government of their home country (thereby compromising relations between home and host country); political or security threats (especially in terms of perceptions of terrorism in host countries); cultural or social threats (the often cited threat to national values and identity posed by the arrival of individuals with different cultural backgrounds); the economic or social threat (the alleged burden on social welfare networks and the purported competition for employment); and the use of migrants as hostages, or bargaining tool by the home country against the host.

From this realist point of view, Weiner (1996, pp. 171-197) also addresses the tension between immigration and state sovereignty emphasizing the "moral contradiction" between emigration, internationally recognized as a right, and immigration, which falls under host state sovereignty. About the argument in favor of policies that address the needs of immigrants and refugees, he claims that despite being more morally compelling, it is also "more difficult to formulate, more difficult to implement, and legally and politically more contentious." (Weiner, 1992, p. 126)

While he presents an interesting analysis of the moral arguments for open borders based on current inequalities and injustices, and the opposing views claiming the right to defend political and cultural membership in a society from strangers, Weiner does not make reference to the human rights commitments of states, which is an essential component of this equation. He has nonetheless considered the clash between national interest behind state decisions and the ethical and moral considerations behind the decisions of non-state actors, like humanitarian organizations (Weiner, 1998, p. 433).

In the context of this paper, by exercising their right to control migration, states are not just deviating from those previously accepted international norms, but they are also defaulting on their obligations under human rights and international law. In this regard, the Weiner points that "there cannot be international consensus on the question of whether governments should admit migrants," instead, the agreement is that there is no "obligation to admit migrants." (Weiner, 1996, pp. 191-192). Yet, while strictly looking at the language of international law this statement is true, it also overlooks the obligations that exist to rescue people in distress, to not return people forcibly to unsafe places, or the human rights provisions for treatment of detainees.

According to Weiner, it is necessary to recognize that debates surrounding migration cannot be resolved "with reference to principles of absolute justice," because of the conflicting claims, values and rights involved (1996, p. 195). This middle ground view disregards the universal nature of human rights posited earlier by Sassen, Benhabib or Carens, in favor of what seems to be a more moderate approach whereby states weigh the public interest (which can be easily used as a political tool) when deciding their policy on immigration, which can turn problematic if human rights are compromised for the sake of state sovereignty.

In response to realism and its concerns about sovereignty and security, Michael Ignatieff defends moral universalism and ethics. He writes that the universalism of human rights, rooted in human identity, binds us to a duty "to be impartial, to regard the distinction, for example, between a citizen and a stranger as morally irrelevant" (2017a, p. 208). He claims that the idea –advanced especially by the populist far right– of the refugee and immigrant representing a threat leads to their depiction as an invasive force. This perception of the immigrants and refugees as invaders results in political actions that not only undermine human rights, but also shrink the civic space that defends a "generous and humane treatment of the desperate." (2017c, p. 223)

While he acknowledges the practical difficulties of his seeing this universality instead of "difference and otherness," and the obstacles that his approach faces due to the questioning of universalism by sovereign states "pushing back against universal obligations" (2017a, p. 216), Ignatieff considers that the utopian goal of achieving a "world of states respecting universal values" is still feasible (2017c, p. 226). He makes the case for using the language of the gift as opposed to the language of rights, i.e., ideas of hospitality, civic virtue, and solidarity rooted on empathy. Such empathy can only be achieved by telling people "'it could be you,' not [...] an abstraction about human identity, but simply, 'it could be you.'" (2017b, p. 8). Framing human rights this way, Ignatieff argues, is the only compatible language with democratic sovereignty.

2.3 Humanitarian emergencies and non-state actors: challenging sovereignty and defining policies

While the first section explored how non-state actors create and promote norms and pressure states to comply with them, and the second section looked at the role of human

rights and norms in relation to state sovereignty over immigration, this section completes the conceptual framework by contemplating the specific context of the issue at hand, that is, the circumstances surrounding humanitarian emergencies and the role that non-state actors develop relative to the state.

The first question that arises is what constitutes a humanitarian emergency. The United Nations defines an emergency as a "sudden and usually unforeseen event that calls for immediate measures to minimize its adverse consequences." (UN DHA, 1992). The allusion to "immediate measures" and the broader question of how to respond to these unforeseen events has been a central question of the literature on humanitarianism.

In his work, Calhoun (2008, pp. 82-85) comes up with the idea of the "emergency imaginary." He claims that humanitarian emergencies are a socially constructed interpretation of certain events that demand instant responses to mitigate immediate suffering, thereby creating that "emergency imaginary." The basis of the emergency imaginary is that it is an unpredicted event, that takes the region or state by surprise by disrupting the status quo. Addressing the emergency imaginary does not necessarily mean addressing the causes of the exception that disrupts the normal state of things, and Calhoun highlights the existing tension between different ethical responses to the emergency: on the one hand, there is the position, linked to ideas of charity and sympathy, that the reaction should focus only on the immediate alleviation of suffering and the loss of lives, on the other hand, there is the ethical argument that it should be part of a longer-term effort to progress the human condition.

Musarò (2017, p. 82) posits that the fact that emergencies receive the prompt response from humanitarian actors shall not be understood as a substitute for political action

coming from the states, bringing up the discourse of a former Médecins Sans Frontières president who branded humanitarianism as "citizens' response to political failure" (Orbinsky, 1999). Calhoun also comments on that speech, to highlight the witnessing role of humanitarian actors –organizations like MSF claim that their duty is both to attend to the victims and to bear witness (*témoignage*) and denounce the underlying causes leading to the emergencies, that is, the political failures causing them (Redfield, 2008, p. 196).

Adding on to the ethical discussion on whether to approach the emergency based on immediate alleviation or longer-term approaches to reduce suffering, Calhoun adds a third perspective, pragmatism. Pragmatists give preference to achieving the maximum efficiency and restoring order over moral and ethical considerations (2008, pp. 73-75). The tension between these three approaches, Calhoun argues, is inherent to humanitarianism, and humanitarian actors usually negotiate among the three, albeit disputes often arise among practitioners and academics as a result of the discord. In the context of the humanitarian emergency, civil society and non-state actors assume a combination of the three approaches: they provide immediate relief, they act as witnesses and advocate for longer-term political action, and they act in order to achieve maximum efficiency in reducing the loss of suffering and lives.

While they highlight different ways to respond to the emergency, the three positions seem to have in common, however, to be rooted on Weber's value rationality, that is, the idea that humanitarian action aims at doing what is right, and thus is self-justifying (Ibid., pp. 89-94). The core of humanitarianism is thus to provide the counterpoint to the sacrifice of human lives derived from societal and governmental acceptance of the fact that some lives might be lost as a result of the international order (Agamben, 1998, and Redfield, 2008, pp. 196-201).

In this regard, a link can be established with the principles of transnational advocacy networks described in the first section, as their legitimacy resides in the core place of values, principles, and ideas. Such legitimacy is derived from the logic of appropriateness that the transnational advocacy networks apply, as opposed to materialistic, instrumentalist or utility maximization concerns. It is precisely that logic that leads transnational advocacy groups to act, on the basis of a shared responsibility that, in turn, is derived from the constructions of ideas and duties of the advocacy network (Finnemore and Sikkink, 1998, pp. 913-913).

The humanitarian nature of the emergency imaginary comes from ideas related to the prevalence of protection of lives over political, economic or other considerations; in this sense, these emergencies are characterized by moral and ethical implications derived from the idea of common humanity, as presented by Ignatieff in the previous section ("Duties of common humanity trump competing moral claims of political community," Ignatieff, 2017b, p. 5). The tensions described above between different approaches to humanitarianism have shown how in these emergency contexts humanitarian actors negotiate the implications of their work, as one of their core principles can be called into question depending on the approach they take. Neutrality in humanitarianism implies that humanitarian action and human rights activism should act separately, thus, humanitarian actors have to ponder their actions and navigate the boundaries of this dichotomy. However, as Calhoun (2010, p. 52) rightly points this independence is often illusory: the very nature of humanitarian action implies that something (often, the state) has failed, so addressing the results of that failure ought to have at least a minimal connection to the roots of the problem; secondly, in these emergency situations humanitarian actors and NGOs often assume a role that the state

is unable or unwilling to provide, therefore, it seems naive to think that they can preserve their autonomy and neutrality from this position at the core of the issue.

2.4 Application to the context of migration in the Mediterranean

The theoretical approaches explored here contribute to understand the evolution of the humanitarian emergency in the Mediterranean, and the interaction between state and non-state actors. While there is no doubt that non-state actors exert a certain degree of influence over state conducts, the widely accepted theoretical models of norm diffusion and socialization fail to account for the backlash coming from states, and the retreats from human rights and public space that are becoming so common in different societies. In the context of the emergency, and in the face of the states' response, non-state actors are yielding to some extent their impartiality and actively challenging state sovereignty through their operations, but also through their *témoignage* to pressure the states to act (short term response to the emergency) and to reform the system (long-term response). Yet, given the protracted standoffs and criminalization of transnational advocacy groups and NGOs, it seems that in this emergency context these groups are not managing to entirely materialize their influence over states. Among the possible reasons for this is humanitarian fatigue, as seeing an issue in the headlines so often risks numbing audiences. Further, representing the humanitarian cause as moral *right vs. wrong* dilemma becomes complicated for the advocacy networks and the NGOs that belong to them due to the multiple structural causes of the emergency, and the broader phenomenon of migration. States would need to be sensitive to pressure, yet, in this context the power dynamics is asymmetrical, as states, especially Italy, have continued to ignore their human rights obligations without consequences or pressure from other states, the EU, or the international community.

Yet, these NGOs are not entirely opposed to the state system, in fact, they depend on the state for certain resources. For instance, some of the Mediterranean NGOs have sought Italian and EU protection from Libyan coastguards after incidents, moreover, they need to collaborate with coastguards and Governments in order to disembark rescued persons. In order to reinstate the cycle of norms and the spiral model, as well as to abide by existing commitments under international and human rights law, states would have to forgo criminalization and persecution of rescue operations by NGOs and civil society, pursuing instead the collaboration that was the norm until the shift towards militarization, securitization, and primacy of state sovereignty over those commitments.

3.   Case study: Search and Rescue NGOs and the Italian State

3.1   Research design

This thesis analyzes the interaction between search and rescue NGOs in the Mediterranean and the Italian state. While the organizations assumed the role of promoters of human rights norms by carrying the rescue operations, European states, and particularly Italy, have responded with backlash that can be found in policies (criminalization and active persecution of the NGOs) as well as in political discourse (political rhetoric based on anti-immigration ideas and framing the rescue operations as people smuggling). By providing continuous rescue operations in spite of such growing opposition from the state, the NGOs not only act as norm promoters, but they also defy national sovereignty. This case study provides an understanding of the struggle between norms and sovereignty in the context of the humanitarian emergency in the Mediterranean, materialized through the state backlash. As a result of this struggle, the space of civil society is shrinking through the actions of the state, in a trend of human rights backlash that can be observed in many states around the world that qualify as democratic regimes, where the rule of law and internationally accepted norms are well-established.

The research focuses on three organizations, Médecins Sans Frontières (Doctors Without Borders, here referred to as MSF, which operates in partnership with SOS Méditerranée), Sea-Watch and Open Arms, and their interactions with the Italian government.

The choice of this country specifically is based on the fact that the Central and Eastern Mediterranean migratory routes have steadily been the deadliest since 2014, the year when the Missing Migrants Project launched by the International Organization for Migration started collecting data. Italy has also led other countries, like Spain and Malta, in the adoption of policies to close ports, refuse disembarkation, and actively persecute the NGOs. Although the three countries have been involved in at least one standoff with an NGO vessel, Italy has spearheaded the legal proceedings against search and rescue NGOs, while Italian politicians, media commentators and state and judicial officials have led a smear campaign that is

unparalleled in other European countries where the anti-NGO message is replicated at a smaller scale (Amnesty International, 2020, pp. 55-56).

The choice of the three organizations is based on the fact that all three of them have been targeted by and sustained several standoffs with the Italian authorities, and all three of them have been active as of Spring 2020. The three organizations are very different in nature and history: Médecins Sans Frontières is a historical humanitarian organization, whereas Sea-Watch, and Open Arms are civil society initiatives that emerged specifically to respond to the situation in the Mediterranean. Therefore, this diversity will help obtain a better understanding of the role of civil society and their grounds for taking action in the face of active opposition.

The research is based on secondary sources. The analysis of NGOs' advocacy materials published in social media, as well as interviews and press releases explains how these organizations understand their role vis-à-vis the states, and their motives for questioning state policies in relation to states' commitments under human rights and international law. The analysis of the states' position is also based on press releases, media materials, and social media accounts from politicians. Both for NGOs and state officials, social media have been the preferred channels of communication, even if the efficiency and opportunities that these platforms provide, especially Twitter, is different for NGOs and for politicians (Alaimo, 2017, p. 110).

Considering this, the research analyzes the organizations' pressure on the state through their own advocacy materials, and the state's reaction in terms of policies and discourse, using specifically social media.

Traditionally, studies about political and public discourses on migration have focused on traditional media. "Unmediated party communication," i.e., communications issued by political parties and public actors directly, has not been a major focus of research (Heidenrich et al., 2019). Social media has not only become a major channel for communication nowadays, but it has also turned into a platform for political communication. Platforms like Twitter have become

an essential tool for spreading political messages, as it enables politicians to share information about their policies as well as personal thoughts, and facilitates the interaction between politicians and citizens. Through new social media, politicians can reach citizens directly, thus bypassing the filter of traditional media and conveying the message to mass audiences (Parmelee and Bichard, 2013, pp. 16-18).

In terms of social media and its use by advocacy networks, research points at a lack of consensus regarding the real influence of these tools on the efficiency of advocacy networks, while some scholars even indicate that the social media component of norm promotion by advocacy networks can lead to "negative outcomes in legal change", i.e., to backlash from authorities (Dempsey, 2019, p. 139). The distant, ubiquitous nature of social media itself has led to some skepticism regarding its real efficiency for advocacy campaigns, as the appeal issued by advocacy networks rarely instils action; instead of relying solely on the moral argument, these organizations turn as well to international law to sustain their pressure on states to act (Slovic, 2007, pp. 79-80). Therefore, this research takes into account both the moral and legal arguments put forwards by advocacy networks in relation to state behavior.

With regards to the spiral model explained before, some have suggested that it could be revised to incorporate "textual analysis of a relevant corpus of government statements, press releases, documents, speeches, and debates that would demonstrate a change in the language governments use when discussing policies related to rights practice." (Simmons, 2013, p. 52) As has been pointed earlier in this thesis, the phenomenon of backlash by previously norm-complying states has not been thoroughly studied yet. In its attempt to provide an example of changes in complying states' behavior, this work incorporates the role of social media messaging by political actors. Social media's sense of proximity between interlocutors and the freedom it grants for expressing opinions that may be controversial have made these the preferred communication tool for several global leaders, who attack traditional media and take full advantage of the freedom to spread their messages without contestation and using strong language (Engesser et al., 2017, pp. 1110, 1123).

Although there are plenty of studies on the role of social media in election campaigns, many of which analyze the use of Facebook by politicians, especially by populist politicians (Bobba, 2019), there is not enough in-depth research on specific political uses of these digital media beyond election campaigns, especially Twitter. In regards to the topic of this thesis, there is a lack of robust research on the role of social media in relation to anti-immigration rhetoric. Yet, as it has been pointed earlier in this work, due to the fact that migration is a contentious issue, partly because of its component related to national identity, it is possible to trace a connection between the emotional dimension of migration debates and the use of social media by political actors engaging in this discussion.

The application of so-called "emotionalized blame attribution" (Hameleers et al., 2016) has been deemed a major characteristic of the use of these novel media by politicians, especially by populist parties, that make use of these tools to appeal to the electorate through ideas of nationalism, anti-Europeanism, and immigration (Bobba, 2019, p. 14). This emotional appeal to national identity, together with the perception of closeness that social media enable, have allowed politicians like Italian Interior Minister Matteo Salvini to construct an image of trustworthiness and genuineness to the public that follows him through his constant presence on social media (Terracciano, 2019). Salvini's use of social media to promote his discourse based on fear, using a characteristic language, images, and typography, is analyzed through Twitter Analytics, a tool that enables to search for specific words written by a user on the social network's site. This search is also able to find tweets where a user mentions another one or a specific topic, which will be used to find specific messages in which the former Italian minister addresses directly the NGOs, and vice versa.

This analysis is divided into two sections, covering first the NGOs role in norm-creation, promotion and influence over the state, following the theoretical framework described earlier in the thesis, and second, the backlash coming from the state, analyzed through political messages as well as the factual criminalization of rescue.

The time frame that will be covered in this research spans from 2015 to September 2019, following the chronology of the state-NGOs relations. However, the study of NGOs and political messages focuses especially in the period beginning in 2018. The rationale behind this choice is the arrival of Matteo Salvini to Italy's Ministry of the Interior in 2018, whose political platform was based on anti-immigration and reassertion of national sovereignty, which led to the subsequent criminalization of NGOs carrying out rescue operations. It is during this period that the three organizations that are the focus of this research began to encounter prohibitions to disembark rescued individuals in Italian and Spanish ports, and the successive standoffs with the governments of those countries embody the growing backlash from the state. Yet, the analysis beings with an earlier chronology so as to understand the entire process leading to the backlash. Beyond the specific objective of reaching a safe port to disembarked rescued persons, the NGOs engage in active advocacy denouncing state practices, challenging the securitization approach assumed by the states, and championing a particular set of values and ideas –a new norm– that is analyzed through the organizations' statements.

Thus, the research follows the events chronologically, examining the evolution of relations between NGOs and Governments through their public statements, communications and interactions: from the initial collaboration between NGOs and states, where the NGOs played a norm-promotion role and there was a mutually cooperative relationship; to the breakdown of collaboration as states drifted away from the norm-abiding behavior fostered by the NGOs and shifted towards securitization, leading to the first standoffs, and eventually, to open clashes with the states.

The still ongoing backlash stage is the main focus of this research, as it provides a unique context of countries that are considered consolidated democracies with respect for the rule of law, that have ratified international human rights treaties, and yet, their response to the operation of NGOs shows a reversal of those long standing commitments. The NGO's rescue operations follow the obligations established by international human rights and the law of the sea, while the state backlash through criminalization and smear campaigns, as well as directives directly targeting the rescue NGOs contravene the law of the sea and internationally accepted human

rights principles, including the "non-derogable obligation to protect the right to life." (Amnesty International, 2020, p. 64) Finally, the inclusion of court rulings siding with the NGOs is essential to reach a conclusion about the relation between the state and non-state actors in this particular context.

3.2   Background

In October 2013, two shipwrecks took place near Lampedusa, Italy's southernmost island, located less than 200 miles from the Libyan coast and around 70 miles from the Tunisian coast. The total death toll of both shipwrecks is estimated to be around 900 hundred, although it will not be possible to know exactly, as there is no record of the people on board the boats (Musarò, 2017, p. 12). The impact of these tragedies prompted an unprecedented response in Italy, with the country proclaiming a national day of mourning, and expressions of outrage mounted in the media, demanding a European response to the increasing flows of migrants arriving in Europe's Mediterranean shores, especially in Italy, Greece, and Spain. The shipwrecks, although not the first to take place near Italian shores, triggered the country's response, with the launch of Operation Mare Nostrum.

Mare Nostrum was a military and humanitarian mission established to deal with the humanitarian emergency in the Strait of Sicily (Ministerio della Difesa). Even though it lasted for one year only, Mare Nostrum marked a shift in the public discourse about migration in the Mediterranean, and especially in Italy, as the operation, through humanitarianism with militarization redefined the perception of the Mediterranean, into what has been deemed "a humanitarian battlefield" (Musarò, 2017, p. 15). The emergence of this perception was not a sudden phenomenon, however, as the European Union had been for decades at the center of an evolving narrative framing migrants as

a threat to European political, economic, social and cultural orders; a threat that required increasing securitization to protect those orders (Del Valle, 2018, p. 272). In addition to the culmination of this process, the increasing flows of migrants embarking on the Mediterranean, especially on the Central Mediterranean route [which saw an increase from 15,151 to 45,298 migrants intercepted from 2012 to 2013 (Campesi, 2018, p. 43)] contributed to the creation to the emergency imaginary that Calhoun (2010) explained, and which called for immediate action in the sea.

Mare Nostrum was terminated in 2014, after EU partners rejected Italy's plea for joint efforts, as they considered that it was a national issue that should be addressed by Italy. Mare Nostrum was then closed due to its elevated cost, and to its increasingly unpopular image among the Italian public, which regarded it as a pull factor drawing more migrants to attempt to cross the sea, a view that was shared by the European powers, especially the United Kingdom (Nováky, 2018, pp. 201-202).

With the end of Mare Nostrum, the first NGO rescue boats started to appear in the Mediterranean in 2014, among the first was MOAS (Migrant Offshore Aid Station), a Malta-based organization that ran until 2017 and that, unlike other organizations that are the focus of this analysis, openly defended an apolitical position: "We must take politics out of search and rescue. We must put saving lives at the top of the agenda" (Cuttitta 2018, p. 640).

Shortly after the end of Mare Nostrum, however, it was replaced by an EU mission, Operation Triton, which not only had lower funding, but it also lacked a specific search and rescue mandate, and focused instead on tackling smuggling as opposed to rescuing migrants from shipwrecks. After a new major tragedy in April 2015, with a shipwreck leading to around 800 casualties, the EU was pressed to act, and did so by presenting a roadmap for immediate actions that revolved around the "systematic effort to capture

and destroy vessels used by the smugglers" (European Commission, 2015). In fact, throughout the 10-point action plan, there is no mention to rescue, with the destruction of smugglers' ships as the main priority of action. This would become the EU's primordial stance, as it reiterated its efforts to save lives by fighting the traffickers and preventing illegal migration flows (European Council, 2015). In this case, "rescue" is mentioned twice in the statement, which outlines four commitments: "Strengthening our Presence at Sea", "Fighting traffickers in accordance with international law", "Preventing illegal migration flows", and "Reinforcing internal solidarity and responsibility".

With the aim of disrupting smuggling networks, Triton, together with its successor, Operation Sophia, represent a turning point for NGO involvement. As Médécins Sans Frontières stated when they decided to launch search and rescue operations in 2015, the termination of Mare Nostrum and its replacement by Triton and Sophia signaled a state concentration on "deterrence and surveillance measures rather than on saving lives" (Del Valle, 2016, p. 26).

2015 and 2016 were the deadliest years in the Mediterranean, with almost 8,000 reported casualties, and a peak of 27,384 arrivals in October 2016 (IOM, 2020). Against this backdrop, and faced with the "inaction" from European powers –and their collaboration with regimes that the NGOs denounced, such as the EU-Turkey deal of 2016 whereby the EU could return refugees to Turkey–, NGOs and civil society organizations stepped up their operation and launched their own humanitarian search and rescue missions (Esperti, 2019, p. 6).

After long internal debates surrounding the organization's mission, and the differing approaches to humanitarianism, Médécins Sans Frontières agreed to launch its search and rescue operations in 2015 (Del Valle, 2016, pp. 22-24). Civil society organizations

like the Spanish Proactiva Open Arms and the German Sea-Watch followed, as a large number of civilian initiatives from different Member States sprung up in response to the constant arrivals of vessels and the dozens of distress calls placed every day (Alarm Phone, 2016). Thus, a new "civil humanitarianism" had emerged in the Mediterranean (Esperti, 2019).

While at first these organizations carried out rescue operations in collaboration with states, 2017 marked a shift in these relations. In its "Risk Analysis" report for that year, Frontex, the European Border and Coast Guard Agency, claimed that search and rescue missions acted as a pull factor and "unintentionally help criminals achieve their objectives at minimum cost" (Frontex, 2017, p. 32). In February, the European Council decided to pursue support to Libyan coastguards, which the NGOs had reiteratedly criticized for the human rights violations in Libya, amply documented by human rights organizations and international organizations (Human Rights Watch, 2019). In Italy, the Prosecutor of Catania, Carmelo Zuccaro, launched a campaign to criminalize the rescue NGOs arguing that they collaborated with smugglers, thus joining the voices coming from populist parties Movimento 5 Stelle, Lega Nord and Forza Italia, which refer to the NGOs as a "taxi service for migrants" (Dambach, 2017).

This rhetoric started to gain ground throughout Italy, and immigration became a central issue in the campaign for the June 2018 election. Matteo Salvini, Lega Nord's leader, ran on an "Italians First" campaign that proved very successful, leading him to become the Minister of Interior in the coalition government. One of Salvini's first actions in office was to deny disembarkation to a rescue vessel operated by SOS Méditerranée carrying over 600 rescued migrants. Salvini was not the only European politician engaging in the anti-immigrant rescue rhetoric. In Spain, newly emerged far-right party Vox has also echoed this discourse and has repeatedly been involved in disputes with

Proactiva Open Arms, which the party has accused of colluding with smugglers and abetting illegal immigration.

As criminal prosecution, fines, seizures of vessels, and denials to disembark increased since 2018, some of the rescue organizations were forced to suspend operations, while others fought to recover their confiscated ships (Proactiva Open Arms) and to obtain an acquittal for their prosecuted crewmembers (as in the case of Sea-Watch's captain, Carola Rackete, who was arrested after landing on Lampedusa without authorization, following a weeks-long standoff). In June 2019, Italy's President signed a bill promoted by the Interior Minister, Matteo Salvini, establishing fines of up to €50,000 for boats disembarking migrants in Italian ports (Tondo, 2019). Faced with Italy's hardline approach towards rescue in the Mediterranean, the NGOs centered their advocacy and public messages around international human rights law and the law of the sea to defend the continuity of their search and rescue operations.

The language used by the organizations in their public statements is especially relevant, as it also characterizes their conflictual position regarding European policies, which the organization considers inadequate and inhumane. MSF reiteratedly uses these terms to denounce European migration and asylum policies and advocate for change. The idea of humane treatment has become such a central element of MSF's advocacy to pressure a European response to the humanitarian situation in the Mediterranean, that an Internet search of the combined terms "humane", "Mediterranean" and "rescue" yields hundreds of results of instances where the three terms are mentioned in any given text in MSF's website. Some of the examples include press releases and statements as follows: "European policies continue to claim lives on the Mediterranean Sea", where the organization claims "We pleaded for a humane response; for an end to the dehumanization of vulnerable people at sea for political gain", "[...] we warned that the

dangerous and inhumane political stand-offs at sea", "establish [...] disembarkation systems offering places of safety where survivors will be treated humanely" (Médecins Sans Frontières, 2019a).

The following analysis of the approaches of the three NGOs and of the Italian Government, respectively, provide a detailed insight into the tug-of-war relations between these state and non-state actors.

3.3 Non-state actors

3.3.1 Launch of operations: norm promotion and monitoring of states

When Médecins Sans Frontières decided in May of 2015 to launch its search and rescue operation in the Mediterranean, the decision was the outcome of years of internal discussions within the organization as to the role it had to play vis-à-vis the states' obligations and the organization's own humanitarian imperative. Different voices in the organization defended its logic of witness, whereby its operations should be limited to rescuing and alleviating suffering, without going beyond and questioning the causes for that suffering, and without taking an open political stance in conflicts. Others claimed that rescue operations were intrinsically linked to the context driving that suffering, and thus, advocating before those who had some responsibility for the suffering, and who had the power to reduce it. For the former, the humanitarian principles of impartiality and independence might be jeopardized if the organization became politically active in such a broad and controversial issue; for the latter, intervening was needed out of humanitarian grounds, and could also be an instrument to point the finger at the European failure to rescue since the termination of Mare Nostrum.

When it was finally decided to begin operations, the prevailing opinion was that the combination of search and rescue operations and advocacy would pressure EU states to

act in the Mediterranean (Del Valle, 2016, pp. 26-27). Announcing the beginning of the search and rescue operations, MSF stated "the increasing number of people forced to risk their lives at sea is a consequence of the lack of safe and legal channels for people to migrate and apply for asylum in Europe. While search and rescue operations at sea are vital in order to save lives, they will not solve the overall situation in the long term. Our teams in and around the Mediterranean are working to save lives and provide medical support for the most urgent needs, until the situation is adequately and humanely addressed by the European Union" (Médecins Sans Frontières, 2015a). This stance reflects the tension between both approaches to humanitarian action that have been explored earlier in this work: humanitarianism as a short-term, immediate response to diminish suffering, and humanitarianism as part of a broader long-term agenda of change, in which political actors have to be involved.

Sea-Watch followed a similar logic of appropriateness when it decided to launch operations in 2014, yet, the process it followed was different from MSF's: as a civil society initiative, Sea-Watch emerged as a response to the EU's continued attempts to "isolate itself from people fleeing." (Sea-Watch, 2015) Just like MSF, it calls for a "safe passage" and an institutionalized mandate for sea rescue, thus opting for one of the approaches to humanitarian action that was described by Calhoun earlier –immediate alleviation of suffering and broader efforts towards longer-term political change. Representatives of the organization make this posture clear: "Our work is both humanitarian and political. We want to put pressure on the politicians" (Cuttita, 2018, p. 641).

A similar process was followed by Proactiva Open Arms, which emerged from a private company providing lifeguard services in Spain that started carrying out rescue

operations in Greece in 2016. The organization places high value in advocacy, as it considers storytelling an essential first step towards providing a solution to a problem caused by the prioritization of borders over people (Conde, 2017). Open Arms, as explained by its founder, understands its mission as both protecting human rights at sea and simultaneously pressuring states to act by acting as witnesses obligating administrations to "do what they should be doing but aren't doing." (Calvo, 2019)

Through advocacy, these organizations have assumed a role as both a norm promoter and as a monitor of states' responsibilities. They are not only advocating for a new norm (a safe and legal passage for migrants seeking to reach Europe), but also reminding European states that they have certain responsibilities under international law. Their two-fold message is clear: European states have the capabilities to deploy search and rescue operations and comply with their legal obligations and human rights standards, and they have a moral responsibility to create legal and safe passages for migrants, a move that would not only save lives, but also to end the profitable industry of smuggling (Del Valle, 2016, pp. 36-37).

In terms of promoting new norms, when MSF decided to accompany it search and rescue operation with a political advocacy component, a core focus of the strategy was to pressure European leaders to create a "safe passage" for people embarking on the dangerous journey of crossing the Mediterranean. In an open letter that the organization sent to European leaders in September 2015, MSF argued that if the EU wanted to eradicate smuggling, the only viable solution was to replace smugglers by providing a way for asylum seekers to reach European soil through safe, free and legal means. In the letter, MSF also points the finger directly at the states' role in the humanitarian

emergency, claiming that the organization's work "amounts to filling the gaps left by states unwilling or unable to fulfil their responsibilities." (Médecins Sans Frontières, 2015b) In asking for a safe passage, MSF is "calling for a radical re-think of migration policy [...] until we can offer safe and legal alternatives to leaky boats and life-threatening journeys in Libya, this extreme suffering will continue" (Médecins Sans Frontières, 2015d). Several other organizations joined the call for safe passage, among them Sea-Watch and Open Arms, while others, like MOAS, adopted a depoliticized position, based solely on rescue. MSF, Sea-Watch, and Open Arms have become major promoters of the safe passage norm: "as long as there is no safe passage for people fleeing from war, famine or extreme poverty, senseless deaths will keep increasing. And it will be on Governments that deny humanitarian resources to save their lives." (Proactiva Open Arms, 2016)

In terms of monitoring states' actions, the organizations have been adamant that European states have a duty towards migrants that cannot be met through deterrence policies that "have turned a foreseeable and manageable influx of people fleeing for survival into a policy-made human tragedy on Europe's beaches, borders, train platforms and motorways." (Médecins Sans Frontières, 2015b). The opposition to the European deterrence approach has been clear: "Europe cannot continue to count on the deadly sea crossing, fences and poor reception conditions to act as a 'filter of deterrence'." (Médecins Sans Frontières, 2015e, p. 5) Because of the chronology of states-NGOs relations, it is important to consider the context in these messages were issued.

In 2015 and 2016, after the withdrawal of Mare Nostrum and the launching of Triton and Sophia, with their mandate to end smuggling, the organization was focusing on the

fact that "no political willingness exists in Europe to carry the legal responsibility to provide protection and assistance for people in distress calling for help in the waters just off European shores." (Médecins Sans Frontières, 2015c). At that point, MSF's advocacy and norm promoting role was defined by the void left by the withdrawal of rescue operations and their substitution with a military operation. In fact, in June 2016, MSF took a step further in its position and, as an advocacy gesture and in order to preserve its independence and impartiality, announced that it would no longer accept funds from EU member states. The decision was presented by the organization as a response to the deterrence policies implemented by EU states and EU institutions (Médecins Sans Frontières, 2016a).

As the NGOs reinforced their advocacy efforts to "mobilize shame" (Keck and Sikkink, 1998, p. 23) pushing states to move away from the deterrence policy, and as pressure mounted as the flows of people crossing the Mediterranean continued to increase, it is possible to trace the developments to the evolution of the stages of the spiral model: repression, denial, tactical concessions, prescriptive status, and rule-consistent behavior. At this point, the NGOs and the states were entering the denial phase; as the next sections show, after pressure from non-state actors, the state responds by ignoring the accusations of human rights violations and resorting to backlash.

3.3.2 The end of collaboration

In early 2017, as Frontex was claiming the NGOs constituted a pull factor for smuggling networks, the NGOs were still in agreement with Italian authorities. In fact, then Deputy Minister of Foreign Affairs, Mario Giro, defended the NGOs from the accusations, and claimed that they represented a misunderstanding of push and pull factors driving migration across the Mediterranean (Kirchgaessner, 2017). However, in the summer of

2017, the relations underwent the first major split as the Italian Government issued a code of conduct for search and rescue NGOs, which some of the organizations rejected, as they considered that it undermined the search and rescue capacity, among other reasons, for its prohibition to transfer rescued persons to different vessels. In an interview published on its website, Sea-Watch considers the code "nonsensical", "illegitimate" and "dishonest"; the NGO also highlights the illegality of the document, as it provides for a closure of Italian ports by authorities to NGOs that refuse to sign it, thus violating obligations under the Law of the Sea, the principle of *non-refoulement* under the Refugee Convention, and the right to life established under international human rights law (Sea-Watch, 2017). As the organization points, "search and rescue obligations are binding on any captain under any circumstances", in response to Italy's requirement that rescue NGOs refrain from accessing Libyan waters to rescue boats in distress (Ministero dell'Interno, 2017, p. 1) While both MSF and Sea-Watch refused to sign the code, Open Arms accepted with some reservations; even though it saw it as an effort from the Government to collaborate with NGOs, the organization also considered it unnecessary due to the already existing legal framework to regulate rescue at sea (La Vanguardia, 2017). Open Arms' founder, Óscar Camps, took to Twitter to call the code a "smokescreen" to approve a military operation in Libyan territorial waters, overlooking the human rights of the persons in the boats (@Campsoscar, 2017).

Other civil society organizations, academics and human rights bodies criticized the code for its attack on rescue organizations' independence and institutionalization of suspicion (Carrera, 2018, p. 14).

3.3.3 The pushback

The backlash against NGOs intensified in 2018. In March, the Italian authorities seized the Open Arms vessel, after the NGO had rescued some people close to Libyan waters and then brought them to Sicily. Prosecutors in Catania argued in their statement that the NGO had acted with the "sole purpose of landing in Italy", when it should have returned the migrants to Libya, or alternatively to Spain, as the vessel's flag state (Catania News, 2018). Although a judge ordered the release of the vessel a month later, the incident set a precedent for a trend that would go on during 2018. After the seizing, Open Arms' director, Óscar Camps, participated in a European Parliament debate to denounce the "increasing criminalization" for refusing to bring migrants back to Libya, a state that he argued "everyone knows in unsafe" (La Vanguardia, 2018).

The major demonstration of the backlash took place a few months later, in June 2018, when the new Ministry of the Interior of Italy, Matteo Salvini, ordered a block for a rescue vessel, the *Aquarius*, operated by MSF and SOS Méditerranée and carrying 630 rescued migrants. The denial of disembarkation authorization, issued also by Maltese authorities, initiated an unprecedented political standoff between the NGOs and the Governments, as ultimately the ship sailed to Spain after a week of standoff. MSF openly criticized the Italian Government's move as "political point-scoring over saving lives at sea", a failure from the Italian Government "in their humanitarian responsibilities" (Médecins Sans Frontières, 2018a). Criticism of Italy and Malta's decision came not just from the NGOs affected, but also from international institutions and human rights organizations: UNHCR claimed that "such events put lives and international norms of rescue at sea at risk, and should never happen" (UNHCR, 2018), and Amnesty International criticized the "callousness of the Italian and Maltese authorities" (Amnesty International, 2018). Later that year, the ship was impounded and the staff investigated by the Public Prosecutor of Catania.

The Aquarius set the precedent for other standoffs between NGOs and Government in the Italian crackdown against search and rescue NGOs, as Italy maintained its ports closed to the rescue vessels through a security decree promoted by Salvini. At the same time, higher restrictions and persecutions exacerbated the situation of emergency in the Mediterranean, as ships were being confiscated and forced to stop operations while migrants continued to attempt the crossing, and the NGOs resorted to the emergency imaginary to pressure states and the EU to take action.

In June 2019, another stalemate attracted public attention, this time involving Sea-Watch and its captain, Carola Rackete. The ship has rescued migrants close to Libyan waters, but the captain refused to disembark them back in Libya arguing that it could not be considered a safe port due to the country's human rights violations. After a two-week standoff, Rackete disembarked in Lampedusa, openly defying the Italian ban issued by Salvini and later facing charges for aiding illegal migration, that were then dropped due to the humanitarian and legal basis for her actions under the UN Convention on the Law of the Sea (UNCLOS). Rackete affirmed being ready to take on "full responsibility for enforcing human rights, the law of the sea and the Italian constitution." (Sea-Watch, 2019a)

As monitors of the states, these advocacy actors remind the states that there are laws they are bound to, which regulate rescue and disembarkation operations. In a joint statement presented to the EU Justice and Home Affairs Council in October 2019, several search and rescue NGOs, including Sea-Watch and Open Arms, claim that under international law, rescued persons must be brought to the closest safe port (Sea-Watch, 2019b). Óscar Camps, from Open Arms, often explains the organization's position as monitor that states comply with international law: "Protecting human life at sea should be the absolute priority of any civil or military body, whether it be

coastguards, sea rescue, or the navy. This is also stipulated in the law of the sea - Preventing the rescue of lives in danger at sea in order to forcibly return them to an unsafe country, such as Libya, is tantamount to carrying out a "hot return", in contravention of the UN Refugee Statute." (@Campsoscar, 2018).

The "law of the sea" he is referring to are mainly UNCLOS, which requires states to "to render assistance to any person found at sea in danger of being lost", and the 1979 International Convention on maritime search and rescue (SAR Convention), which divides the sea into search and rescue areas designated to states, and assigns the duty to render assistance to those in distress in their search and rescue areas.

In this regard, by defying Government bans and obstacles and continuing search and rescue operations while advocating for safe and legal passages to prevent more loss of human lives in the Mediterranean, the NGOs are holding Governments accountable to their legal commitments while pressuring for new norms. The next section analyzes how the complex politics of migration, sovereignty, and humanitarian rescue interact with state sovereignty in the context of a country where human rights and international laws had already been socialized and consolidated.

3.4 The Italian State

The backlash against human rights has traditionally been described as a phenomenon characteristic of authoritarian or transitioning regimes; nowadays, however, it is a trend that can be found in democratic states that had traditionally considered themselves the promoters of these universal standards, in the West (Vinjamura, 2017, p. 114) The Italian state's actions described here are frequently cited along those of other democratic states that have traditionally behaved in compliance with international

norms, such as the United States' Muslim ban or the criminalization of volunteers providing water to migrants crossing the Arizona desert.

When Matteo Salvini became Italy's Interior Minister in June 2018, he quickly put in practice the anti-immigration platform he had run his campaign on, by denying disembarkation to the Aquarius, calling for a census of Roma people in the country and expulsions of non-citizens, and vowing to materialize his promise of deporting 500,000 immigrants who had entered the country illegally (Stille, 2018).

Salvini is a prolific user of social media, where he is one of the most followed European leaders, and which provides him with an unfiltered and immediate medium to reach his followers and wider audiences. In the months after assuming his position, he often used Twitter to assert his position regarding immigration coming from the Mediterranean, and the NGOs rescue operations. He often refers to immigration as an invasion and openly criticizes the NGOs, who he labels as smugglers who have a political objective:

> "#Stopinvasione My goal is to block boats and barges, to organize in African countries the doors that decide who has the right to leave and who does not, following the Australian model. Business for smugglers? #NOWAY!" (@Matteosalvinimi, 2018, translated)

> "You can't fool the Italians. If the NGOs are in a tactical position [at sea], then they're part of the same criminal chain as the smugglers. You understand, don't you? #Portsclosed" (@Matteosalvininmi, 2019a, translated)

> "We have been saying this for years: those who defend NGOs feed the business of illegal immigration and this film proves it once again, in the face of those parliamentarians who are able to sleep while there are illegal boats. I don't quit, friends. #Portsclosed" (@Matteosalvinimi, 2019b, translated).

Beyond engaging in anti-immigration and anti-rescue rhetoric on social media and public appearances, Salvini has actively promoted the persecution of NGOs. After the Aquarius and Open Arms cases, he continued the closed ports policy, throughout 2018 and into 2019, rejecting diverse requests to disembark, including those from Sea-Watch and Open Arms and MSF, operating with SOS Méditerranée. In December 2018, Salvini used Twitter to reiterate that Italian ports remained closed to NGOs, after petitions to disembark from Sea-Watch and Open Arms:

> ""#SeaWatch3", another ship of another NGO (Dutch flag), asks to bring to Italy dozens of immigrants recovered off the coast of Libya. My answer doesn't change: Italian ports are CLOSED, stop human trafficking! #Ports Closed" (@Matteosalvinimi, 2018b, translated)
>
> "As promised this morning, they don't disembark in Italy: the NGO ship #OpenArms, with 311 immigrants on board, is headed to Spain, have a good trip. Let the human traffickers and their accomplices know that our ports are closed, STOP! #Fromwordstodeeds" (@Matteosalvinimi, 2018c, translated).

The closed ports policy and the long standoffs were the preliminary steps leading up to a wider policy of criminalization that heightened in 2019, with the adoption in June, following the Sea-Watch incident, of the security decree known as "Decreto Sicurezza bis". The decree provided for fines of up to €50,000 for NGOs that disembark rescued immigrants in Italy, as well as jail sentences for the ship captains and fines of up to a million euros if they ignore the prohibition to enter, transit or stop in Italian international waters. The decree became the culmination of the persecution process and embodied the legal standing for the criminalization of solidarity, bringing Salvini's anti-immigration and anti-NGO rhetoric a step further. The opposition campaign in response

to the passing of the decree featured the slogan "La disumanità non può diventare legge", "Inhumanity cannot become law".

In the same line, MSF claimed that Europe "had reached new lows" and that "saving lives is not a crime. It is a legal obligation that EU member states should make a priority." (Médecins Sans Frontières, 2019b)

After the decree was passed, Open Arms took the monitoring action beyond advocacy, and challenged the decree in court through an emergency motion on August 13th, thus taking the battle with Salvini to another level, especially after a Court in Lazio suspended the ban on the entry of the vessel in Italian waters.

The courts have since served as a tool for the NGOs to reassert their position and uphold Italy's obligations under international law, to which the NGOs have steadily directed their advocacy. After Carola Rackete's arrest, the judge that ordered her release contended that in the incident leading to her arrest she had merely acted to fulfill her duty to rescue at sea under the Constitution, the international legal framework, customary law, and the shared principles of law recognized by the United Nations (Tribunale di Agrigento, 2019). This decision was upheld by the Italian Supreme Court in January 2020. The ordinance also highlights that the Italian constitution stipulates that the "Italian legal system conforms to the generally recognized principles of international law"; therefore, under the principle of *pacta sunt servanda*, i.e., agreements must be kept, Italy is subject to certain instruments of international law, under which Rackete's actions are found to be legally grounded. The judge refers firstly to UNCLOS, which establishes in its Article 98 the duty to render assistance at sea to anyone in danger, secondly to the 1974 International Convention for the Safety of Life at Sea (SOLAS), which also lays down the obligation to provide assistance to those in distress; and thirdly to the SAR Convention.

In response to the ordinance, on a Facebook live video, Salvini suggested that "maybe the judge had drunk a glass of wine with the rich, white, German, and a bit bored woman" (Boldi, 2019). This has not Salvini's only attack to court decisions regarding immigration and asylum, as he has singled out some Italian judges who, he claims, use their positions "to do politics" (La Reppublica, 2019). In doing so, Salvini has not only questioned the rule of law, but also the independence of the judiciary, by claiming that the judges are pro-migrant as they had not only challenged decisions of the Interior Ministry but have also participated on immigration law conferences and journals (Ibid.). Such court decisions show that state sovereignty is to a certain extent self-limited, even as the backlash against human rights and international law has been carried out under the umbrella of state sovereignty.

The NGOs have regarded these court decisions upholding their rescue activities as a victory of the international legal framework for rescue and assistance over the deterrence and closure policies. After the court suspension of the decree's ban that allowed Open Arms' vessel to enter the port of Lampedusa, Óscar Camps claimed "It's a success. International maritime law prevails". Likewise, Sea-Watch has contended that "justice remains on the side of those who continue to fulfill the duty to rescue and to bring people to safety. Sea rescue is not a crime." (@SeaWatch_Intl, 2019). Commenting on the Sea-Watch incident, MSF stated that "If International law says that people rescued at sea must be taken to the closest place of safety, there is a reason for that. Political games on #migrants and #refugees lives in the #Mediterranean must stop." @MSF_Sea (2019).

In late August 2019, Salvini was ousted as the Minister of the Interior; yet, the closed ports policy remains in force, NGOs continue to operate in the Mediterranean and the EU has not agreed on a common standard policy of resettlement and burden-sharing.

The effects of the backlash still lead to standoffs, even without Salvini as Minister, thus showing the struggle to enforce international norms in the highly politicized context of humanitarian sea rescue.

4.   Conclusion

This analysis of the relationship between non-state actors and the Italian state has shown that norms, particularly international human rights norms, maintain their importance in the context of growing backlash and contestation.

In the face of this retaliation, non-state actors have increased in their importance as defenders of norms and principles before countries that had previously abided by them. Transnational advocacy networks have become a platform that monitors states' actions and put pressure on them to comply with the existing legal framework. In the Mediterranean, the establishment of such networks enables organizations with a long-standing humanitarian tradition and newly emergent civil society initiatives to share information and coordinate their activities. Likewise, these organizations, although differing in their nature and sometimes in their standpoints on humanitarian action, provide a counterpoint to political discourses on the predominance of national sovereignty over states' international commitments to norms.

In the context of the humanitarian situation in the Mediterranean, these organizations have acted mostly as watchdogs for the states, particularly the Italian Government's policies; however, these actors have also acted as promoters of new norms, as they urged European states and the European Union institutions to adopt new legal approaches to migration in the Mediterranean, that include safe and legal ways to migrate to Europe, as a way of preventing more dangerous crossings and casualties in the Mediterranean.

The literature reviewed explains how norms are developed, promoted by non-state actors and socialized by states through different stages culminating in the societal acceptance of those values and norms. Norms are "expectations of proper behavior by

actors with a given identity" (Finnemore and Hollis, 2016, p. 426). In this case, the given identity attributed to Italy would be that of a democratic state, which is part of international organizations, treaties, and conventions. Therefore, the expected behavior would be for the state to abide by the legal commitments and obligations derived from its membership in that international law regime, which is in turn grounded in the country's national legislation, as pointed by the judge that issued the ruling releasing Carola Rackete from custody. The court rulings examined in this research show, firstly, the policies of criminalization of rescue organizations contravene those obligations, and secondly, that the courts play a major role in limiting state sovereignty.

The spiral model examined in this thesis did not initially consider the reversal in compliance by previously abiding states, where the rule of law is consolidated. The proponents of the spiral model have acknowledged that they had underestimated and overlooked the possibility of the process becoming stagnated in some states, or even shifting towards backlash.

In the context studied in this thesis, the policies adopted by the Italian state regarding immigration coming from the Mediterranean and the rescue carried out by the NGOs have evolved in the opposite direction of the spiral model. In this new paradigm, states find counterarguments to justify their reinterpretation of consolidated legal standards and norms pursuant to certain interests. This trend can be seen elsewhere, such as in the United States' reinterpretation of anti-torture norms during the War on Terror (Sikkink and Schmidt, 2019, p.105, 118), or the contestation of several states to the International Criminal Court and crackdowns against human rights organizations that have taken place in Turkey, Russia, or Sudan (Vinjamuri, 2017, p. 115). The backlash from states can have varying consequences and lead to different degrees of weakening of the norms.

In the Italian case, the continued operations and advocacy from these three organizations and the many other NGOs and civil society initiatives operating in the Mediterranean since 2015 shows that, in spite of the state backlash, norms are ultimately still prevalent, especially when they are backed by judicial rulings.

However, in this case, as the organizations have continuously claimed, in the absence of a common European response to the humanitarian emergency in the Mediterranean, sea rescue will continue to be a highly politicized issue that cannot be understood separately from the humanitarian aspect. The combination of the normative and legal framework, deterrence migration and asylum policies, and the humanitarian emergency caused by the large flows of arrivals has led to the struggle between state and non-state actors examined in this thesis. Although the prevalence of norms cannot be taken for granted in states where these have been socialized, the role of non-state actors and the courts has proven essential in monitoring states' actions and pressuring them into compliance with the human rights and international law frameworks.

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