Abstract

The European border regime has traditionally rested on the hidden surveillance activities of border authorities, which have contributed to human rights violations (including “push-back” and “left-to-die” practices) and a rising migrant death toll. Recently a number of humanitarian and activist organizations, including Migrant Offshore Aid Station (MOAS), Médecins Sans Frontières (MSF), Sea-Watch, and WatchTheMed, have organized to aid migrants in distress at sea using surveillance technologies, ranging from drones to GPS. By doing so, they presented a challenge to the European border surveillance regime. In dialogue with the concept of countersurveillance, this paper introduces the concepts of humanitarian surveillance and human rights surveillance and deploys them to examine and categorize the activities of MOAS, MSF, Sea-Watch, and WatchTheMed. Humanitarian surveillance narrowly focuses on aiding victims of surveillance without problematizing the logic and hierarchies of surveillance, while human rights surveillance operates as a form of countersurveillance; it aims to protect and advance the human rights of victims of surveillance and expose human rights violations committed by authorities through opposing the hierarchies of surveillance. The paper shows how civilian groups incorporate elements of humanitarian and human rights surveillance in their activities at varying levels and discusses the extent to which they challenge the European border surveillance regime.

Introduction

The European border zones have traditionally been governed by surveillance practices carried out away from public sight. The invisibility of border surveillance has created conditions conducive to practices that violate human rights, such as “push-back” and “left-to-die” practices. Push-back typically involves the interception of migrant boats in European territory or international waters and forcibly returning them to the territories of the states from which they departed, such as Libya and Turkey. Push-backs violate the principle of non-refoulement, which is at the heart of international refugee law, for they expose returned migrants to the risk of persecution. The use of force during push-back operations could also result in violation of additional human rights principles, such as the right to protection from ill-treatment (e.g., Pro Asyl 2013).

1 In this study, the term “migrant” is used in order to avoid making distinctions and therefore establishing hierarchies among refugees, asylum seekers, and documented and undocumented migrants.

The left-to-die practice involves the failure of border authorities to come to the rescue of migrants who are in distress. A tragic example is the 2011 left-to-die boat incident. In this case, despite receiving a distress call from a drifting boat bound for Italy, authorities did not initiate a search and rescue operation, leaving sixty-three migrants to die (PACE 2012; Heller, Pezzani, and Situ Studio 2012). The left-to-die practice similarly violates international law, in particular the 1974 International Convention for the Safety of Life at Sea (SOLAS) and the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which both oblige shipmasters and state authorities to swiftly render assistance to any person in distress at sea. Neither push-back nor left-to-die practices have been marginal to the European border control regime. Rather, they have formed its backbone, which rests on the idea of deterrence or discouraging migrants from attempting a crossing by increasing the risk of the journey (Topak 2014a; cf. Weber and Pickering 2011). Such deterrence strategies have resulted in violating migrants’ right to life (Spijkerboer 2013) and at least 33,305 migrant deaths since 1993 (UNITED 2017), turning the Mediterranean into the world’s largest graveyard for migrants.

As a response to the rising death toll in the Mediterranean, a number of humanitarian and activist groups have recently organized to assist distressed migrants. These groups include Migrant Offshore Aid Station (MOAS), Médecins Sans Frontieres (MSF), Sea-Watch, and WatchTheMed. The activities of these groups have complicated the traditional understanding of European border zones as spaces where only police and military conduct surveillance. These civilian groups also use surveillance technologies, including drones, aircrafts, satellites, GPS, binoculars, radar, and other ship systems, to run or assist search and rescue (SAR) operations and/or to monitor border authorities.

One can draw some parallels between these civilian groups operating in international borders and citizens who record police work in domestic contexts. Scholars noted that the use of surveillance technologies by citizens (e.g., cameras and mobile phones) to record and share police work increased the visibility of policing (Goldsmith 2010). In contrast to older, low-visibility versions of policing, where the activities of the officers were rarely scrutinized by the public (see Goldstein 1960), contemporary policing is described as a high-visibility profession (Sandhu and Haggerty 2017).

The debates about policing visibility often focus on the potential for this visibility to increase police accountability and reduce cases of police misconduct (Goldsmith 2010; Yesil 2011; Hermida and Hernández-Santaolalla 2018). Making policing visible is viewed as a form of countersurveillance, particularly by activist and human rights groups such as the American Civil Liberties Union and CopWatch. Countersurveillance is defined as “intentional, tactical uses, or disruptions of surveillance technologies to challenge institutional power asymmetries” (Monahan 2006: 515). In contrast to conventional forms of surveillance, where the powerful watch the powerless to reproduce social inequalities, countersurveillance involves using surveillance technologies in oppositional ways to empower powerless groups. It may also involve “sousveillance” or “watching from below” (Mann, Nolan, and Wellman 2003).

Some activities of the civilian groups in the Mediterranean include elements of countersurveillance (cf. Dijstelbloem 2015; Casas-Cortes et al. 2017) because they involve the use of surveillance technologies to aid powerless targets of surveillance, that is, migrants, and/or expose police violence. However, not all of their activities could be categorized as countersurveillance because these groups, willingly or unwillingly, cooperate with border authorities at various levels. Not only do they operate under the coordination of border authorities during SAR missions, they also eventually hand over rescued migrants to border authorities, who then use surveillance technologies (such as biometrics) to constrain the mobility of migrants within the EU or to deport them back to their countries of origin. This form of surveillance does little to make border policing visible or challenge institutional power asymmetries.

The picture is further complicated by the political and operational differences among SAR groups. Despite cooperating with border authorities during SAR missions, some groups have at the same time been critical of the EU border policies and resisted some demands of the border authorities (such as demands concerning the provision of sensitive surveillance data). Some groups have also taken a further adversarial step by
putting a strong emphasis on performing the watchdog role and documenting human rights violations, even though their reach has been limited.

In order to examine and categorize the activities of these groups, this paper introduces the concepts of humanitarian surveillance and human rights surveillance. It defines humanitarian surveillance as the use of surveillance to aid victims of surveillance without challenging the logic and hierarchies of surveillance. Groups conducting humanitarian surveillance cooperate with authorities and, in some cases, facilitate their surveillance work. Rather than challenging the power asymmetries, humanitarian surveillance serves to maintain the hierarchies between the watcher and the watched. Human rights surveillance, on the other hand, is defined as a particular form of countersurveillance. It entails the use of surveillance to protect and advance the human rights of powerless groups. Groups conducting human rights surveillance take an adversarial position against authorities and refuse to become a part of their surveillance efforts. They instead turn the camera on the surveillance authorities, thereby aspiring to challenge the power asymmetries between the watcher and the watched. The concepts of humanitarian surveillance and human rights surveillance should be understood as ideal types. They are not found in pure form in actual social reality; they are rather analytical constructs for comparison. The groups examined in this study incorporate elements of both forms of surveillance in their activities at varying levels.

The empirical data of this paper is derived from document analysis and interviews. The document analysis included reports, press releases, websites, and newsletters by MOAS, MSF, Sea-Watch, and WatchTheMed. Secondary data was collected from media outlets that published interviews and statements of representatives from these organizations. Interviews included one with a representative from MOAS (in 2015), three with representatives from Sea-Watch (in 2015 and 2018), one with a representative from MSF (in 2018), and one with an activist from the WatchTheMed Alarmphone (in 2018). There are a number of other SAR groups, including SOS-Méditerranée, Sea-Eye, Pro-Activa Open Arms, Cadus, Jugend Rettet, the Boat Refugee Foundation, and Save the Children. The activities of these groups are not covered in this study.

This article makes a threefold contribution. First, it contributes to the growing literature on policing’s invisibility, which deals predominantly with domestic policing (see, e.g., Goldsmith 2010; Yesil 2011; Wilson and Serisier 2010; Wall and Linnemann 2014; Brucato 2015; Beutin 2017; Sandhu and Haggerty 2017). International borders provide an underexamined context in which to study the complexities of invisibility and the potentials for countersurveillance. Second, this article contributes to the growing literature on humanitarianism at the EU borders (see, e.g., Campesi 2014; Aas and Gundhus 2015; Pallister-Wilkins 2015, 2017; Tazzioli 2016a; Perkowski 2016; Cuttitta 2017b; Sciarba and Furri 2017; İşleyen 2018) and the role of civilian humanitarian and activist groups (Cuttitta 2017a; Cusumano 2017a; Pallister-Wilkins 2018; Stierl 2017) by focusing specifically on the surveillance conducted by the latter. The main contribution of this paper, however, is to surveillance studies literature. It advances the concepts of humanitarian and human rights surveillance in dialogue with the concept of countersurveillance.

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3 A follow-up interview request was submitted to MOAS in March 2018. MOAS representatives responded by stating, “We’re quite busy at this time.”

4 Despite this limitation, the focus on three SAR groups can be justified for two reasons. First, the three selected SAR groups have had a longer standing presence in the Mediterranean compared to others. In fact, up until 2016, they were the only SAR groups. Other groups have variously adopted one of these three groups’ operational models as their own. For instance, Jugend Rettet, Sea Eye, and Proactiva Open Arms operate similar to Sea-Watch, while SOS-Méditerranée follows the MOAS model (Cusumano 2017a). Second, the focus on these three groups (and WatchTheMed) is sufficient for illustrating how humanitarian and human rights surveillance works in practice. These analytical categories are relevant for future examination of other SAR groups in the Mediterranean and elsewhere.

5 While elements of surveillance appear in previous works, they are often subsumed under the broader categories such as border policing and sovereignty. Dijstelbloem (2015) and Casas-Cortes et. al. (2017) are exceptions, which deploy the concept of “countersurveillance” to examine the “counter-mapping” activities of some activist groups, including the WatchTheMed. In dialogue with the concept of countersurveillance, this paper advances the concepts of humanitarian and human rights surveillance to analyze the surveillance activities of both humanitarian and activist groups.
The remainder of the article is organized into three sections. I first examine the European border surveillance regime and demonstrate how it has traditionally rested on invisible surveillance practices. I show that the invisibility of border surveillance has contributed to a lack of accountability, human rights violations, and migrant deaths. In the second section, I introduce the analytical concepts of humanitarian and human rights surveillance to help explain the recent challenge to the European border surveillance regime by humanitarian and activist groups. The third section analyzes MOAS, MSF, Sea-Watch, and WatchTheMed and discusses whether and to what extent each of these groups conduct humanitarian or human rights surveillance. The final section concludes by discussing the overall implications of these groups’ activities for the EU’s border surveillance regime.

**The EU’s Border Surveillance Regime**

In response to the movement of migrants from the Global South, the EU has gradually increased its surveillance capacity at the territorial border zones. Deployed surveillance instruments include border walls and fences monitored with infrared camera systems and motion sensors, patrol vessels and vehicles, high-tech sensors, thermo-vision vans, geographical information systems, automatic identification systems, radar systems, helicopters, surveillance coordination centres, and, recently, drones (at testing stage), satellites, and the Eurosor (e.g., Topak 2014a; Jones and Johnson 2016; Topak and Vives 2018). The Eurosor is designed to work as the “system of systems” through gathering surveillance data from diverse units and technologies into a single centre and producing situational pictures of the borders (Jeandesboz 2011; Duez and Bellanova 2016). It is used in “monitoring, detection, identification, tracking, prevention, and interception of unauthorised border crossings” (European Council 2013). Even though another stated objective of the Eurosor is to “save the lives of migrants” (ibid.), as Rijpma and Vermeulen (2015) note, in practice SAR remains at best a secondary or marginal concern for the border authorities who use the Eurosor.

Indeed, except for Italy’s short-lived Operation Mare Nostrum (October 2013 to October 2014), no EU border operation has had an explicit SAR mandate so far. The operation that replaced Mare Nostrum, Operation Triton, similar to other EU border operations, was a surveillance and control operation. Overall, the European border surveillance regime consolidates the traditional hierarchies of surveillance. It operates as a “social sorting” mechanism (Lyon 2003; Topak 2014b) that targets powerless migrants, thus resulting in the reproduction of global social inequalities.

The European border surveillance regime is a militarized one in multiple senses of the term (Jones and Johnson 2016; Topak and Vives 2018). Border surveillance technologies such as drones have their origins in battlefields where they were first used to target enemy insurgents. Following the pattern of a “boomerang” (Graham 2009), they are now in the process of being deployed to control the mobility of civilian migrant populations at the EU’s external borders (see, e.g., Loukinas 2017). The actors of the European border surveillance regime include either militarized police actors or state militaries. The EU Border Agency, Frontex, is a “paramilitary border policing agency” (Bowling and Sheptycki 2015: 67) that uses military technologies and techniques to control EU-bound migration.

The 2015 migrant movements served as a catalyst for further involvement of military actors in migration control. In 2015, the EU launched the Operation Sophia military operation, also known as the European Union Naval Force Mediterranean (EUNAVFOR MED). This operation aims to capture and destroy the ships used for carrying migrants and arrest human smugglers. It also aims to enhance EU–Libya cooperation so that the Libyan coastguard can increase its capacity to intercept migrant boats as they try to leave Libyan territory (Wikileaks 2016). In combination with Operation Sophia, the Italian Navy has also intensified its own cooperation with the Libyan coastguard. EU and Italian support to the Libyan coastguard includes funding, training, and provision of patrol vessels (EUNAVFOR MED 2018). Recent reports reveal that Libyan coastguard personnel who were involved in interception/return operations were trained within the context of Operation Sophia and used patrol vessels provided by Italy (Hunko 2017). There is also evidence suggesting that the Italian Navy provides surveillance information about migrant ships’ locations to the
Libyan coastguard so that the latter can tow migrants back to Libya (Biondi 2017, see also the following sections). During this process, the Libyan coastguard could come into contact with NGOs and attempt to discourage them from conducting SAR, through attacks and harassment (e.g., Stephen 2016; Sea-Watch 2017b). Libyan authorities did not officially declare a SAR zone, but they have conducted these return operations not only in Libyan territorial waters, which extend twelve nautical miles from the Libyan coast, but also in international waters. These activities trapped many migrants in Libya, where they live under the risk of being abused, raped, and tortured (Amnesty International 2017).

Similar migration control measures were implemented along the Western and Eastern Mediterranean routes (see Topak and Vives 2018). In the Aegean Sea in particular, the militarization of border controls went hand in hand with a cooperation deal signed between the EU and Turkey, which facilitates the return of migrants who had crossed Greece back to Turkey. While migrants continue to attempt crossing, most are trapped in Turkey, where they have limited rights and most live in impoverished conditions (see Ataç et al. 2017).6

Significantly, in contrast to the sustained efforts to expand the EU’s border surveillance regime through militarized measures, no institutional effort has been placed on establishing mechanisms to monitor how surveillance is actually conducted at the border zones and its implications for migrants. Perhaps paradoxically, the invisibility of surveillance at border zones co-exists with the hypervisibility of migration in public debates. In fact, these regimes of invisibility and hypervisibility feed off each other in a spiral.7 The hypervisible public debates on migration predominantly represent migration in a negative light, something that threatens Western societies (e.g., Esses, Medianu, and Lawson 2013). These debates create a climate of fear about migration, which then justifies the expansion of border control initiatives to curb migration. It also silences debates around the negative human rights implications of border control practices for migrants, thus contributing to the invisibility of border policing and surveillance. It eventually becomes a taken-for-granted reality that policing and surveillance practices are conducted secretly in Mediterranean border zones in the absence of democratic oversight.

Indeed, even the critical reports of the EU institutions, including the Parliamentary Assembly of the Council of Europe (PACE) and the European Ombudsman, failed to challenge the naturalness of the regime of invisibility that governs the EU surveillance regime. These reports revealed that the Frontex lacks sufficient transparency and accountability in its operations, underlining that there is neither any independent monitoring mechanism for Frontex’s activities nor any effective complaint mechanism to register the claims from individuals whose fundamental rights are breached by Frontex (European Ombudsman 2013; PACE 2013). The activities of the member state border police agents and military authorities are similarly neither sufficiently transparent nor accountable. It is telling that significant details about Operation Sophia came to be known only after Wikileaks (2016) leaked classified EU reports.

When confronted by criticisms from human rights groups, border control actors could simply deny the existence of human rights violations, claiming that none ever took place and that they were simply doing their job of securing territory. The response of the Greek Minister for Citizen Protection and Public Order to human rights groups is illustrative of this strategy of denial. In 2013, a number of human rights groups, including Pro Asyl (2013), collected a large number of migrant accounts that demonstrated in a detailed way how the Greek and Frontex police forces conduct push-back or “interdiction” practices in the Aegean Sea in violation of the principle of non-refoulement. When pressed about the allegations, the Greek Minister simply stated, “With regards to the issue of interdiction, that the dear colleagues pose with their questions, according to our information, we inform you that no incident of interdiction of a foreigner who tried to illegally cross the Greek–Turkish borders was ever reported either by a Greek police officer or by a Frontex officer” (cited in Pro Asyl 2013: 16). Following Cohen’s (2001) work on state strategies of denial, the Greek

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6 Because the examined NGOs were mainly active in the Central Mediterranean, this paper focuses on the situation in the Central Mediterranean.

7 On the ambiguous relationship between regimes of visibility and invisibility in the context of migration and borders, see also Latham (2014) and Mountz (2015).
Minister’s statement could be understood as an exercise in “literal denial.” According to Cohen, literal denial involves assertions which “refuse to acknowledge the facts” concerning human rights violations (7). Authorities who engage in this form of denial simply claim that they “didn’t notice anything” and that “it couldn’t have happened without [them] knowing” (7).

The left-to-die practice could also be considered an exercise in literal denial in that it involves the denial of the existence of distress situations and denial to fulfill SAR responsibilities. The PACE report describes how this form of denial was practised by multiple actors in the left-to-die boat case: “No one went to the aid of this boat, despite a distress call logged by the Italian Maritime Rescue Coordination Centre, which pinpointed the boat’s position. There were also a number of alleged direct contacts between the boat in distress and other vessels … [which] ignored obvious distress signals” (PACE 2012: 1).

**Humanitarian Surveillance vs. Human Rights Surveillance**

In order to define humanitarian and human rights surveillance, we first need to differentiate human rights from humanitarianism. The basic distinction between the two lies in the fact that “human-rights institutions are largely grounded in law, constructed to further legal claims, responsibility, and accountability, whereas humanitarianism is more about the ethical and moral imperative to bring relief to those suffering and to save lives” (Ticktin 2006: 35). We could develop this distinction further by contrasting the historical origins of these two concepts. While the origins of human rights discourses can be traced back to the ideals of the 1789 Declaration of the Rights of Man and Citizen, humanitarianism has its roots in historical practices of “religiously infused charity” (36).

There is, of course, no clear-cut dividing line between humanitarianism and human rights. For instance, there is humanitarian law, which regulates the use of force during wars in order to protect non-participating civilians. There are also many secular humanitarian NGOs that use not only humanitarian but also human rights discourses to raise awareness and mobilize support. However, despite the overlap, humanitarianism and human rights articulate distinct visions of politics.

Underpinned by the principle of political neutrality, it is humanitarian rather than human rights organizations that avoid political engagement. The Red Cross, the world’s oldest and largest humanitarian aid organization, first articulated this humanitarian position of non-politics and influenced other subsequent humanitarian organizations. The Red Cross separated political activity from humanitarian work, maintaining that humanitarian agencies should not take political sides or express political opinions. While this principle plays a strategic role in enabling the access of humanitarian groups to turbulent regions, it also leads to disinterest, even indifference, toward political causes of violence that make human suffering possible in the first place. Indeed, for classical humanitarianism there is no distinction “between good and bad wars, just and unjust causes or, even, between aggressors and innocents” (Douzinas 2007: 58). In the name of political neutrality, humanitarian organizations refrain from engaging in an effort to “inquire about and address the underlying causes of misery” (Belloni 2007: 466). They rather follow a short-term agenda that only focuses on providing immediate and urgent relief to those who suffer.

Yet, as Fassin (2012: 224) puts it, no matter how hard humanitarianism tries to distance itself from politics, “humanitarianism is indeed a politics.” Following Ticktin, the politics of humanitarianism can be defined as “anti-politics”: a form of politics that serves to “reinforce the status quo, the established order” (2011: 19). Anti-politics suppresses the transformative political action, or the “political” potential of politics, through silencing debates around power dynamics and inequalities that contribute to human tragedies in the first place.

In its worst form, humanitarianism can be strategically used by powerful states to legitimize imperialist military interventions and extend the scope of their sovereign power. The military interventions in Afghanistan, Iraq, and, more recently, Libya were justified by a humanitarian language centred around the protection of civilians (Bush, Martiniello, and Mercer 2011). In these interventions, humanitarian NGOs, at
least some of them, became “force multipliers” for states in their war efforts (Lischer 2007). Working as state subcontractors, these NGOs not only cooperated with military actors in the field, but they also contributed to the framing of military interventions in humanitarian terms, therefore displacing the debate away from the political root causes and violent consequences of military interventions (Douzinas 2007: 61; Belloni 2007: 468).

Humanitarian surveillance inherits the troubled legacy of humanitarianism. Following humanitarianism’s political neutrality principle, groups that conduct humanitarian surveillance narrowly focus on providing aid and do not question or challenge deeper structural inequalities and hierarchies of power that constitute the root causes of humanitarian crises. They do not oppose the activities of powerful authorities or resist their demands either. Instead, they cooperate with authorities, even when such cooperation is instrumentalized by authorities to expand their sovereign reach. Engaging in anti-politics, these groups secretly reinforce the status quo and serve to maintain long-standing hierarchies. Humanitarian surveillance, therefore, is not countersurveillance. It is rather a parallel form of surveillance that contributes to surveillance and normalizes the hierarchies between watcher and watched.

In what way does human rights surveillance differ from humanitarian surveillance? The definition provided at the outset of this section can serve as a starting point for our discussion. Human rights action is more about protecting and advancing the rights of individuals rather than bringing relief to them, therefore it operates within a distinct framework of politics. Unlike humanitarianism, human rights action holds a potential for critical and transformative politics because it could be used to highlight the political root causes of human tragedies and allocate responsibility. It could, in particular, be used as a mechanism to shed light on the human rights violations committed by powerful state actors, their allies, and subcontractors. Therefore, rather than contributing to and normalizing surveillance and persistent inequalities, human rights surveillance could challenge surveillance and inequalities. For this reason, it could be understood as a specific form of countersurveillance.

Monahan (2006: 516) emphasizes how countersurveillance has emerged in response to the deepening social inequalities associated with the processes of neoliberal globalization, such as policies of privatization, mass incarceration, and urban securitization of space. These processes often involve the use of surveillance technologies to exclude “economically or culturally marginalized groups” (ibid.). Countersurveillance groups resist or disrupt these processes, sometimes through appropriating the same surveillance technologies they normally oppose. Groups using human rights surveillance similarly resist the spread of discriminatory and hierarchical surveillance and appropriate surveillance technologies to use them in oppositional ways. They aim, similarly, to advance the well-being of marginalized populations. The difference between countersurveillance and human rights surveillance lies in their scope. While countersurveillance refers to a broader set of practices carried out by a wide range of political, artistic, and activist groups, human rights surveillance specifically entails the mobilization of human rights categories within the process of countersurveillance.

The critical scholars of human rights would quickly recognize the romantic depiction of human rights in the above two paragraphs. Indeed, while the concept of human rights holds a potential for countersurveillance, the concrete practice of human rights is no less troubled than that of humanitarianism. To begin with, similar to humanitarianism, the human rights framework can also be used to legitimate imperialist state interventions (Chandler 2001; Bricmont 2006). As Bricmont demonstrates, recourse to human rights has allowed imperialist states to claim “the right, or the duty, to interfere in the internal affairs of other states” (50). Some humanitarian NGOs have also adopted the human rights framework to join the strategic war efforts of imperialist states. As Chandler (2001: 698) points out, “new humanitarian” organizations increasingly use rights-based discourses to “justify the most barbaric of military actions.”

Furthermore, even if we set aside the problem of instrumentalization of human rights by states and conceive human rights as a set of instruments designed to limit abusive state power, it is still questionable whether human rights are capable of accomplishing such a task. As Arendt so eloquently explained, human rights
paradoxically require states in order to be enforced, which makes them at best a fragile and at worst a hypocritical set of instruments. Drawing on the experience of stateless people before, during, and after World War II, she emphasized that human rights declarations practically mean nothing for those who face sovereign power with “the abstract nakedness of being nothing but human” (Arendt 1976: 299). They rather protect the rights of those who already have rights: “the citizens of the most prosperous and civilized countries” (279).

Following a class perspective, a Marxist analysis of human rights similarly emphasizes the meaninglessness and even the danger of human rights talk. Žižek’s (2005) “against human rights” stance characterizes this position. Žižek points out that “universal human rights are effectively the right of white, male property-owners to exchange freely on the market, exploit workers and women, and exert political domination” (129). Indeed, despite the existence of human rights discourses since the 1789 Declaration of the Rights of Man and of the Citizen, minimal attention has been placed on creating the economic structural conditions for everyone to enjoy equal rights and freedoms.

There is no question, therefore, that the concept of human rights is as troubled as the concept of humanitarianism. However, unlike humanitarianism, human rights holds a radical potential for resistance against oppressive power,8 as evidenced by its invocation by the exploited and subjugated populations in their struggles. Human rights cannot be understood as separate from the politics of human rights, which involves challenging the limits of any given order by those who are excluded (Balibar 1994), those “who have no part” (Rancière 2004: 305), and in the name of equality. The history of social struggles—against slavery, colonization, domination of women, and labour exploitation—shows how subjugated groups can use human rights categories to shape and transform the social order despite being excluded by it.

These principles of the politics of human rights form the basis of the definition of human rights surveillance. Human rights surveillance is not simply about protecting and advancing human rights; it is about protecting and advancing human rights for the purpose of advancing social equality and challenging existing social hierarchies. Groups conducting human rights surveillance are either oppressed groups themselves or activist groups who act in the name of those who are oppressed. These groups take a stance against powerful authorities and groups who constitute and govern the social order. Using human rights surveillance, they aim to reveal and challenge the arbitrary hierarchies and abuse of power.

**Humanitarian and Human Rights Surveillance in the Mediterranean**

The discourse and practice of humanitarianism has long been a central part of forced migration and border management regimes (Hyndman 2000; Ticktin 2011; Walters 2011). In the context of the EU, policy makers have long relied on humanitarianism to legitimize border and migration policies (Cuttit a 2017b: 4). Recently, there is an increased and renewed emphasis on humanitarianism both by state and non-state actors (e.g., Perkowski 2016). The so-called “humanitarian turn” has emerged as a response to rising migrant deaths at the EU borders, particularly the 2013 Lampedusa Boat Tragedy, where more than three hundred and sixty migrants died after their boat was capsized less than a mile off the Italian island of Lampedusa. EU institutions and the Italian state increasingly embraced a humanitarian language centred on saving migrant lives. As demonstrated by a number of studies (Campesi 2014; Aas and Gundhus 2015; Pallister-Wilkins 2015), Frontex has begun to strongly emphasize humanitarian values in its policy documents, reports, on its website, as well as in the narratives of its representatives and border guards. The fact that the same Frontex was also engaging in border surveillance and militarization to block safer migration routes during the same period once again underscores the pitfalls of humanitarianism. Rather than limiting sovereign violence, humanitarianism could be appropriated by sovereign actors to extend their power and legitimize human rights violations (Sciurba and Furri 2017).

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8 See also Sciurba and Furri (2017) and their revitalization of the right to asylum as a critical and transformative human rights tool, as opposed to humanitarianism.
Italy’s military–humanitarian Mare Nostrum operation unfolded within the same problematic humanitarian framework (Tazzioli 2016a). On one hand, unlike other border operations, Mare Nostrum placed a strong and explicit emphasis on saving migrant lives, which resulted in the rescue of around 150,000 migrants. On the other hand, it mobilized surveillance technologies and techniques to detect and identify smugglers and migrants. Furthermore, Mare Nostrum strengthened the cooperation between Italy and North African countries (Cuttitta 2017b: 7–8). In that respect, there is a continuity rather than a break between Mare Nostrum and succeeding border control operations Triton and Sophia, even though the latter did not have explicit rescue mandates.

The “humanitarian turn” has also resulted in the increasing involvement of non-state actors in migrant rescue and border politics (Cusumano 2017a, 2017b; Cuttitta 2017a; Stierl 2016, 2017). Similar to the civilian groups at the Mexico–U.S. border zones (Walsh 2010, 2013), these groups began to use surveillance technologies in alternative and oppositional ways. The following section assesses to what extent and in what ways these groups conduct humanitarian or human rights surveillance. First, some general characteristics should be noted.

To begin with, all civilian groups, willingly or unwillingly, cooperate with border authorities (Cuttitta 2017a; Pallister-Wilkins 2017), which automatically positions their activities closer to humanitarian surveillance. The Italian Maritime Rescue Coordination Centre (MRCC) of the Italian coastguard (based in Rome) coordinates SAR operations in the Central Mediterranean. Typically, when a vessel in distress is spotted by the SAR groups, they share the surveillance information with the MRCC, which then determines whether there is a need for a SAR operation and which vessel should assist migrants in the event of a need. Alternatively, a request could directly come from the MRCC, who might contact SAR groups and direct them to migrant vessels in distress. The MRCC also has the responsibility of coordinating the transfer of migrants to the mainland. This includes determining which vessel should transfer migrants to an Italian port for disembarkation.

Close cooperation between the border authorities and SAR NGOs could have the unintended consequence of turning SAR NGOs into “force multipliers” for EU border authorities (see also Cuttitta 2017a). The EU authorities could simply offload SAR responsibilities onto NGOs and devote their resources to border surveillance and militarization. Indeed, close to forty per cent of all SAR operations in the Mediterranean were conducted by NGOs in 2017 (OHCHR 2017), and, as indicated earlier, none of the EU border operations have explicit SAR mandates. As a representative from Sea-Watch pointed out, “Very often different NGOs handle the rescues on their own without any assistance from the Italian coastguard or European military assets.”

In order to further shape NGO activities, the Italian Government, in consultation with the EU, introduced a Code of Conduct for SAR NGOs in July 2017 (Italy 2017). The code was signed by MOAS but contested by MSF and Sea-Watch.10 Among other measures, the code obliges SAR NGOs to disembark all rescued migrants to designated ports themselves instead of transferring them to larger ships. This measure could result in reduced rescue capacity in addition to further absolving EU authorities from SAR responsibilities. The code also obliges NGOs to cooperate with Italian police authorities through receiving them on board and transmitting surveillance data about SAR missions, including sensitive data about rescued migrants. These data could be used in targeting migrant boats, prosecutions for smuggling, and asylum decision processes.

Following the introduction of the code, Italian authorities further increased pressure on NGOs who refused to sign the code. In August 2017, they confiscated Jugend Rettet’s ship Juventa, claiming that the ship was

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9 Interview by author, February 2018.
10 Save the Children, Pro-Activa, Sea-Eye, and SOS-Méditerranée followed MOAS and signed the agreement, while Jugend Rettet and LifeBoat followed MSF and Sea-Watch by abstaining (Cusumano 2017b). Sea-Watch later signed the code with an addendum (see below).
being used to facilitate illegal immigration and collude with human smugglers (Heller and Pezzani 2017). These developments demonstrate the increasing efforts of border authorities to shape humanitarian surveillance for their strategic interests. Indeed, as long as it fully operates under the control of border authorities, humanitarian surveillance could contribute to the expansion of surveillance over migrants rather than challenging it.

Humanitarian surveillance’s complicity in surveillance is also reflected in the surveillance process that migrants go through following their rescue and transfer to designated ports (Amnesty International 2016). Upon their arrival in European territories, migrants are automatically detained, and they experience an intensive surveillance process that includes obligatory fingerprinting and screening for asylum purposes. Those who can claim asylum are sorted from those who will be deported back to their countries of origin. While the latter category experience total exclusion via surveillance, the former experience inclusive exclusion via surveillance. Their fingerprints are stored in the Eurodac database and their mobility within Europe is hindered. Under the Dublin System, they could be returned to the first country of arrival (e.g., Italy, Greece) from other European countries. In short, a comprehensive “social sorting” (Lyon 2003) mechanism awaits migrants rescued by humanitarian surveillance.

Seen in this light, it could be argued that the humanitarian surveillance conducted by NGOs complements surveillance conducted by police and military actors. Both forms of surveillance operate under the rubric of sovereignty, or, to borrow a term from Pallister-Wilkins (2017), “captured by” the sovereign logic. Furthermore, the narrow focus on saving migrant lives via humanitarian surveillance could also displace discussions of political root causes of migration and long-term solutions to the migration “crisis.” Hence it could serve to maintain the status quo and contribute to the promotion of surveillance-technology solutions to the social and political issue of migration (Topak 2015).

However, at different levels, civilian groups have also problematized de-politicization (Cuttitta 2017a; Stierl 2017) and surveillance and articulated resistance against the EU border regime. In fact, their very presence could be understood as a form of resistance, as evidenced by the sovereign efforts to criminalize it. The following section discusses the extent to which and the ways these groups move away from the framework of humanitarian surveillance and incorporate elements of human rights surveillance in their activities.

4.1. MOAS (Migrant Offshore Aid Station)
MOAS was founded in 2013 by the millionaire couple Christopher and Regina Catrambone. In 2014, it conducted its first mission in the Central Mediterranean with Phoenix, a forty-metre former fishing vessel modified for SAR purposes. Besides the vessel, the organization also uses two rigid-hulled inflatable boats and two Camcopter S-100 model drones, manufactured by Schiebel. MOAS proudly advertised its drones, emphasizing their ability to survey large areas quickly and submit detailed regular and thermal images about migrant boats to the Phoenix. Over three years, MOAS was involved in the rescue of more than forty thousand migrants (MOAS 2017a).

The MOAS founders have expressed some criticism of EU policies and “the lack of response to hundreds of drownings” (MOAS, n.d.). In multiple media outlets, the Catrambones cited the October 2013 tragedy as the event that motivated their decision to launch MOAS. Another motivating factor for the MOAS founders was to shape the public debate about migration by making migrants’ suffering visible. In an interview, Regina Catrambone stated, “We wanted to make a wake-up call to the society, to say ‘hello…this is happening now, in this moment, out at sea…shift the camera look at here, these are people dying’” (MOAS 2017b).

However, despite being critical of the insufficient SAR resources provided by the EU, MOAS has generally avoided criticizing the former’s border surveillance and control policies. In an interview, the operational director of MOAS stated: “What guides us is the individual who needs our assistance out at sea. We’re not
trying to either provide solutions, or to tell governments or the EU what to do […] We do not look into the root causes of the problem.”\cite{11}

This politically neutral stance has led MOAS to act in a very cooperative way and accept the highly contentious demands of Italian and EU authorities. Stressing that humanitarian work could only be performed under “the climate of maximum cooperation and mutual respect,” MOAS was among the first NGOs to sign the Code of Conduct for NGOs (MOAS 2017c). As indicated earlier, among other measures, the code obliges NGOs to allow Italian police to board vessels and assist their investigations and inquiries on migrant smuggling. In fact, even before signing the code, MOAS already aided police work (Cuttita 2017a: 13). For instance, MOAS provided surveillance reports to Italian authorities. These reports included surveillance data about the SAR missions, photographs, as well as drone footage. MOAS representatives also assisted police inquiries on potential smugglers on rescued boats (Jacobs 2017: 32-33).\cite{12} MOAS also allowed Libyan authorities on board to test Schiebel drones and kept a close relationship with Schiebel, whose drones are used by at least eleven militaries and can be modified to fire missiles (Hofman and Whittall 2015; Cuttita 2017a: 13). As Hofman and Whittall (2015) allude, MOAS might have contributed to the marketing and public relations efforts of Schiebel, “whose interest was clearly to reduce negative press about drones.”

These activities of MOAS would fit under the category of humanitarian surveillance in that rather than challenging surveillance, they support it. While MOAS undoubtedly played a role in making migrant tragedies visible, it is questionable whether it contributed to making border policing, surveillance, and human rights violations visible. Ultimately, this model of surveillance does little to challenge the hierarchies of surveillance between the border authorities and migrants, the watcher and the watched. Its narrow focus on saving lives might also contribute to the silencing of root causes of migrant tragedies and normalization of the expansion of the EU surveillance regime. Yet, despite not challenging the logic, practice, and hierarchies of surveillance, the MOAS model of surveillance, with its primary aim to save lives, still significantly differs from surveillance conducted by sovereign actors and presents a challenge to them.

Indeed, despite the maximum cooperation and political neutrality policy of MOAS, it still came under attack by sovereign actors, including Frontex and some EU and Italian politicians, who accused it, together with other NGOs, for acting as “pull-factors” and encouraging more migrants to cross (Heller and Pezzani 2017). In a remarkable step, MOAS suspended all SAR operations in the Mediterranean in September 2017. The decision was taken in the aftermath of the increasing cooperation between Italian–European and Libyan authorities which have effectively prevented a majority of migrants from leaving Libyan territorial waters. In its decision statement, MOAS raised some concerns about the deteriorating situation and rights of migrants in Libya without criticizing the EU or Italy directly, and they emphasized that “MOAS does not want to become part of a mechanism where there is no guarantee of safe harbour or welcome for those being assisted and rescued at sea” (MOAS 2017d). It is perhaps ironic to see that MOAS adopted, albeit implicitly, a more critical stance toward the EU policies and appropriated elements of a human rights framework after it suspended its activities. Yet, it might also be wrong to overstate MOAS’s use of human rights categories. Rather than a protest move, MOAS’s suspension of its activities could just as well be read as a strategic decision to redeploy its assets to South East Asia (MOAS 2017d).

4.2. MSF (Médecins Sans Frontières)
MSF, one of the largest and best-known humanitarian organizations in the world, joined the SAR efforts through partnering with MOAS in 2015. Later the same year, MSF formed its own independent SAR mission and purchased two ships, Bourbon Argos and Dignity I, each having the capacity to carry around three hundred to three hundred and fifty people. Bourbon Argos and Dignity operated in 2015–16 and in 2016–17 gave their places to Prudence, a larger ship with a capacity of 750 people (MSF 2018). Since 2015, MSF have been involved in the rescue of over seventy thousand people (MSF 2017a).

\cite{11} Interview with Martin Xuereb (cited in Vassallo 2014).
\cite{12} This study draws on hearings of representatives from NGOs at the Italian Parliament.
MSF suspended its activities in August 2017 after refusing to sign the Code of Conduct and citing concerns about the EU–Italy and Libya joint efforts to implement a blockade for migrants trying to flee Libya and the human rights abuses suffered by migrants trapped there (MSF 2017b). MSF representatives stated that they refuse “to be co-opted into a system that aims at all cost to block people from seeking safety” (ibid.). However, MSF’s suspension of SAR activities should not be understood as purely politically motivated. In an interview, an MSF representative explained that operational considerations also played a part in their decision. He pointed out that the border control initiatives in Libya reduced the number of crossings, which automatically reduced the need for SAR NGOs. Furthermore, the threats of the Libyan authorities made SAR operations increasingly unsafe for MSF personnel (ibid.). At the time of writing, MSF provides a medical support team to the SOS Méditerranée’s boat, Aquarius, which has the capacity for five hundred people (MSF 2018).

MSF shares a number of similarities with MOAS. They were partners in 2015, and they both suspended their activities in 2017. Furthermore, some of MSF’s early statements echoed MOAS’s political neutrality stance. MSF declared that, “it is not up to MSF to determine EU migration policy—it is the job of politicians to find solutions to this crisis” (MSF 2015). However, unlike MOAS, MSF was at the same time critical of the EU border surveillance and militarization initiatives (see also Stierl 2017: 9–11). As an MSF representative pointed out in an interview, “MOAS was very clear from the beginning that its core message was ‘nobody deserves to die at sea,’ whereas MSF focused not just on rescuing people but also singling out the impact of European policies on closing borders, the lack of safe and legal routes, and so on.”\footnote{Interview by author, March 2018.} This critical stance later led MSF to reject the surveillance demands of the border authorities, reject funding from the EU member states, and, eventually, refuse to sign the Code of Conduct.

In fact, as pointed out by del Valle (2016), the Head of Advocacy and Operational Communications, even prior to launching the SAR missions, there were tensions within MSF over the organization’s positioning toward EU policies. Following a classical humanitarian framework, some members of the organization argued that “MSF should limit its action to rescuing people at sea and bearing witness to the suffering of those rescued, without commenting on root causes or taking a position on political issues that are beyond the organisation’s medical expertise” (31). Others, however, advocated for a more politically engaged position, emphasizing that “rescuing people without pointing at the root causes of the problem would run the risk of MSF’s action being manipulated and misinterpreted” (31). As the EU’s border policies became ever more restrictive, the second group’s views began to dominate MSF’s public responses.

Unlike its ex-partner MOAS, MSF refused to share surveillance data with police authorities and attempted to distance itself from the MOAS drone sponsor, Schiebel (Hofman and Whittall 2015). In June 2016, MSF announced that it would no longer accept funds from EU institutions or member states. The announcement was a direct response to the EU–Turkey deal, which is, according to MSF, designed to “push people and their suffering away from European shores” (MSF 2016). MSF used a similar language to criticize the EU–Libya deal and increasing border surveillance and militarization. Acting more like a human rights advocacy group, MSF criticized the “growing trend of border closures and push backs” and demanded that EU authorities create “safe and legal avenues for people to cross borders” (MSF 2017c). MSF’s critical stance against EU policies is also reflected in its refusal to sign the NGO Code of Conduct. MSF defined the code “as part of a political project to generate an EU-wide migration control policy” (MSF 2017d) and opposed in particular the code’s provisions about the transfer of migrants and police investigations.

MSF’s opposition to these provisions represents its refusal to become a part of the EU’s border surveillance regime. As pointed out earlier, the code’s requirement for NGOs to transfer rescued migrants to designated ports could result in more police and military resources being devoted to border surveillance. MSF recognized this underlying rationale behind the code, emphasizing that the “Code seems to be entrenching the view that states can outsource the life-saving response to NGOs, allowing states to concentrate their
efforts on naval and military operations” (MSF 2017d). The code’s requirement for NGOs to support police investigations was also contested by MSF. In an interview, an MSF representative stated, “We do cooperate with the MRCC in Rome, but we don’t want to operate as an extension of law enforcement or border police, or any other forces that were deployed in [the] Mediterranean to stop migrants.”

These oppositional acts mark the difference between the MSF and the MOAS models of surveillance. While both are essentially humanitarian surveillance models in that their primary motivation is to rescue migrants through the use of surveillance rather than monitoring human rights violations committed by border authorities, they differ in how they relate to surveillance conducted by border authorities. While the MOAS model of humanitarian surveillance remains silent about and could contribute to border surveillance efforts, the MSF model refuses to be coopted by the EU’s border surveillance regime. Moreover, MSF’s criticisms of human rights violations caused by the EU’s border surveillance regime problematizes the logic, practice, and hierarchies of surveillance and further differentiates it from MOAS, moving it toward the human rights framework.

However, MSF is after all a humanitarian organization, and conducting human rights surveillance through watching and recording the activities of border authorities has not been its priority. As an MSF representative stated in an interview: “We did not set up a system to monitor the border authorities . . . . We don’t have that capability. We don’t invest in that basically.” Indirectly, however, MSF performs some human rights watchdog activities. It collects data from rescued migrants about human rights abuses they suffered in Libya and later uses these data in its reports. Apart from the MSF SAR Team, the MSF Libya Team published a report about human rights abuses in Libyan detention centres (MSF 2017e) and accused the EU of being complicit (MSF 2017c).

4.3. Sea-Watch

Sea-Watch is a small NGO based in Germany. It began to operate in the Central Mediterranean in April 2015 with a twenty-one-metre-long, ninety-eight-year-old fishing trawler after renovating it and naming it Sea-Watch. Unlike MOAS and MSF, the initial motivation behind the Sea-Watch project was to monitor the human rights abuses committed by border authorities, including cases of non-assistance, rather than conducting SAR missions. As a Sea-Watch representative pointed out in an interview, “That is actually the origin of our name, Sea-Watch. In the very beginning, we were a hundred per cent watch-dog organization.” He added that the Sea-Watch ship was not designed “to perform rescue, but to watch the authorities.” However, gradually and quite rapidly, Sea-Watch began to take on SAR responsibilities. In 2016, the organization purchased a new ship, Sea-Watch 2, a thirty-three-metre-long ship with some capacity to take people on board. Operations-wise, Sea-Watch 2 was still different than the MOAS and MSF ships in that it was providing urgent support to migrants in distress through launching speedboats and monitoring the situation until a larger ship arrived, rather than taking migrants on board and transporting them to an Italian port. In 2016, Sea-Watch 2 assisted the rescue of more than twenty thousand people in this way. Sea-Watch 3, however, follows the MOAS and MSF operational model. It is a fifty-metre-long ship that can be used in rescuing and transporting migrants.

While Sea-Watch’s model gradually began to resemble MOAS and MSF, the organization continued to place a strong emphasis on performing the watchdog role. Significantly, in spring 2017, Sea-Watch launched an air surveillance mission, called Operation Moonbird, to both assist SAR activities and to strengthen the organization’s capabilities to monitor human rights abuses. This operation is a joint mission by Sea-Watch and Humanitarian Pilots Initiative (HPI) (Sea-Watch 2018b). The latter group is composed of pilots from Switzerland whose aim is to use their technical knowledge and skills for humanitarian purposes (HPI 2018). HPI provides the aircraft and the crew and work under the coordination of the Sea-Watch team. The aircraft

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14 Interview by author, March 2018.
15 Interview by author, March 2018.
16 Interview by author, February 2018.
17 Ibid.
is a Cirrus SR22 G2, and it can operate for four to five hours on one mission. Usually, one mission is scheduled per day. However, depending on the crew and the situation in the SAR zone, two missions could also be scheduled.**18**

Thanks to its human rights watchdog role, Sea-Watch has taken a clear adversarial position against the EU border authorities and policies since it began (see also Stierl 2017: 11–12). In an earlier statement titled “Anti-Smuggling Legislation and Migrant Rights,” the organization criticized the EU’s strategic use of anti-smuggling legislation to legitimize border militarization initiatives and to criminalize those who assist migrants in distress. It warned EU policymakers that such measures could only result in “violating the human rights of migrants seeking to enter Europe often in need of international protection” (HRAS 2015). More recently, Sea-Watch organized a petition campaign to lobby against the EU’s cooperation with Libya. In the petition statement, it emphasized that the activities of the EU-funded Libyan coastguard violate “the international law of the sea and the Geneva Refugee Convention” as well as the “right to protection from violence and torture” and urged the EU to “take responsibility for human rights on its external borders” (Sea-Watch 2017a).

In this and other statements, Sea-Watch advocates for the advancement of the human rights of migrants and acted more like a human rights activist group than a conventional humanitarian organization. The kind of surveillance conducted by Sea-Watch is, similarly, closer to human rights surveillance than humanitarian surveillance. The organization documented interception operations of Libyan authorities that were conducted with the assistance of the Italian or European authorities. In these operations, the Libyan coastguard intercepted migrants in either Libyan territorial waters or international waters and subjected them to forcible return, in violation of international refugee law. The operations that took place in international waters are particularly problematic from a human rights perspective because the same migrants could instead have been rescued by the Italian or EU authorities and transported to a safe port in Italy.

Sea-Watch documented and publicized an interdiction and return case performed by Libyan authorities and implicating Italian and European authorities (Sea-Watch 2017b). The case concerned a migrant wooden boat that came under distress when it was navigating in international waters, twenty nautical miles from the Libyan coast. Sea-Watch, under the coordination of the MRCC, approached the migrant boat to initiate a SAR mission. In the meantime, Libyan authorities arrived, which led the Sea-Watch team to retreat and monitor the situation from a distance. Eventually, the migrants were taken aboard the Libyan ship and dragged back to Libya. According to a Sea-Watch representative, such “pull-back” operations have intensified, particularly since September 2017.**19** Sea-Watch stressed the illegality of these operations under international law and raised concerns about the EU’s role in them, noting that “the EU is supporting the Libyan navy to prevent migration to Europe” (Sea-Watch 2017c).

Documenting and proving the EU’s specific involvement in these operations, however, is difficult, which is one of Sea-Watch’s challenges of performing the watchdog role. Possibly because the EU and Italian authorities are aware that they are under the surveillance of Sea-Watch and other NGOs, they refrain from physically engaging in interception and return operations, or older forms of push-backs, which would be clearly illegal according to EU law.**20** They rather seem to supply Libyan authorities with necessary surveillance information so that the latter can conduct return operations on behalf of Italy and/or the EU.**21**

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18 Ibid.
19 Interview by author, February 2018.
20 In February 2012, the European Court of Human Rights condemned Italy’s push-back policy with its judgment in the case of *Hirsi Jamaa et al. v. Italy* (no. 27765/09). The case concerned the interception of a migrant boat by Italian authorities in international waters. Following the interception, Italian authorities took migrants back to Libya, where they had originally embarked from, and handed them over to Libyan authorities.
21 “Pull-backs” followed by surveillance cooperation is not a new practice of the European border regime (see Topak 2014: 828). Yet, it has increasingly become a central method of border control, mainly due to the new cooperation deals with neighbouring countries.
While proving Italy and/or EU surveillance support to Libya is difficult, the Sea-Watch team witnessed a number of cases where Libya’s return operations would not have been possible without such assistance. One specific case, described by a Sea-Watch representative during an interview, involved the interception of one hundred and fifty migrants by the Libyan coastguard in international waters, fourteen nautical miles from the shore of Libya. At that time, an Italian destroyer was patrolling the twelve-mile zone, just outside Libyan territorial waters, while the Libyan coastguard was further away from the boat. According to the Sea-Watch representative, “physically there was no chance for the Libyan coastguard to know about that migrant boat, if the Italian destroyer did not forward the information.”22 He added that, in this specific case, in addition to contributing to the violation of the Geneva convention, the Italian authorities also violated the SOLAS convention because “they were monitoring the [distress] situation but not rescuing.”23 Yet, despite these efforts of the Sea-Watch team to connect the dots, proving non-assistance is still very difficult because, unlike NGO and commercial ships, police and military ships do not provide their location or navigation data (in the form of AIS [Automatic Identification System] or GPS).

Sea-Watch’s efforts to monitor human rights violations is further limited by its technical capacities. As a small NGO, the organization has only one ship and one aircraft. While the aircraft could survey large areas quickly, as indicated earlier, it can only operate four to five hours on each mission. A Sea-Watch representative noted that while the aircraft surveillance is helpful to “get snapshots of the situations,” it is often not enough to “generate data accusing [the] military.”24 Furthermore, the aircraft primarily surveys the areas where there is a higher likelihood of a SAR need, rather than watching where the military and police assets are positioned and what they are doing.

Despite these limitations, Sea-Watch differs from MOAS and partially from MSF with its strong emphasis on human rights surveillance. In addition to humanitarian surveillance, it also conducts human rights surveillance to surveil the powerful border authorities on behalf of the powerless migrants and to protect and advance migrants’ rights. It problematizes and tries to expose the inner workings of the EU’s expanding surveillance machine, which it perceives as the root cause of ongoing migrant tragedies.

However, similar to all NGOs, Sea-Watch needs to maintain some form of cooperative relationship with sovereign authorities in order to continue its activities. This external pressure led Sea-Watch to eventually sign the NGO Code of Conduct, despite initially contesting it. The organization’s initial response to the code was similar to that of MSF’s. It perceived the code as an attempt to channel NGO activities toward the strategic interests of the EU surveillance regime. In the aftermath of the Iuventa case, however, the organization came to the conclusion that signing the code was the only way for it to continue its activities and signed the code “with an addendum” (Sea-Watch 2017d). This addendum removes the code’s obligation to allow police officers on NGO ships. In an interview, a Sea-Watch representative added that they did not submit surveillance data to border authorities so far and would not submit such in information in the future.25

4.5. WatchTheMed (Watch the Mediterranean Sea)
The WatchTheMed project was formed by migrant rights activist groups during their 2012 BoatsforPeople campaign. It is “an online mapping platform to monitor the deaths and violations of migrants’ rights at the maritime borders of the EU.” The organization collects various forms of data about boat incidents, including “accounts of survivors and witnesses, but also the analysis of ocean currents, winds, mobile phone data, and satellite imagery.” It then combines these data using georeferenced mapping and satellite imagery in order to “reconstruct events and determine responsibility” (WatchTheMed 2018).

WatchTheMed follows the model of the Forensic Architecture (FA) research project, a broader project aiming to digitally reconstruct various human rights violations—from drone strikes to environmental

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22 Interview by author, February 2018.
23 Ibid.
24 Ibid.
25 Interview by author, February 2018.
destruction—in order to aid human rights investigations (FA 2018). The founding members of the WatchTheMed platform, Heller and Pezzani, are also members of the FA team, and they previously analyzed the left-to-die boat case of 2011 as a part of the FA project. Combining data from survivor testimonies, satellite phone locations, and satellite imagery of the Mediterranean, Heller and Pezzani were able to produce a digital map of the drift trajectory of the migrant boat as well as documenting the interaction between the boat and “at least one patrol aircraft, one helicopter, two fishing boats, and a military ship” (Heller, Pezzani, and Situ Studio 2012: 11). Despite the absence of AIS data from the military vessels, they were able to ascertain which military vessels were nearby the migrant boat but did not provide assistance. October 2013 migrant tragedies near Lampedusa similarly involved elements of non-assistance and were documented by the WatchTheMed Network (Heller and Pezzani 2016: 7). Some migrant deaths occurred during rescue by poorly equipped commercial vessels (directed similarly by Rome MRCC). The WatchTheMed team is also investigating such cases to allocate responsibility for migrant deaths (ibid.).

These practices could be categorized as practices of human rights surveillance, for they involve the use of surveillance technologies for the purpose of documenting human rights violations and allocating responsibility. Reconstruction of past human rights violations, however, is only part of the WatchTheMed project. In October 2014, WatchTheMed launched WatchTheMed Alarmphone (hereafter “AlarmPhone”) to assist migrants in distress and put pressure on authorities in real time. As its name implies, AlarmPhone operates as a 24/7 hotline that can be accessed by migrants during distress situations. Upon receiving a distress call from migrants, the AlarmPhone team contacts border authorities and SAR NGOs and monitors the situation until migrants are rescued and transferred to a safe port. It uses GPS data gathered from migrants’ phones to locate the position of migrant boats. Some migrants strategically carry satellite phones to increase their visibility and traceability in the event of distress (Tazzioli 2016b: 575–76). In the absence of GPS data, the AlarmPhone collects relevant information from migrants (e.g., time and place of departure, nearby ships) to make an estimation about their location. In these ways, AlarmPhone assisted 1,840 cases of distress in its first three years in operation (AlarmPhone 2017).

AlarmPhone keeps a close relationship with SAR NGOs. A recent case, posted on the Facebook page of Sea-Watch on March 10, 2018, illustrates this close relationship. The post reads: “This afternoon Watch The Med Alarmphone received an emergency call and the Moonbird started its mission. So we were able to help Proactiva Open Arms with the search and coordination to finally find a rubberboat with 106 people” (Sea-Watch 2018c). Some SAR NGOs (such as Sea-Watch) could also pass on information about human rights abuses they witness to WatchTheMed so that the latter can use this information to reconstruct the event.

Sea-Watch and WatchTheMed cooperate in their efforts to make border zones visible via human rights surveillance. They also occupy similar political positions in their opposition to the EU’s border control policies. WatchTheMed, however, puts more emphasis on the political empowerment of migrants via human rights surveillance. One of the most active members of AlarmPhone, Stierl, defines the project as a political intervention that “allows activists to listen to and amplify the political struggles that are fought by travelling subjects at sea” (Stierl 2016: 564). In Stierl and other activists’ discourses, migrants appear not as subjects in desperate need of humanitarian compassion, but as political subjects who demand rights and recognition.

This political positioning moves WatchTheMed further into the category of human rights surveillance. Rather than being an act of charity that characterizes humanitarian surveillance, human rights surveillance is an act of solidarity with those who are excluded, marginalized, and dispossessed. WatchTheMed uses human rights surveillance not only to put border authorities under surveillance but also to give political voice to the victims of human rights abuses and to support their struggles for equality.

However, WatchTheMed’s human rights surveillance efforts are limited in three ways.26 First are the challenges concerning human resources. The AlarmPhone project relies on volunteer work to function 24/7.

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26 Interview by author, September 2018.
The project has been able to run effectively so far thanks to volunteers from over twelve countries. However, it is not a fully institutionalized organization with permanent staff and secure funding. Second, the ongoing crackdown on SAR NGOs and Italy–Libya cooperation negatively affected the organization’s efforts. There are fewer NGO ships available to be alerted in the field, which obliges the organization to cooperate primarily with Italian border authorities. The Italian border authorities, however, could simply pass on the information to Libyan authorities who would then return the migrants to Libya. Finally, there are challenges in charging the border authorities with human rights violations. The legal cases require not only GPS data but also documentation of minute details and the collection of survivor testimonies. The survivors are hard to reach because they are often returned to the neighbouring countries (e.g., Libya, Turkey) after the boat incident, and they may not be willing to speak against border authorities due to their marginalized status. Even if WatchTheMed was able to devote resources and collect survivor testimonies for each case of border police–military misconduct, the outcome of official inquiries would still be uncertain. WatchTheMed’s extensive report on the left-to-die boat formed the basis of legal proceedings filed by a group of NGOs against NATO member states. However, the legal proceedings are ongoing, and their outcome remains to be seen. Furthermore, as Pezzani and Heller (2013: 296) themselves critically reflect, border authorities could adapt legal cases and develop new strategies to reach a similar outcome, as the shift from push-backs by Italian authorities to “rescue” by Libyan authorities already demonstrates.

Despite the limitations of WatchTheMed in empowering migrants and challenging the EU’s violent border regime, their activism still serves as a model to observe how the hierarchies between the watcher and watched could be challenged through the use of surveillance and in the name of human rights.

Conclusion

This paper examined the recent challenge to border surveillance and invisibility by two regimes of surveillance: humanitarian and human rights surveillance. It demonstrated how and to what extent MOAS, MSF, Sea-Watch, and WatchTheMed incorporated elements of humanitarian or human rights surveillance in their activities. This concluding section assesses the overall implications of these activities for police visibility, countersurveillance, and the European border regime.

To begin, regardless of differences among these organizations, they have all complicated the traditional understanding of the European border regime, which rested on the hidden surveillance practices of border authorities. They have demonstrated that surveillance is no longer a monopoly of border authorities to perpetrate violence and that it can also be used by civilian groups to rescue migrants and monitor human rights violations. These groups have assisted in the rescue of thousands of migrants and brought SAR to the fore from its marginal position. Neither left-to-die nor push-back practices, which long characterized the European border regime, can so easily and nonchalantly be conducted without being seen, thanks to the presence and activities of these groups.

In this sense, there are some similarities between the recent developments in domestic policing, where citizens increasingly use cameras to record and share police activities, and border policing. While, unlike citizens in domestic contexts, organizations in the Mediterranean did not succeed in turning border policing into a “high visibility” profession (cf. Sandhu and Haggerty 2017), they have contributed to the visibilization of border policing to a certain degree. They have also marked the involvement of civilian groups in surveillance at border zones, which carries the potential for countersurveillance. However, it should also be noted that, despite the activities of these groups, migrant deaths and sufferings have continued, and the European border regime has expanded its reach and capacity. From 2014 to 2017, the period when the civilian groups were most active, there were 11,920 recorded migrant deaths in the Mediterranean Sea (IOM 2018). Furthermore, since 2017 the EU and Italy have largely succeeded in their efforts to curtail the arrival of migrants from Libya, which have resulted in thousands of migrants being arbitrarily detained, tortured, and raped in Libya. Therefore, and not dissimilar to the citizen efforts in domestic contexts (e.g., Wilson and Serisier 2010; Brucato 2015; Beutin 2017), the countersurveillance potentials of these groups have been
limited and did not create a structural change. We can identify five factors which have resulted in this situation.

The first factor is related to the incapability of humanitarian surveillance to challenge sovereign surveillance. Humanitarian surveillance has a narrow focus on SAR and can be controlled or manipulated by sovereign powers. All examined groups, willingly or unwillingly, incorporate elements of humanitarian surveillance in their activities and cooperate with border authorities at different levels. Second, even though some groups are also committed to human rights surveillance as a form of countersurveillance, they are restricted by their resources and reach. The Mediterranean border zones cover a vast geography, and these groups can only operate in limited sections of it. Third, even when these groups can observe human rights violations, it is still difficult for them to prove the responsibility of Italian and EU authorities in them. While the presence of these civilian groups might have deterred the Italian and EU border authorities from directly engaging in violent push-back practices, it did not prevent them from using new tactics to achieve the same end. These authorities can submit surveillance information about migrant boat locations to Libyan authorities, who can then drag migrants back to Libya. The absence of physical contact and the difficulties in demonstrating surveillance cooperation might further help the EU and Italian border authorities to absolve themselves of responsibility for human rights violations.

The reaction of the border authorities to the civilian groups constitutes a fourth factor. Scholars of domestic policing’s visibility showed how the police react to being filmed through confiscating or destroying cameras, deleting footage, intimidating citizen filmers, removing identification badges (Wall and Linnemann 2014; Wilson and Serisier 2010: 169–70), or discrediting civilian footage (Brucato 2015). In the Mediterranean border zones, authorities react similarly to civilian groups so as to neutralize the countersurveillance threat they pose. These reactions can be grouped under two headings: passive and active reaction. Passive reaction entails the use of indirect tactics to reach similar surveillance outcomes. The surveillance cooperation between the Italian and Libyan authorities could be given as an example to this form of reaction. Active reaction includes efforts to outlaw or restrict the activities of civilian groups, which amounts to “criminalisation of solidarity” (Heller and Pezzani 2017; Fekete 2018). The Code of Conduct and the seizure of the Iuventa by Italian authorities are examples of this form of reaction. The rise of populist, right-wing, anti-immigrant parties across the EU could result in additional restrictions or even outright bans for NGOs in the future. Indeed, during the summer of 2018 (after most of this paper was completed), attacks against SAR NGOs increased; Italy and Malta took new steps to close their ports to NGO ships; Italy intensified the policy of offloading SAR responsibility to Libyan authorities; and Libyan authorities increasingly harassed the NGOs (see Villa, Gruijters, and Steinhilper 2018).

The fifth factor concerns the legal ambiguities concerning the outcome of human rights surveillance. Writing about the limitations of civilian efforts to make domestic policing accountable via countersurveillance, Wilson and Serisier (2010: 172) noted how the police could control the investigation, refuse to provide information about the event or details about their personnel, and provide their re-contextualized interpretations of the event, which is often privileged in the legal system. Wilson and Serisier’s observations could be extended to the border policing context. Even if civilian groups could devote extensive resources, collect data, and file official complaints against border authorities, the value of human rights surveillance in official inquiries and legal proceedings will still be unclear. Legal processes take a long time, and border authorities could dispute the data and present their own versions of the event to nullify the efforts of civilian groups.28 Border authorities can also adapt to legal outcomes and develop new strategies to achieve the

28 The legal process of the 2014 Farmakonisi tragedy, where eleven migrants died after the Greek coastguard towed migrants’ boat at high speed during a push-back operation, illustrates how the judicial system privileges the perspective of the border authorities over the perspective of migrants. The Greek prosecutor dismissed the detailed and coherent survivor testimonies for lacking credibility and decided to drop the investigation based on the contradictory and inconsistent statements and evidences provided by the Greek coastguard (GCR et al. 2014). The
same goal of preventing migration, as indicated. Ultimately, it is questionable whether human rights surveillance itself has the potential to result in a major transformation of the EU border surveillance regime, which is the outcome of complex material processes, including the historical processes of colonialism and imperialism and contemporary practices of neoliberal globalization.

Despite the resilience of the EU border surveillance regime, however, its future remains uncertain. A few years ago, few would have anticipated that many humanitarian and activist groups would operate in EU border zones to rescue migrants and watch border authorities. It remains to be seen how and to what extent these or other emerging groups can challenge or resist the border surveillance regime by inventing new strategies.

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References

survivors later filed a complaint to the European Court of Human Rights, whose outcome remains to be seen (Amnesty International 2015).


