NGOs in the Humanitarian Assemblage: Power Asymmetries and EU Migration Externalization

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13th of July 2025

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S3523004

BSc International Relations and Organizations

BAP: International Law, Use of Force and Protection of Human Rights

Bachelor Thesis

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Second Reader: Dr. Anahita Arian

Embargo Statement: Open

Word Count: 8734

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1. Introduction

Human mobility, driven by the pursuit of better opportunities and social support, has become a defining feature of our globalized world, giving rise to the complex global phenomenon of migration. As Pope Francis highlighted: "Migrants and refugees are not pawns on the chessboard of humanity. They are children, women and men who leave or who are forced to leave their homes for various reasons, who share a legitimate desire for knowing and having, but above all for being more" (2013). This statement embraces the need for an approach addressing migration not solely through regulatory control but also through a humanitarian and rights-based lens. Yet, often receiving states are challenged to uphold these standards in the face of the increasing number of newcomers (Czaika & Reinprecht, 2022, p. 50).

This trend is particularly evident in the case of the European Union (EU), which faced many challenges managing the inflow of migrants and refugees together with their asylum claims after the 2015 migration crisis. The efforts placed by the EU during the outbreak of this critical juncture aimed not only at mitigating potential security threats, but also at maintaining its normative image as a promoter of inclusion and respect for the rule of law (Bialsiewicz, 2012, p. 846). Yet, the excessive number of political and logistical pressures led to the decision to seek external assistance by creating cooperative deals with coastal countries on the other side of the Mediterranean, thus engaging in externalization of the issue. Externalization as a process consists of a multilevel system constructed on agreements of financial and cooperative grounds (Molnar, 2023, p. 1020). A crucial dimension of externalization is not only the delegation of core responsibilities to third states but also the growing reliance on international (IOs) and non-governmental (NGOs) organizations to manage key aspects of migration control (Lavenex, 2016, p. 563).

While often seen as independent from state objectives, the role of these actors in externalization practices suggests a different story. Given their mandate often consists of humanitarian assistance, rescue operations and administrative support, independent NGOs can get tangled between their normative obligations and political pressures (Cuttita, 2023, pp. 752-753). Therefore, this thesis focuses specifically on the afore-mentioned group of actors, aiming to examine how the system may compel them to alter their course of action. The paper specifically focuses on the dynamics of the externalization assemblage after the outbreak of the migration crisis and the implementation of partnership frameworks with third parties, using the EU-Libya migration cooperation as an

exploratory case study. It draws on a qualitative analysis of EU policy and legal documents, media coverage, findings of which are further confirmed by NGO reports. Specifically, the paper will examine key incidents in this context involving NGO-led rescue missions. Thus, academically, this thesis contributes to discussions on the importance of power asymmetries within the externalization system and how it can impact the aspirations and agency of non-governmental actors. In doing so, it highlights the academic debate surrounding the true nature of NGOs: whether they act as genuine humanitarian guardians or merely serve states, which often assume a supervisory role in such missions. Additionally, the analysis brings in critical thoughts about the normative picture of the EU, as while it intends to appear rights-based, its practices risk violating core obligations under international refugee and human rights law instruments (Martins & Strange, 2019, p. 200). Societally, this paper seeks to highlight the increase in violations of human and refugee rights, stemming from growing restrictions on NGO-led humanitarian assistance. As the political agenda shifts further towards the securitization of migration, rescue activities become subject to mounting criticism.

This thesis will firstly review debates in the existing literature, identifying critical gaps regarding NGO involvement in migration externalization. Later the text will present a theoretical and conceptual framework, followed by an outline of the methodological choices guiding the study. Consequently, the paper will proceed with an analysis of crucial incidents after the beginning of the externalization strategies, followed by a critical discussion of the main findings, and ultimately culminating in a conclusion that reflects on the main observations and broader implications of the EU migration governance.

2. Literature Review

Externalization of migration has become a highly debated topic in EU migration scholarship, especially since the outbreak of the 2015 migration crisis. Scholars have approached the issue from diverse perspectives, emphasizing the unanticipated consequences, the strategic and security motivations, alongside the tensions it creates for EU's self-image as a normative actor. These discussions provide a solid foundation for examining how the multilevel system of this process, including third parties, IOs and NGOs, impacts the implementation of humanitarian norms.

This literature review will firstly present relevant discussions around externalization and its broader implications. It will then narrow the focus to the multilayered system of actors involved, highlighting lastly the understudied role of NGOs within this assemblage. By synthesizing the current body of research on externalization, this literature overview aims to identify gaps, which will formulate the research question of this thesis.

2.1. Key challenges of migration externalization

With the mounting inflows of newcomers, the EU sought externalization as a method to enhance territorial security. However, beyond addressing public and state protection concerns, this strategy served a normative function, allowing the Union to extend its influence by "'translating' the European space and re-making the world beyond it" (Bialsiewicz, 2012, p. 847). The promotion of its democratic and social culture will facilitate robust and firmly rooted relationships with the coastline states (Zapata-Barrero, 2013; Martins & Strange, 2019). By extending migration management beyond its territory, the EU makes use of externalization policies simultaneously as a tool for territorial securitization and projection of normative influence. Yet, to make the parties cooperate, the member states are faced with the need to pose certain conditionalities, providing the incentives for a smooth process (Zapata-Barrero, 2013, p. 27). Thereby, it can be debated whether these actions actually aim to disseminate certain morals or are being instrumentalized to advance security objectives, while framed as normative outreach.

Scholars have engaged with this discussion, underlining the negative and unintended consequences associated with externalization. Firstly, the migration control system reinforces stereotypes about the newcomers while further amplifying existing social inequalities (Stock, Üstübici & Schultz, 2019, p. 4). By validating asymmetric access to the territory of the Union and overemphasizing control, the member states go against their grounding principles (Stock, Üstübici & Schultz (2019), Zapata-Barrero (2013), Strik, Carrera & Santos Vara (2019)). Hence, such focus on the security aspect of the issue not only enhances inequalities but also prevents the asylum-seekers from executing their basic rights. Although the EU aspires to successfully address root causes in countries of origin to reduce migration, this does not justify denying those in search of protection the right to submit an asylum request. Yet, such exclusion has increasingly become the prevailing practice (Frelick, Kysel & Podkul, 2016, p. 195). The authors address that refugees possess a range of fundamental rights, which entail protection throughout the whole asylum process both in

receiving and transit states (pp. 196-197). More prominent has been the principle of non-refoulement, affirming the right to leave one's country and prohibits returns to territories where life and rights are at risk (p. 198). Still, EU members have been engaging in acts violating this principle, especially when capturing individuals trying to reach European land through illegal means (Davitti et al., 2017, p. 5).

Irregular migration has been perceived as the biggest threat to the security of the Union. In the efforts to prevent unregulated acts, such policies often compel migrants to pursue alternative and more clandestine routes to achieve their final destination (Carling and Hernandez-Carretero, 2011, p. 54). This reveals the challenges asylum-seekers face in the implementation of human rights under externalization, portraying the tension between official commitments and the practical impact of migration governance. Nevertheless, these concerns have not deterred the organization from advancing these agreements, increasing the pressure for people crossing international borders.

Additionally, the outsourcing arrangements often result in individuals seeking protection becoming trapped in countries, where the provision of proper safeguards and social and economic support cannot be guaranteed. Davitti et al. (2016) discuss how the supranational body engages in the supply of assistance through financial and technical means without initially investigating the local conditions (pp. 5-6). Yet, it is well-known that the states of North Africa possess an extensive record of human rights violations (Oette & Babiker, 2017, pp. 83-84). Thus, by placing greater responsibility onto states where the problem originates, the EU appears to retreat from human rights obligations.

Giuffe (2017) illustrates this story with the example of Libya, where rescue operations, intended to provide a place of safety and protection, often fail to meet these criteria and instead deliver appalling living standards. These findings revive the debate addressed by Santos Vara et al. (2021) concerning the attribution of accountability for such violations, especially when executed under the sponsorship of the EU but taking place within the jurisdiction of a non-member state (pp. 325-326). The scholars argue that if a breach of human rights law occurs outside EU's territory but under its direct supervision, the supranational body is still liable for the act (p. 326).

2.2. External partners in migration management

Nevertheless, the discussed challenges have been examined primarily through the state-centric lens, overlooking the complex nature of externalization. Recent scholarship has addressed the significance of other players in this process, illustrating the fragmented nature of migration control and the varying degree of autonomy of the parties involved. Pacciardi and Berndtsson (2022) argue that the state-oriented approach to the 'migration industry' is not sufficient anymore to explain contemporary trends and practices (p. 4011). Cobbarrubias et al. (2023) further refer to the theory of assemblage, where a range of actors "enter into a relationship with one another without a coherent organizing logic while still contributing to creating, shaping and transforming objects, ideas and practices" (p. 6). Hence, a variety of actors have obtained an essential role in externalization: IOs, NGOs/CSOs, combatants (e.g., Libyan militias) and many others (p. 5). In light of this, it has become increasingly difficult to attribute accountability and address legal concerns effectively, suggesting a broader and more inclusive framework.

Lavenex (2016) has focused specifically on international organizations and the role they obtain in the diffusion of EU's migration policies, noting that their behavior is often shaped by supply factors. Generally, financial dependence makes them vulnerable to instrumentalization for external governance. However, they can also choose to act autonomously, potentially fulfilling the aspects of the acquis that the supranational organization lacks the capacity to address. While they might contribute to the general mission, they are not required to achieve the end goal and potentially might pursue one of their own (p. 557). Hence, it can be said that they do not necessarily play a role of direct agents, however they might be considered assistants.

Conversely, Pacciardi and Berndtsson (2022) observed how the involvement of non-state actors in the complicated context of Libya can exacerbate the management of the issue. While private businesses benefit from the EU support, the more closely connected to the authorities Libyan militias make profit from illegal means of resettlement (p. 4022). Therefore, the inclusion of actors from the cooperative parties might go sideways, leading to unpredicted consequences and a potential increase in human rights violations.

2.3. NGOs and Externalization

Yet, compared to other actors in the externalization paradigm, the role of NGOs remains underexplored. Cuttita (2020, 2023, 205) has been the leading author in the discussion of their

position at the intersection of humanitarian principles and EU migration policies. Firstly, in his works he highlights the dual role such organizations can obtain: either playing the direct agents of EU orders or opponents of the outsourcing of tasks (Cuttita, 2020, p. 9). The former usually goes hand in hand with financial contributions and regulatory constraints, and the latter exemplifies the strong stand to the humanitarian ethos.

By initially examining their role within the context of two of the main partners – Tunisia and Egypt, the author found no clear pattern of behavior. This highlights the diverse stands these organizations can adopt in the externalization domain. Alternatively, in his later work of 2023, Cuttita sheds light on the case of Libya, where the regime suppresses NGOs and their motivations to support migrants (p. 763). In this scenario, the author addresses the more positive side of delegating obligations to non-state actors, arguing that through their nature they are able to engage in informal communication with the state authorities, thus creating a platform for exchange of values and norms (pp. 763-764). Yet, most organizations, in the context of Libya specifically, are faced with both restrictions posed by the regime and limitations set by the subcontractors. Therefore, the relationship between the parties is not univocal but rather shaped by structural constraints and political conditions of the specific contexts NGOs operate in (Cuttita, 2025, p. 38). Nevertheless, the author concludes that regardless of whether these actors act independently or are formally contracted, their intentions are not the driving force and comparatively are more likely to follow the logic and dynamics of the process (p. 38). Hence, it can be stated that NGOs find themselves embedded in a system where they have little space to challenge the overarching authority.

Yet, existing scholarship has centered its focus around the position these agents take in the system, overlooking the impact that position can have on the implementation of human rights and refugee provisions considering the structural imbalances. Given these gaps, this thesis seeks to examine how independent NGOs affect the enforcement of the core principle of non-refoulement and the basic right to life, thus contributing to discussions on power dynamics and legal outcomes in the externalization process through the guiding research question:

How has the involvement of independent NGOs in the EU externalization of migration process since the 2015 migration crisis impacted the enforcement of the principle of non-refoulement and the right to life?

3. Theoretical Framework

To assess the relationship in question, the paper will propose a conceptualization of the key components, issuing a nuanced interpretation of how these terms are going to be approached. By further providing a supportive theoretical explanation, the paper facilitates a clearer understanding of the anticipated association.

3.1. Conceptualization

Externalization emerged as a response to EU's concerns over the large influx of newcomers seeking better life opportunities within its territory (Stock, Üstübici & Schultz, 2019, p. 1). Menjivar (2014) proposed a definition of the process, portraying it as 'the series of extraterritorial activities in sending and transit countries at the request of the (more powerful) receiving states for the purpose of controlling the movement of potential migrants (p. 357). Molnar (2023) expands this understanding by highlighting the shift of responsibilities towards third parties to outsource migration management and contribute to EU's control objectives (p. 1014). Hence, while relying on geographical characteristics of other states and significant power dynamics, the Union is able to execute stricter external border control.

Transit states play a central role in this framework, since they often serve as the main target of outsourcing strategies and will be the primary geographical focus of this analysis. Menjivar (2014) emphasizes them as the fundamental partners in this process, as they protect EU's border space from afar (p. 358). To fulfill these tasks, both parties engage in repatriation agreements, which can include training and technical, financial or development assistance (p. 358). Therefore, through bilateral and multilateral contracts with transit countries, the EU assigns them a monitoring role, effectively positioning them as watchdogs of the external frontier and thereby regulates the migration inflow.

Equally important in this context is to shed light on the definition of non-governmental organizations. For the purpose of this paper, NGOs involved in the externalization process will be defined following Cuttita (2025), as actors usually operating in countries of transit, origin, or in international waters through humanitarian and development projects and possibly directly or indirectly supported by governmental sources (p. 20). NGOs can differ in their underlying objectives, but also in the degree of independence and embeddedness in local contexts, which affects their engagement with externalization policies (p. 21). Often, many NGOs act as

subcontractors of states and IOs, executing formal responsibilities on the ground and at sea (Cuttita, 2019, p. 2). Hence, they become formally integrated within the system through funding mechanisms, finding their objectives aligned with the mandates of the donors.

By contrast, this research concentrates on independent NGOs, which conversely to the subcontracted agents aim to operate free from state control, particularly in terms of funding and operational strategies. The attention of these agents is concentrated on the protection of humanitarian principles, among which are the principle of non-refoulement and the right to life, along with the depoliticization of the migration narrative by opposing anti-immigration stances (Cuttita, 2023 p. 759). Therefore, while their presence might be constraint by structural regulations, these actors attempt to minimize complicity with state-control agendas and instead try to raise awareness within the externalization assemblage.

To complete the conceptual framework, the paper defines enforcement of the principles of non-refoulement and the right to life as the realization of legal protections through the interaction of norms, political structures and actors. These legal norms originated from two distinctive frameworks – the 1951 Refugee Convention and the 1948 Universal Declaration of Human Rights (UDHR) accordingly. Although these documents exist as individual regulations, recent scholarship has argued that they exist simultaneously through specific interactive linkages (Chetail et al., 2021, pp. 202-203). Human rights law serves as a normative check on states' sovereignty, where they are held accountable for upholding fundamental rights and freedoms (Hathaway, 1991, p. 113). Similarly, the entanglement with refugee law ensures that those who are seeking protection have guaranteed access to remedy when their current residence is no longer tenable (p. 121). Thus, the latter tries to address gaps left by the former, particularly in relation to asylum-seekers, whereas the former offers broader protections applicable to all migrants.

The principle of non-refoulement is codified in Article 33 of the Refugee Convention, prohibiting expulsion or involuntary return of individuals to a country where he or she fears threats to life or freedom. This article offers refugees a protective shield from the regime they are seeking to escape and simultaneously ensures a guarantee for an asylum procedure. In parallel, Article 3 of the UDHR embraces the right to life, liberty and security of any person. This provision establishes a universal foundation for protection of all individuals. Taken together, these norms constitute a regulatory framework for the international protection of people who flee their home in search of

rescue, security and better opportunities. While states are the original signatories to these frameworks, this paper will approach enforcement not merely as their legal obligation, but rather as a broad dynamic shaped by non-state actors navigating through the complex migration governance.

3.2. Assemblage theory

Ultimately, to trace the direction of this relationship, the paper draws on assemblage theory, which has been widely applied to EU governance and migration studies. This approach was originally developed by Deleuze and Guattari (1980) and is being described as a dynamic system composed of heterogenous elements (or multiplicities) – human, social, technical, and psychological (p. 36). This approach focuses on the interactions and dependencies within a system, highlighting how every individual statement is a product of these multiplicities (p. 37). Therefore, when within an assemblage, these components should be examined together and not individually, as the relation between the parts shapes the meaning and function of the collectivity. Thus, the agency is produced by the interrelations within the group.

Lippert & Pyykkönen (2012) build upon this dynamic in the migration field, framing it as an 'ensemble of distinctive material and social elements that can include forms of knowledge, ways of seeing and calculating, human capacities, mundane and grand devices, kinds of authority, spatialities, and governmentalities that converge and which seek a specific outcome among those who govern and of those who are governed' (p. 1). Within the case of EU-Libya migration cooperation, assemblage theory provides a framework consisting of state objectives, humanitarian mandates, border technologies and legal instruments that aim to work together in producing an all-favored outcome. While these constituents might not share the same ideological commitments, they still find themselves interconnected by operational and consensual dependencies (Cobbarrubias et al., 2023, p. 6). Thus, this approach helps move beyond the state-centric outlook on externalization, showcasing the hybrid interactions that define contemporary migration governance.

Although NGOs may seek to uphold humanitarian standards, their legal advocacy within the external migration system is shaped not only by their commitments but also by the motivations of the other actors. While NGOs might appear autonomous, their capacities are constrained by the regime. Therefore, the entanglement between the parties blurs the line between delegated to

external actors or purely governmental policies, creating tensions for the enforcement of legal frameworks and accountability mechanisms (p. 6). Hence, this theoretical lens captures the more contested nature of the EU-Libya externalization context, illustrating how legal norms such as the principle of non-refoulement or the right to life can be implemented, negotiated or eroded. Approaching NGO's role as purely isolated acting upon law overlooks the complexity of their positioning, as they navigate a complex network of interdependencies. Consequently, acknowledging NGO's position within a network of asymmetrical power relations reveals the structural constraints to their legal agency.

4. Methodology

4.1. Research Design

The study adopts a qualitative methodology with an exploratory single case study design. The qualitative paradigm is characterized by its ability to explore complex concepts and phenomena (Halperin & Heath, 2020, p. 6). Similarly, exploratory design was chosen as it effectively assists in the process of identification of underlying mechanisms (pp. 12-13). The distinctiveness of this methodology lies within its hypothesis-development rather than hypothesis-testing focus. It involves generating a research question and a basic proposition, which are tested against various types of data and ultimately lead to an expectation about the investigated relationship (p. 124).

This makes it particularly suitable for examining the EU-Libya partnership. The selected case acts as a crucial case according to Gerring's (2008) typology (p. 661). It represents a context where regime type, political influence and systematic activities create strong barriers for the enforcement of refugee and human rights law. In such setting, the capacity of NGOs to uphold legal principles is subjected to considerable pressure. This case as such offers a favorable context for exploring NGOs' agency within the externalization framework. Thus, rather than testing a fixed hypothesis, the methodological approach enables the discovery of mechanisms through which NGOs implement or fail to uphold international legal norms within the complex EU-Libya assemblage.

The unit of analysis of this study is the role of independent NGOs operating within the EU-Libya migration partnership, particularly their role as enforcers of the right to life (UDHR) and the principle of non-refoulement (Refugee Convention). The focus will be centered around how these

agents interact with the legal, political and structural dynamics of this framework, and to what extent they are able to fulfill their enforcement obligations.

4.2. Contextualization

This research situates its analysis within the EU-Libya partnership on migration management. The North African country exemplifies a failed state, characterized by an absence of a stable government, no consistent institutional practices, and a lack of a national asylum policy (Giuffre, 2017). This governance vacuum empowers the critical categorization of migrants as illegal, emerging from the failure to formally acknowledge their status (Cuttitta, 2023, pp. 754-755). Additionally, the borders are not controlled by a unitary state-actor, but managed by military, militias and mercenary forces (Pacciardi & Berndtsson, 2022, p. 4020). As a result, migrants become subjected to ill-treatment and inhumane detention conditions, reinforcing an image of no place of safety. Yet, although this collaboration exemplifies a crucial case, due to its legal and institutional vacuum, it also shares structural similarities with other externalization partners from the region. The lack of transparency of the funded projects, complex political and structural system, involving many state and non-state actors are all patterns observed in other countries, associated with the European Trust Funt for Africa (EUTF), including Morocco, Egypt and Tunisia (Pacciardi & Berndtsson, 2022, p. 4023). However, the partnership in question has received the highest level of funding among all projects (p. 4015). As such, the Libyan exceptional context offers critical insights of how EU's externalization regime can constrain human rights and refugee law enforcement.

Within this environment, non-governmental actors occupy a crucial position. While some became subcontracted partners of the Union - Danish Refugee Council, International Medical Corps UK, Cesvi, and International Rescue Committee (EU Trust Fund for Africa, 2020), a lot remained independent from the supranational body launching their own rescue operations. Organizations, as Migrant Offshore Aid Station (MOAS), Médecins Sans Frontières (MSF), SOS Méditerranée, Sea-Watch, Sea-Eye, Pro-Activa Open Arms, Jugend Rettet Boat Refugee Foundation and Save the Children, aim with their operations to challenge state authorities' decisions and actions (Cusumano, 2017, p. 91). However, within the externalization assemblage the work of these autonomous agents is expected to be severely constrained, limiting their ability to fulfill their humanitarian mandates (Cuttitta, 2023, p. 760). Thus, EU's migration partnership with Libya

raises concerns about its compatibility with essential legal frameworks, while also providing a critical context to examine the level of constraint faced by independent actors.

The analysis will focus on the period from 2016 onwards, capturing the peak of the migration crisis in Europe and post-crisis operationalization of externalization policies. During this critical phase, the migration issue became dominant on the agenda of the Union. As an aftermath, a lot of external operations were implemented, among which were cooperative strategies with third parties, marking the enforcement of the Migration Partnership Framework (MPF). The initiative was framed as development cooperation, hence effectively operationalizing external migration control and altering EU's legal approach to migration. The period witnessed increased funding and political support of the Libyan Coast Guard (LCG). Therefore, such a timeframe will allow to examine the crucial years after externalization took place and how it evolved into a structured and potentially imbalanced assemblage.

To trace the exact implication of the cooperative deal and the consequent shifts, the study examines the incidents of Aquarius (2017), Lifeline (2018) and Iuventa (2017). The cases were selected due to their legal and political significance, and the variety of operational and regulatory challenges they illustrate. While all three instances were observed at sea, they were under the supervision of different humanitarian groups and prompted diverse institutional responses. Taking together their diverse outcomes, they highlight the new security-oriented narrative, which reshapes the operational space of NGOs, not only through isolated incidents, but as part of a broader restructuring of humanitarian roles within the externalization assemblage. Hence, the cases were selected due to their legal and political relevance, as well as how they portray the characteristics of the theoretical proposition behind this analysis.

4.3. Data sources

To carry out this project, the analysis will rely on primary data sources, as reports of the independently operating NGOs, media coverage, official EU documents and communications, along with national records. The materials were used to construct the development of the three cases, providing insights how NGOs navigated the operational and legal challenges within the EU-Libya cooperative context. The findings are then contextualized by secondary sources, as Human Rights Watch and Amnesty International reports. This method of triangulation allows for validation of observations, enhancing the credibility of the analysis. Together, these sources reveal

the fundamental patterns that either facilitated the fulfillment of humanitarian mandates or contributed to the failure to provide necessary protections. Finally, the findings are evaluated according to the operationalization of the variable together with a reference to the right to life (UDHR) and the principle of non-refoulement (Refugee Convention).

4.4. Operationalization

To measure the key components of this research, each variable will be approached through their theoretical foundation. Independent NGO involvement will be examined as the presence of humanitarian agencies functionally entangled in operational, advocacy and monitoring activities along the EU-Libya migration route. Thus, if these agents conduct specific missions within the aforementioned contextual scope, such as providing services in detention centers, rescuing individuals stranded at sea and ensuring their safe arrival, or conversely, help Libyan authorities by transferring migrants captured at sea to local detention centers and taking actions to prevent their arrival in Europe, their involvement will be considered part of the externalization process.

Regarding the enforcement of the principle of non-refoulement and the right to life, this thesis aims to measure the extent to which independent NGOs are able to uphold these principles in practice within the EU-Libya migration partnership. This entails examining whether these actors were able to prevent violations of the relevant legal norms or document such potential occurrences. Therefore, enforcement would be considered if these institutions successfully intervened at sea to intercept involuntary return to unsafe territories, facilitates access to a safe asylum procedure or took actions to safeguard both migrants and refugees from harmful and threatening their life actions. Hence, if NGOs are unable to fulfill these tasks, their actions will be treated as a failure towards this indicator.

5. Data Analysis

Building on the methodological foundation, this section critically analyzes how the principles of non-refoulement and the right to life were enforced or undermined within the EU-Libya partnership framework. The section will offer a structured assessment of incidents, portraying the intersection between EU migration policy with internal political and institutional dynamics among all parties involved. By examining these cases, the text will reveal the extent to which the

autonomous actors were able to execute their humanitarian mandates, and therefore the broader implications of externalization for norm enforcement.

5.1. NGOs meet the new border regime: the case of Aquarius

2016 marks the beginning of EU's strategy to outsource its migration governance to third countries across the Mediterranean. Yet, already with the introduction of the MPF, it can be observed, that independent NGOs began encountering significant obstacles in the fulfillment of their humanitarian mandates. A striking example of this shift is the confrontation between the vessel Aquarius, managed by MSF and SOS Méditerranée, and the Libyan Coast Guard (LCG).

In May 2017, the ship was alerted by the Rome Rescue Coordination Centre to assist several stranded passenger boats in the Central Mediterranean migration route (SOS Méditerranée, 2020, p. 9). While attempting to rescue the individuals in distress, the organizations were aggressively intercepted by the Libyan authorities, who also received the location of the vessels (Médecins Sans Frontières, 2017), creating panic among the people on the boats. Such behavior illustrates the reckless approach of the naval forces towards human dignity and fundamental rights, including the right to life. While appearing as a security operation, the event illustrates how the subcontracted party disrupts humanitarian rescue and, therefore, human rights principles.

Additionally, a consequence of the aggressive confrontation led to the inability of the Aquarius to get on board all people in need. The NGOs report on a smaller number of rescued people than what was originally estimated in the distressed boats[1] (SOS Méditerranée, 2017). This implies that numerous individuals were forcibly returned to Libya - a place where arbitrary detention and abuse are frequently documented (OHCHR, 2016, p. 14). Despite their efforts, NGOs were ultimately unable to uphold the principle of non-refoulement (Article 33, Refugee Convention, 1951), thereby failing to secure access to a fair asylum procedure to all refugees.

The outcomes of the confrontation reflect on the structural imbalances embedded in the externalization system. Under the MPF the EU expanded its existing rescue operations to include the training of the Libyan Coast Guard (LCG) and its personnel, thereby supporting border patrol efforts and extending the mandate of Operation Sophia, established to regulate migratory activities at sea (European Commission, 2016). The primary focus of the renewed operations was to disrupt

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[1] Translated by author from original French

and prevent illegal actions and businesses of smugglers, which were perceived as the biggest threat to the security of the EU. Therefore, the operation conducted by the LCG can be interpreted as EU-supported. Although the independent NGOs were informed by official EU-member state body, the intervention of the subcontracted partner took precedent, since it also contributed to the general migration objective of the Union, suggesting prioritization of subcontracted actors over humanitarian ones. This reveals how the externalization system functions as an assemblage, positioning NGOs as passive agents with no room to execute their normative mandates. Hence, the outcomes underscore the importance of viewing the externalization system through this theoretical lens, as states are observed to retain authority over the process, while non-state actors are marginalized from strategic decision-making.

These findings are reinforced by secondary data sources, as Human Rights Watch (2017), which highlighted the ongoing "human rights crisis" in Libya and the abusive treatment of individuals by the Libyan Coast Guard. These violations are not isolated from the broader externalization system, but are embedded within it. Despite these documented abuses, the EU continues delegating key migration management tasks to the LCG, thus effectively sidelining humanitarian actors and their ability to uphold the principles of non-refoulement and the right to life. Therefore, the findings suggest, that this policy framework enables the Union to maintain its strategic power position within the assemblage, placing enforcement responsibilities onto third parties and this way deflecting from own legal obligations. The incident of Aquarius reveals the deeper political and structural tensions of the system, illustrating the broader EU migration governance, that privileges security control over people's protection.

5.2. Blocked rescue: the Lifeline incident

Yet, the patterns observed in the case of Aquarius are not isolated, but rather became further entrenched in the externalization system, as more brutal political and legal standoffs became the prevalent practice. The June 2018 deadlock of the rescue vessel Lifeline, operated by the independent German group Mission Lifeline, exemplifies the functional standstill the externalization regime creates for the operations of NGOs.

After rescuing 239 people in distress at sea (M. Salvini, 2018)[2], but within the Libyan Search and Rescue (SAR) region the ship found itself abandoned by the authorities of its flag state (Netherlands at the EU, 2018) and rejected by Italy to disembark at its national ports (Deutsche Welle, 2018). Although the operation took place without any coordination with the Italian Maritime Rescue Coordination Centre and with a request by the LCG not to proceed, the organization continued the mission (Times of Malta, 2018). Furthermore, the vessel refused to transfer the rescued individuals to Libyan forces, as it was aware of the ongoing humanitarian situation in the region. This draws an image of a true commitment to a protection mandate and an opposition to existing EU-Libya migration deals. The actions taken by the group demonstrate the clear effort to uphold the fundamental right to life and the strong commitment to the principle of non-refoulement (UDHR, 1948; Refugee Convention, 1951).

On the other hand, Italy's refusal to allow disembarkation, despite obligations under international legal norms, can be understood as an outcome of the EU-Libya partnership, where migration management has been transferred to the external actor. This shift allows the member states to partially withdraw from direct humanitarian commitments, while still advancing broader EU objectives (European Commission, 2016). Thus, Italy's stance reflects the alignment with the MPF, allowing to avoid politically complicated decisions and reinforcing the security-driven agenda.

Despite official commitments to the international legal norms, the Lifeline operation was further constrained. While the NGO claimed that it operates under Dutch authority, the European state declined any responsibility towards the vessel (Netherlands at the EU, 2018). The Italian Minister of Infrastructure took advantage of this instance to name the operation unlawful, seizing a narrative that the NGO operates as a partner in smuggling schemes, thus justifying the state's disembarkation refusal[3] (Salvini, 2018; ANSA, 2018; Deutsche Welle, 2018). Therefore, although the operation was conducted in accordance with legal regulations for operations at sea and in respect towards human rights and refugee law, state officials adhered to a competing discourse that framed the mission as outlaw. Such rhetoric is expected to enable institutions to legitimize their outsourcing activities, while framing humanitarian efforts as unlawful. Within the externalization

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[2] Translation made by the author from original Italian

[3] Translated by the author from original Italian

assemblage, composed of both state and non-state actors, the stronger powers can alter not only the operational landscape, but also the narratives surrounding them.

These developments reflect the significant power imbalances within this network, as non-governmental actors are left dependent on external approval to execute their mandates. In this case, despite the NGO-operated vessel's aim to carry out a life-saving mission, it was unable to fulfill its humanitarian obligation to uphold the right to life until the Maltese authorities granted a permission for disembarkation (The New York Times, 2018). This dependency on sovereign authority points towards the thought, that whoever holds the power within this system, not only shapes the outcomes and their representation, but also aim to dictate the very course of action. Hence, the structural shift of responsibility and the delegitimization of humanitarian efforts illustrate the narrowing of operational space for independent actors pursuing normative actions. The case illustrates how the asymmetrical power within the externalization system constrains the autonomy of these agents, aligning with the framework of assemblage theory.

These observations are reflected in Human Rights Watch (2018) reports, which have called for a regional disembarkation agreement to provide greater certainty for the NGO-led life-saving missions. Lifeline highlights this need, as it reveals how humanitarian actors are left dependent on state authority, undermining their ability to fulfill their rights-based mandate. However, the subsequent European Council conclusion – a call for independent vessels to refrain from obstructing LCG operations (European Council, 2018), further confirms the prioritization of the security-oriented narrative rather than the humanitarian one. Ultimately, the case illustrates how the EU-Libya partnership reinforces these limitations by obstructing refugee rights and imposing direct operational and legal constraint upon NGOs. While the outcomes of the Lifeline operation were positive for the time-being, the follow-up consequences had a larger negative impact.

5.3. Criminalizing humanitarian missions: the case of Iuventa

Nevertheless, the previously discussed incidents are not the only instances revealing the deeper logic of the EU externalization policies. Another crucial example that highlights the structural and discursive constraints faced by humanitarian actors is the case of Iuventa, run by the German NGO Jugend Rettet. The legal case has become of great significance for the non-governmental organizations, because of its far-reaching implications for humanitarian action in the Mediterranean and the international attention it attracted. In addition, its operational reach is

crucial for this analysis, since it underpins the position NGO-led rescue missions take in the complex assemblage of actors, and structural and political dynamics of EU-Libya partnership.

The Iuventa mission commenced in 2016 with the aim to save lives at sea and to resist the strict migration regime in Europe (ECCHR, 2024). During its active period, it rescued around 14 000 individuals in distress (Iuventa, 2022). However, in 2017 the Italian authorities seized the ship with the justification that the current operation does not constitute emergency response to danger at sea, but rather it was instrumentalized for facilitating irregular migration (Independent, 2017; Laffert, 2019). Following a five-year investigation, the case was brough to court, pitting Italian state officials against four German defenders of the rescue ship. Despite the high-profile nature of the case (Iuventa, 2022), the charges were dropped in 2024 due to a lack of evidence (Tribunale di Trapani, 2024)[4].

The development of events can be contextualized within Italy's 2017 Code of Conduct, which introduced stricter regulation upon NGOs and their rescue missions (Italian Ministry of Interior, 2017). Although the Code was initially introduced as a humanitarian measure, it also served to restrict NGO autonomy within the migration governance. Most organizations were forced to sign the document, yet, Jugend Rettet, the NGO that operated the Iuventa ship, was one of the two independent groups that refused to do so (Italian Ministry of Interior, 2019). Therefore, it can be argued that this decision of the humanitarian agent was later used by the state officials to support their claims of complicity in illegal activities.

Through the use of such tools, the EU further facilitates legal ambiguity surrounding humanitarian interventions. Even in the absence of evidence of illegal activity, with the use of national-level prosecutions like the Code of Conduct, the member states seek to shape and regulate the discourse on migration, particularly by emphasizing the perceived benefits of outsourcing legal responsibilities to third parties. Thus, it can be argued, that by taking the case to court, the state authorities seek to assert dominance within the externalization assemblage, influencing both the narrative and the policy outcomes. Although NGOs' actions appear rights-based, aligning with the principles of the UDHR and the Refugee convention (Article 3 and Article 33 accordingly), their interpretation has become increasingly elastic, making NGOs vulnerable to heightened scrutiny

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[4] Official document translated by the author from original Italian

and prosecution. This fragmented governance landscape places the non-governmental actors in a dangerous position, as their operations are now framed as criminal acts. Therefore, the story of Iuventa demonstrates how state authorities leverage their structural power within the system to delegitimize the opposing them non-governmental actors through legal means. Connecting these findings to assemblage theory, it can be noted that this theoretical approach proves to be very useful in explaining the underlying mechanisms hindering the operation of independent actors, particularly evident in this case.

This case portrays the broader shift in EU's migration governance. Whereas the Union was previously centered on its normative foundation and projected a regulatory image in the international political system, it had now adopted a more securitized and restrictive agenda. Alongside this transition goes the more stigmatized framing of NGO-led rescue operations, as now these groups are positioned more as adversaries rather than partners. As a result, the agents find themselves in an operational and legal deadlock. This structural constraint hinders their regulatory enforcement activities, and therefore the implementation of the right to life and the principle of non-refoulement.

Iuventa has resonated on a global scale, gathering international attention towards EU's migration governance's potential complicity. By approving the Code of Conduct, which restricts NGO activity and further strengthens the power of the LCG, the EU empowers Libyan authorities as a proxy force tasked with intercepting people in international waters and then ferrying them back to Libya (Amnesty International, 2017; Human Rights Watch, 2022; Deutsche Welle, 2017). Based on the evidence of the Iuventa case and findings of other organizations, it can be stated, that the disengagement of the EU with humanitarian and rescue missions arguably constitutes an indirect breach of human rights and refugee law. Through such activities the Union is trying to distance itself from legal obligations towards these frameworks, placing greater responsibility onto its partners. This deviation from the asserted normative principles demonstrates a lack of consistency in their application, ultimately undermining the credibility of its commitment to these regulatory frameworks.

6. Discussion

6.1. NGOs as legal enforcers

The EU's externalization of migration has proven to be a highly complex, multilayered process involving various cooperative strategies, which, however, present many obstacles to the full implementation of human rights and refugee regulations. NGOs, initially operating independently to conduct rescue missions and provide access to a fair asylum procedure, have later come to serve as key defenders of legal norms. Their assistance in life-threatening situations outline their true commitment to the right to life outlined in Articles 3 of the UDHR (1948) and the principle of non-refoulement (Article 33) of the Refugee Convention (1951).

Yet, these actors have often found themselves in challenging positions. Rather than being treated as normative partners of the EU, NGOs have increasingly been portrayed as facilitators of irregular migration, undermining EU's border regime. Their enforcement role became exacerbated when the supranational organization intensified its cooperation with Libya – a non-signatory to the legal frameworks, where returns to unsafe environments violate core international principles. Additionally, due to the shift in cooperative focus and the conflicting objectives between the parties, the non-governmental actors often found themselves in operational standstills imposed by the more powerful state authorities. Yet, despite growing political and operational constraints, NGOs persist in their work, demonstrating opposition to European policies and aspirations to maintain their autonomy, as it was portrayed in the cases of Lifeline and Iuventa.

6.2. Operational barriers faced by NGOs

Despite their normative commitment, NGOs face structural and discursive restrictions embedded in the externalized migration governance. As the current system is primarily shaped by security-driven motivations, with an emphasis on outsourcing responsibilities to the Libyan state, it fosters a hostile environment for the actions of the relevant agents. Hence, the new migration regime reframes humanitarianism more as a threat to the preservation of territorial boundaries.

The empirical material reveals that the securitized logic can be traced not only in the political rhetoric but also in the operational and legal practices. The Italian Code of Conduct (2017) marks a crucial moment for the exercise of formal control of NGOs' practices by limiting their rescue activities and denying disembarkation rights. By naming them smugglers' partners, Italy

effectively built a narrative that delegitimizes the state's work and justifies the organizations' further criminalization. Therefore, the NGOs find themselves strangled in the security paradigm with no space to maneuver. This strategy represents the broader migration framework, which prioritizes successful deterrence over protection and facilitates the dismantling of the humanitarian infrastructure.

Moreover, the increasing reliance on third-party actors, such as the LCG, sidelines the independent non-governmental actors and curtails their capacity to conduct rescue missions. As the EU strengthens its bilateral relations with the Libyan authorities, placing growing trust in their capacity to control the border space of the region, independent non-state actors find themselves restricted in participation or influence in the migration governance. This is evident in all three discussed instances, as NGOs had to comply with directives with no mechanism to object or challenge state decisions. Hence, the current system represents an asymmetrical assemblage, where the governance favors a hierarchical structure allowing them to systematically disempower the opposing them humanitarian actors. This further hinders NGOs in fulfilling their role as watchdogs of legal norms such as the right to life (UDHR, Art. 3) and the principle of non-refoulement (Refugee Convention, Art. 33).

6.3. Legal shifts and the changing landscape of migrants' rights

Lastly, it is important to highlight, that the EU's externalization of migration governance marks an instance of tension between state sovereignty and legal responsibilities. As signatories to key legal frameworks safeguarding both migrants and asylum-seekers, the EU and its member states place certain obligations to uphold these protections and ensure an accessible asylum process. Yet, the extensive prioritization of border control has sidelined these commitments beyond its territorial space to transit countries like Libya. While this might seem as a practical approach, it can be viewed as a strategy of the EU to distance itself from accountability mechanisms. By transferring regulatory obligations to non-signatories of the UDHR and the Refugee Convention, the Union effectively withdraws from legal obligations to uphold the right to life and the principle of non-refoulement. Although the supranational body frames it as a strategy of responsibility-sharing, in practice it results in a significant erosion of newcomers' rights.

Migrants and refugees encounter various restrictions across different parts of the migration process: ill-treatment, a threat to well-being and returned to a place of unsafety (Aquarius); finding

themselves trapped in rescue vessels without any state recognition and no opportunity to exercise their right to a fair asylum procedure (Lifeline); or directly criminalized (Iuventa). Hence, imposing these structural and normative constraints onto migrants can be interpreted as a strategy of distancing of the EU from legal responsibilities under the UDHR and the Refugee Convention.

The additional restrictions placed onto NGOs further illustrate the authorities' efforts to reduce external oversight of migration practices. Therefore, it can be noted that no matter the efforts placed by non-governmental actors, the asymmetry within the system will instruct the direction of the mandates. The EU continues to frame its restrictive efforts as a measure to prevent loss of life at sea and disrupt smuggling networks. This adds complexity to the narrative, as the erosion of these protections occurs as a legal necessity creating a protective shield over the violating practices of the Union. Thus, it is important to highlight that the ambitions draw a line of compliance with regulatory norms on paper, while functionally they diminish its core protections. That said, NGOs continue to advocate for rights protections, but the asymmetrical system aims to ensure their efforts remain constrained.

7. Conclusion

This paper sought to answer the research question: How has the involvement of independent NGOs in the externalization of migration since the 2015 migration crisis impacted the enforcement of the principle of non-refoulement and the right to life? This thesis draws on an exploratory case study of EU-Libya migration cooperation, using qualitative analysis of primary data sources, further supported by insights from secondary data. It focuses on the specific incidents of Aquarius, Lifeline and Iuventa. The analysis reveals, that autonomous NGOs occupy an essential, yet systematically constrained position within this policy landscape, which further determines their impact on the application of protective legal measures.

NGOs are vital actors at Europe's border front, providing humanitarian assistance, monitoring violations and human rights conditions, and advocating for legal protections in line with the right to life and the principle of non-refoulement. However, their capacity has been significantly undermined by the securitized and fragmented nature of EU's externalization of migration, especially involving actors, like Libya, where governance is unstable and hostile to civilians. In

this context, due to non-aligning objectives, autonomous NGOs are being framed as disruptors of the EU border security measures.

Assemblage theory provided a useful lens that helped reveal the complex, multilayered nature of externalization. The outsourcing governance brings conflicting interests into interaction, demonstrating power asymmetries within the system and the way they shape the direction of the implemented policies. Thus, independent NGOs find themselves operating in a hybrid network shaped by competing interests, where misaligned objectives and restrictive policies constrain their capacity to enforce the right to life and the principle of non-refoulement. Additionally, the interconnection between actors blurs lines of accountability, as the delegation of control to actors outside of the scope of legal obligations, as Libya, allows the EU to bypass its commitments under international law. This strategic approach of the Union allows to address practical needs and enables legal flexibility. Hence, the externalization assemblage can indirectly limit possibilities for safeguarding humanitarian provisions and can directly regulate the role of autonomous NGOs in fulfilling their mandates.

This paper contributes to the literature on externalization policies of the EU by moving beyond state-centric analyses towards the more complex actor-oriented perspective. The text gives an overview, showing the embedded yet restrained position of NGOs within a governance model of asymmetrical control powers, legal ambiguity, displacement of responsibility and accountability gaps. Therefore, as long as these structural imbalances persist within the externalization system, NGOs' mandates will remain restrained along with their ability to enforce Article 3 of the UDHR and Article 33 of the Refugee Convention. By exposing power inequalities and the control mechanisms they produce, this thesis illustrates how externalization has contributed to the erosion of key legal principles concerning human and refugee rights. Thus, it offers empirical groundwork for further theoretical exploration.

Nevertheless, this study has limitations. Firstly, by exclusively focusing on a single contextual case – EU-Libya partnership, this paper is limited in generalizable power. Future research can examine how similar policies were implemented across other North African states involved in the external migration governance, potentially producing a comparative analysis between the different partners, as Tunisia and Morocco. Secondly, the analyzed cases were all incidents observed at sea, making this study limited in its case selection strategy. While the selection provides rich insights

for the studied context, they exclude land-based operations, where independent NGOs might face different humanitarian challenges. What is more, while the current selection provides an in-depth investigation of the ongoing systematic barriers, the post-MPF period includes several other instances where similar dynamics can be examined, as the Adriana (2023) and Geo Barents (2022) cases. Hence, future investigations should include such incidents in analyses on the externalization assemblage. Furthermore, an investigation of the subcontracted NGOs can bring valuable insights into the dual role these actors can implement in this paradigm, highlighting the power imbalances that can compel these actors to alter their mandates to align with state objectives. Therefore, by expanding the research on NGO involvement, one will be able to draw a more accurate and nuanced picture of their position within the broader domain.

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