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# **Kidnapping migrants as a tactic of border enforcement**

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## **Abstract:**

This article identifies and analyses the tactic of kidnapping migrants that is increasingly deployed by states to disrupt, decelerate, and block migrants' mobility. Kidnapping, we argue, is one of the political technologies of capture used by state authorities in their efforts to re-assert control over migratory movements. This analysis contributes to a new understanding of the politics of border enforcement through strategies aimed at the containment of migration. The article focuses on the US-Mexico border and the European border in the Mediterranean Sea as crucial sites where states have increasingly engaged in heterogenous modes of kidnapping. It also considers migrant struggles against these diverse kidnapping tactics. Through a focus on kidnapping, the article expands how we understand border violence and interrogates accounts of the biopolitics and necropolitics of borders that rely on the overly reductive formula of "making live/ letting die." The article concludes by highlighting how the critical examination of kidnapping migrants allows us to trace affinities and partial continuities among various historical modes of racialised subjugation that have affected both contemporary migrants and previously colonised populations.

Keywords: migration; kidnapping; Mediterranean; US-Mexico: containment

This article focuses on the emergence of kidnapping as a state tactic for governing migration. Kidnapping, we contend, is one of the modes of capture and containment that has been increasingly used by state authorities in their efforts to regain control over migratory movements: it has become a tactic of border enforcement. While ; extra-state forms of predatory violence against migrants in transit are indisputably a key feature of contemporary border regimes, kidnapping as a state tactic of border enforcement has remained fundamentally under-theorised in the migration and border studies literature.

This article explores how states are using kidnapping to reassert control over migrants' and refugees' movements, in multiple forms: as a spectacularly punitive tactic staged as a purported "deterrence" measure; as a physical constriction and forced relocation exercised over migrants and refugees' bodies and lives; as a form of temporary, arbitrary de facto detention aimed at deferring migrants' arrival; as an intra-state tactic for extorting political leverage; and as an inter-state strategy mobilised for diplomatic pressure<sup>1</sup>. We propose to illuminate how interdiction, capture, seizure, confinement, sequestration, detention, and containment intersect, overlap, and combine in kidnapping, and how the mobilisation of various constellations of them culminates in state practices of bordering that ought to be recognised as kidnapping. This article aims to come to grips with kidnapping as a tactic of migration governmentality – a tactic which has been increasingly deployed, and in an increasingly spectacular manner (De Genova 2013), both in the European context, particularly in the Mediterranean, and at the US-Mexico border, albeit in different ways. One important feature that these distinct sites share is that those who come to be labelled as "migrants" have been increasingly obstructed in the course of crossing these borders in an effort to hamper them from claiming asylum. In this respect, their categorisation as "migrants," which presumptively and preemptively abnegates their recognition as refugees, is inextricable from a larger process of illegalising them, racialising them, and thus governing them as "undesirable." This essay is structured in four sections and proceeds as follows. The first section analyses how both in the US and in the Mediterranean Sea kidnapping has been used as a state tactic of domination for regaining control over migration. Then, we examine kidnapping as a strategy of border governmentality, by which we foreground how kidnapping is used beyond the legalistic domain for disciplining "unruly" human mobility. The third section focuses on the border struggles

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<sup>1</sup>The stakes of this article are principally theoretical. Thus, rather than presenting any original findings based on empirical research, we rely on the evidence available in the public record through journalistic reportage and border enforcement policy discourses and documents.

in which migrants engage to resist kidnapping, particularly through collective acts of refusal. In the final part, we argue that a focus on kidnapping pushes us to revisit theories of the biopolitics and violence of border regimes beyond the making live/ letting die formula.

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April 6, 2018: The Trump administration effectively mandated U.S. Border Patrol agents and prosecutors along the U.S.-Mexico border to enforce “family separations” when then-Attorney General Jeff Sessions issued a “zero tolerance” memorandum, requiring that all “improper entry” offenses be referred for criminal prosecution (Sessions 2018). Because minor children cannot be held in criminal custody with an adult, adult migrants/refugees who were deemed to have entered the United States “illegally” would thereby be separated from any accompanying minor children when the adults were no longer “available” to provide for the children’s care. The children were summarily re-classified as “unaccompanied minors.” What ensued was an atrocity of state-sponsored kidnapping and child abuse perpetrated by the border authorities, and perpetuated by the Office of Refugee Resettlement charged with superintending the children’s secretive internment across the country following their abduction (e.g. Bogado and Michels 2019). Thousands of predominantly Central American migrant/refugee families, a large proportion of whom were seeking to petition for asylum but who were systematically blocked from crossing the border at official ports of entry where they could lawfully present themselves to Border Patrol agents and apply for asylum, summarily found themselves targeted by this cruel tactic of indiscriminate kidnapping.

Trump administration officials promoted the draconian punitive measure as a “deterrent” that would “send a message” to would-be migrants and refugees (Bump 2018). Amid rising controversy,

blaming the migrant parents for their own persecution became the standard position of the Trump administration; Sessions declared: “If you cross this border unlawfully, then we will prosecute you. If you are smuggling a child, then we will prosecute you and that child will be separated from you as required by law” (Sands 2018). Furthermore, these “family separations” were implemented with no substantive plans or any effective systems in place for maintaining reliable records of the children’s familial ties, such that once abducted, it frequently became pragmatically impossible to reunite many of the children with their parents or any other family members. The Trump administration could not even account for the precise number of children abducted. Hundreds if not thousands of migrant/refugee parents were eventually deported without being reunited with their children, who (now re-classified as “unaccompanied minors”) remained either abandoned in indefinite detention or discharged into the foster care system. Recalcitrant about this tactic, Trump remarked with his characteristic disdain for the truth and thinly veiled racist contempt: “You wouldn’t believe how bad these people are. These aren’t people, these are animals” (Davis 2018). Thus, Trump cynically instigated this protracted humanitarian crisis to create a public scandal that he apparently hoped would simultaneously pander to the anti-immigrant racism of many of his political supporters while also providing him with leverage to use the kidnapped migrant children as virtual hostages, intended to serve as the ultimate “bargaining chip” in his efforts to extort a compromise from his political rivals in the form of more restrictive immigration laws and dramatically increased funding for more border enforcement.

Recapitulating the simplistic notion that ever more abusive treatment would somehow function as a “deterrent,” Trump callously responded on Twitter: “If illegal immigrants are unhappy with the conditions in the quickly built or refitted detentions centers, just tell them not to come. All problems solved!” (Brice 2019). Meanwhile, the denunciation of this putative “policy” as outright state-mandated kidnapping and child abuse has become a prominent and explicit feature of the

dominant political discourse in the United States, particularly as Democratic Party rivals have sought to challenge the multifaceted criminality and lawlessness of the Trump presidency. Simultaneously, right-wing anti-immigrant racists organised in armed vigilante militias have mobilised to emulate the border authorities and, in the name of providing paramilitary support for border enforcement, have taken the matter of kidnapping migrants into their own hands – making a sport of “hunting for illegals,” rounding up and detaining migrants, including children, at gunpoint (Romero 2019; cf. Bauer 2016; Belew 2018; Shapira 2013).

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June 29, 2019: Forty-two migrants were disembarked on the Italian island of Lampedusa after 17 days in which the vessel that rescued them, operated by the German NGO Sea-Watch, was hampered by the Italian and the Maltese authorities from docking in any port. Meanwhile, other European Union (EU) member states also refused to admit the 42 shipwrecked migrants and the European Court of Human Rights denied the appeal made by Sea-Watch to authorize their disembarkation in Italy. Thus, this group of shipwrecked migrants were rendered prisoners at sea, captives of the EU’s politics of containment and the related diplomatic skirmishes. After repeated denials of the migrants’ disembarkation, the captain of the Sea-Watch vessel, Carola Rackete, decided to disregard the prohibition and docked the ship in the port of Lampedusa. Rackete was arrested, accused of resisting a military vessel and committing violence against it, but was then released. Subsequently, she nonetheless remained under investigation for the charge of facilitating “illegal immigration.” Moreover, soon after landing, the migrants were taken and detained in the “hotspot” detention camp on Lampedusa for six days, and then they were transferred to the hotspot in Messina (Sicily) and subjected to further arbitrary detention.<sup>2</sup> Therefore, after being kidnapped

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<sup>2</sup> <http://www.vita.it/it/article/2019/07/12/dopo-lodissea-in-mare-i-migranti-della-sea-watch-trattenuti-nellhotspot/152221/>

at sea for more than two weeks, their captivity and protracted confinement did not end with disembarkation: the shipwrecked migrants were summarily transferred into state custody.

Notably, not only migrants but also people acting in solidarity with them have become hostages at sea and targets of the EU's politics of migration containment. By keeping migrants stranded at sea for protracted periods, humanitarian or solidarity efforts to rescue shipwrecked migrants have been tactically converted into a heightened vulnerabilisation of their lives: migrants are exhausted by the long periods of forced and indeterminate waiting (Pallister-Wilkins, 2015; Mitchell, Sparke, 2018). Without any way of knowing when they might be allowed to land, they are unofficially but effectively held captive.<sup>3</sup>

The kidnapping of migrants at sea, which plainly operates as a spatial strategy for containing migration, is simultaneously a diplomatic weapon, repeatedly deployed by Italy and Malta to put pressure on other EU member states to accept to host shipwrecked refugees and other migrants seeking asylum. Five EU member states – Germany, Finland, France, Luxembourg and Portugal – eventually relented and accepted to host and process the asylum claims of some of the migrants rescued by the Sea-Watch vessel. Thus, far from being merely a dispute between Malta and Italy alone, the politics of migration containment in the Mediterranean is a wider European affair.

Rescue vessels in the Mediterranean likewise become mobile sites of controversy and contestation among states. Soon after assuming the role of Interior Minister in 2018, the right-wing anti-immigrant populist Matteo Salvini initiated the Italian policy of refusing disembarkation to migrants rescued at sea, in a direct affront to the International Convention for the Safety of Life at

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<sup>3</sup> The U.S. Coast Guard has notably used a similar tactic with low-level suspected drug smugglers interdicted in international waters, who have been shackled at sea for weeks and even months before they can be arraigned in court, prompting the *New York Times* to depict their boats, re-purposed as de facto jails, as “floating Guantánamos” (Wessler 2017).

Sea. However, it is important to note that this strategy of migrant containment did not start with Salvini and his policy of “closed harbors.” In fact, even before being kidnapped at sea, migrants are commonly kidnapped and blackmailed in Libyan detention camps and prisons, where they are blocked from migrating onward to European shores. Moreover, the Libyan Coast Guard, subcontracted by the EU and its member states, is routinely implicated in enforcing the borders of Europe by intercepting (“rescuing”) and abducting migrants back to detention in Libya, where the migrants’ lives, bodies, and liberty can once again be commodified and capitalised upon. The Memorandum of Understanding<sup>4</sup> signed by Italy and Libya in March 2017 has as its express result the routinised practice of forcibly taking migrants back from the sea to detention and violence in Libyan prisons.

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In both Europe and the United States, migrants are not only left to die through a necropolitics of disregard and abandonment but also subjected to a multifaceted biopolitics of active containment in which kidnapping has become remarkably prominent. A comprehensive comparative analysis of these two border regimes that might highlight salient affinities while also underscoring significant discrepancies would surely be beyond the scope of this article. In focusing both on the Mediterranean context and on the US-Mexico border, we therefore do not presume to engage in a comparative analysis but rather aim to foreground the transversality of bordering tactics and technologies – specifically, kidnapping in this case – and, in turn, to highlight migrants’ struggles within and against these border regimes.

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<sup>4</sup> [https://eumigrationlawblog.eu/wp-content/uploads/2017/10/MEMORANDUM\\_translation\\_finalversion.doc.pdf](https://eumigrationlawblog.eu/wp-content/uploads/2017/10/MEMORANDUM_translation_finalversion.doc.pdf)



## **Kidnapping as a state tactic of domination**

Border regimes everywhere are eminently characterised by a wide heterogeneity of biopolitical and necropolitical mechanisms for getting a hold over migrants' lives and movements. Migrants' movements are disrupted, contained, and controlled through diverse tactics of border enforcement, culminating in push-backs at border crossings both over land and on the high seas, or channelling those who succeed to transgress the borders into perilous routes that expose them to heightened risks of death in transit (Davies, Isakjee, Dhesi, 2017; De León 2015; Heller and Pezzani 2017; Topak 2014). Notably, Özgün Topak depicts these biopolitical mechanisms of borderzone containment as, in effect, holding migrants hostage (2014:816). Migrants' unauthorised border crossings are likewise subjected to the various forms of "legal violence" (Menjívar and Abrego 2012) associated with interdiction, apprehension, detention, and deportation. Furthermore, migrants are governed by being intermittently blocked, stranded, and then re-routed and kept on the move, forced into protracted conditions of hyper-mobility (Tazzioli 2019; cf. Topak 2014) and prolonged unsettledness (Picozza 2017). At the same time, particularly once they manage to cross a border, migrants are subjected to enduring conditions of detainability, deportability and extraordinary forms of exploitation arising from their susceptibility to the recriminations of the law (De Genova, 2002; 2010a; 2017b). Such a heterogeneity of bordering mechanisms cannot be simplified into any single analytical grid. Nonetheless, these heterogenous tactics do not preclude us from identifying techniques of governmentality that are simultaneously at play in different contexts and produce a sort of shared transversal "political grammar of mobility" (Aradau, 2016). Kidnapping migrants at borders or during their extended border-crossing journeys has become one such tactic for governing human mobility.

An important body of research has discussed how migrants are subjected to kidnapping in the customary sense of criminal abductions and extortion, alongside numerous other forms of vicious

predation (Alarm Phone, 2019; Bustamante 2011; Sanchez 2015; 2017; Slack 2016; 2019; Slack and Whiteford 2011 Vogt 2013; 2018). In contrast, the use of kidnapping as a state tactic is entirely under-theorised. What is the analytical and political purchase of focusing on the widespread and increasing use of kidnapping tactics to discipline migration? According to British criminal law, kidnapping is defined in common law as the “taking or carrying away of one person by another, by force or fraud, without the consent of the person taken or carried away and without lawful excuse. It must involve an attack on or loss of that person’s liberty.”<sup>5</sup> Similarly, under US federal and state law, kidnapping is commonly defined as the taking of a person from one place to another against his/her will, or the confinement of a person to a controlled space. Some kidnapping laws require that the seizing or confinement be for an “unlawful” purpose, such as extortion. Evidently, all forms of incarceration or detention involve some of the defining features of kidnapping, and it is strictly the often dubious distinction regarding what is a “lawful” rather than an “unlawful” purpose that separates the crime of kidnapping from these state practices of coercively taking a person into custody, spatially and temporally confining her, and depriving her of her liberty. Our purpose here is not to reductively equate migrant detention with kidnapping. Rather, we seek to re-purpose the term “kidnapping” to better discern and analyse new tactics deployed by state powers to capture and exert a hold on migrant and refugee mobilities.

Indeed, an apparently “lawful” purpose is precisely what might arguably distinguish common kidnapping (as a criminal act) from the exercise of what Max Weber (1919) famously characterizes as “the monopoly of the legitimate use of physical force” as the defining feature of the state. Significantly, Weber adds, “the state is a relation of men dominating men ... supported by means of legitimate (i.e. considered to be legitimate) violence” (1919/1946:78). It is noteworthy that Weber’s

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<sup>5</sup> <https://www.lawcom.gov.uk/project/simplification-of-the-criminal-law-kidnapping-and-related-offences/>

starting point is a classically Marxian proposition that the state is predicated upon armed force.<sup>6</sup> Hence, for Weber, the state's monopoly on legitimate violence should not serve as a preemptive apologetics for the state's violence as presumptively legitimate (intrinsically "lawful," and therefore not "criminal"), but rather an occasion to critically scrutinize the "*legitimations* of domination" (1919/1946:78; emphasis in original). Much of the state's violence may indeed conventionally tend to be legitimated; other forms of state violence are decried as "excesses," indeed as "abuses." However, the evaluation and adjudication of the limits of the putative legitimacy of state violence through the demarcation of what may properly be repudiated as an "abuse" of power merely reinscribes the fundamental legitimation at stake in the state's monopolisation of violence in its exercise of domination. To demarcate an "abuse" of state power is intrinsically to reinstate the scope of what is otherwise counted as the state's "legitimate" violence. Such endeavours therefore uncritically evade altogether the more fundamental issue of a state's legitimations of its violence and domination.

Our designation of certain state practices of abduction or sequestration as veritable kidnapping is not merely a matter of rhetorically denouncing the state's own recourse to "illegal" practices as a matter of the proverbial "abuse" of power. Instead, such acts are precisely how the state's ongoing and open-ended pursuit of domination requires it to persistently experiment with new tactics for the deployment of violence, and thereby also constantly engage in renewed gambits of legitimation. Here, we are reminded of Charles Tilly's famous proposition (1985) that states may be likened to "protection rackets." Positing the theoretical challenge of conceiving of states and illegal practices as counterparts, Josiah Heyman and Alan Smart emphasize "the incompleteness of formal states and the unlikelihood that they will master their own and people's 'illegal' maneuvers" (1999:2). By

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<sup>6</sup> Notably, Weber opens his much-celebrated discussion of the state's monopoly on legitimate violence by concurring with a remark made by Leon Trotsky.

highlighting these state practices of kidnapping, we therefore want to foreground the indeterminacy, irresolution, ambiguity, and duplicity of these particular state deployments of violence, and thus seek to destabilize the hegemonic claims by which states project their own purportedly definitive authority and legitimacy.

### **Kidnapping migrants as a tactic of border governmentality**

One of Michel Foucault's most important insights into "governmentality" is that its end is the employment of tactics, and "even of using laws themselves as tactics – to arrange things in such a way that ... such and such ends may be achieved" (1978/1991:95). With regard to borders and migration, enforcement practices are customarily excised from the purview of ordinary criminal law and border policing and migrant detention are insulated as merely "administrative" and discretionary matters. This introduces a whole gamut of ambiguities and equivocations surrounding precisely the question of whether particular states' bordering tactics and techniques, indisputably forms of domination, can be understood to operate within the constraints and protections of the rule of law. Yet it is also the deployment of such "discretionary" or indeed "lawless" tactics and techniques of bordering toward the ends of the domination of *non*-citizens that is widely taken to be inherently "legitimate" as an exercise of the state's sovereignty. Whereas being juridically designated as a "criminal" is customarily to be subjected to the recriminations of the law, and thus to be inscribed within the law and its punishments, being an "irregular" migrant or refugee apprehended at a border and subjected to migrant detention – on no other grounds than one's mere status as a non-citizen border crosser – commonly involves being made the object of an ostensibly "administrative" apparatus, and as a consequence, being potentially figured as effectively outside of the purview of the law altogether (De Genova 2017b).

The various forms of state lawlessness and the concomitant horizon of the “state of exception” (Agamben 2003) – or what Susan Buck-Morss has memorably called “the wild zone of power ... a blind spot ... in which power is above the law and thus, at least potentially, a terrain of terror” (2000:2-3) – is especially pronounced in the case of “illiberal” political regimes or contexts of fractured or unresolved sovereignty. Such a fragmentation and pluralisation of competing claims to sovereign power is an apt depiction of the extended situation that prevails in Libya in the aftermath of NATO’s military intervention in 2011 to topple the Gaddafi regime and the subsequent ongoing civil war. Hence, kidnapping in a rather literal sense has become a routine practice on the part of many Libyan state officials. As Maurice Stierl and Sandro Mezzadra (2019) incisively contend:

“What plays out off the coast of Libya are forms of mass abduction that are not merely tolerated but strategically organised and orchestrated by European governments and [Libya’s] coastguards [...] The Libyan authorities are participants in the ‘smuggling business’ in Libya and beneficiaries of migrant capture at sea, a circuit of exploitation that involves practices of detaining, smuggling and trafficking, abducting at sea, and, again, detaining.”

Moreover, the kidnapping and extortion of migrants and refugees in Libya is productively implicated in the larger dynamics of externalisation that sustain the European border regime (Bialasiewicz, 2012; Casas-Cortes et al. 2016; cf. De Genova, ed. 2017). The EU has a long history of actively subcontracting illiberal regimes in its “neighbourhood” to block migrant mobilities before they can reach “European” soil, and over recent years, this has included an express call for an expansion of the notorious detention regime in Libya (European Council 2017). The collusion of agents of the Mexican state in organised criminal syndicates aimed at kidnapping migrants is substantially comparable, if not quite as brazen as the Libyan case (Slack 2019). Moreover, even in “liberal”/ “democratic” states where there are ostensibly legal provisions and strictures governing migrant detention, state practices of illegality and lawlessness, such as those flagrantly pursued by the Trump administration in the United States, permit for a proliferation of the kinds of state of exception that relegates migrant and refugee non-citizens to predicaments of state-perpetrated

kidnapping that wildly exceed the customary functioning of immigration law and border enforcement, even as it is done, sanctimoniously but duplicitously, in the name of upholding and enforcing the law.

Speaking of the bordering tactics of state powers in terms of migrant kidnapping, as we propose here, nonetheless involves stretching and re-purposing the notion of kidnapping beyond the strictly legal domain. Specifically, as far as migration is concerned, what constitutes a particularly ambivalent and slippery terrain is the action of “taking” or of “being taken” which is encapsulated in the legal definition of kidnapping. Many of the migrants rescued in the Mediterranean have indeed been forced by smugglers to make the maritime crossing on unsafe vessels. Indeed, a more comprehensive discussion than is permitted by the scope of this article would imply unpacking the thorny analytical issues surrounding such categories as “forced migration,” “human trafficking,” and “smuggling” and assessing whether it is feasible to utilize these concepts critically. Nonetheless, insofar as the “rescue” of migrants by border authorities itself is actually a form of *capture*, haunted always by the horizon of detention and deportation, it is instructive to re-frame such forms of interdiction as kidnapping.<sup>7</sup> Thus, rather than casually and uncritically conflating contemporary migration with modern forms of slavery, it is crucial to persistently note the primacy of the autonomy and subjectivity of human mobility that precedes and exceeds the diverse tactics of both border control and border-crossing predation, even as this autonomy often becomes complicit with the smuggling operations and infrastructures that commonly exploit and abuse the illegalised migrants and refugees’ precarity (Stierl 2019).<sup>8</sup> This means that the kidnapping of migrants by

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<sup>7</sup> On the subsumption of “rescue” by military-securitarian border operations and the emergence of a kind of military-humanitarian border regime, and the more general problem of humanitarianism as a rationality of government, see: Agier (2011); Andersson (2017); Isleyen (2018); Oliver 2017; Pallister-Wilkins (2015); Vaughan-Williams (2015); Walters (2011); Williams (2016).

<sup>8</sup> For contributions to the elaboration of the critical concept of the “autonomy of migration,” see Bojadžijev and Karakayali 2010; De Genova 2010a, 2010b; De Genova, ed. 2017; Mezzadra and Neilson 2013a; Mitropoulos 2006; Papadopoulos, Stephenson, and Tsianos 2008; Scheel 2019 among many others.

criminal organizations intent to extort them for ransom payments (and sometimes by the very smugglers whom they contract to assist their migratory projects) must be recognised as merely one form of border violence alongside many others, and for present purposes, must be seen in a continuum with *state* practices of kidnapping deployed as a tactic of border enforcement and thus as a mode of domination of migrants (Brambilla, Jones, 2019).

Importantly, we are strategically adapting the term “kidnapping” by moving beyond a narrowly legalistic, criminological perspective. While scholars have understandably tended to associate kidnapping with non-state criminal activities, we underscore how kidnapping is deployed as a state tactic. Indeed, various state practices – notably including political disappearances or torture during interrogation for the extraction of “useful” information – could likewise be analysed productively as analogous scenarios of “kidnapping” as a state tactic of domination. Our interest is in how states are resorting to kidnapping to reassert control over “unruly” migrations.

Hence, we may also reconsider how *extortion* is implicitly understood to generally be the premier motive for kidnapping. When migrants who have been “rescued” in the Mediterranean Sea are kidnapped and forcibly returned to detention in Libya, they and their loved ones are often literally extorted by the prison authorities for ransom payments in exchange for their release. In fact, the temporary but more or less protracted detention of migrants in Libyan prisons is therefore not only a form of arbitrary prolonged captivity. It is also intertwined with modes of value extraction that stem from the transformation of the migrant into a commodity (cf. Vogt 2013). Indeed, in the Libyan prisons, migrants are usually blackmailed with casual brutality and torture and compelled to pay for their own emancipation from captivity, whereby detention starkly enacts kidnapping for ransom.<sup>9</sup> The migrants are also commonly farmed out as veritable slave labour, which itself may

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<sup>9</sup> <https://www.infomigrants.net/en/post/15149/no-choice-migrants-kidnapped-for-ransom>

sometimes be framed as a form of indenture that provides a surrogate for payment. In another sense, when Trump callously blames his political rivals for the suffering that he himself has deliberately and deviously inflicted upon migrants/refugees and their children at the U.S.-Mexico border, he engages in a more figurative variety of extortion, cynically hoping to deploy the precarious lives and traumatised bodies of migrant children as a kind of bargaining chip to be exchanged for his own political advantage. Moreover, it is worth noting how migrants have been glaringly held hostage to the inter-state politics of the EU border and asylum regime. In January 2019, after being rescued by the NGO Sea-Watch, 47 migrants were not allowed to disembark for 13 days by the Italian authorities. On January 31, they were finally allowed to land in Sicily, only after representatives from eight EU member states had convened in Brussels to decide how to distribute the migrants across Europe. Hence, a migrant multiplicity made of relatively few people (47 persons) triggered a European diplomatic incident. In such contexts, to paraphrase Brett Neilson (2018), shipwrecked migrants can be understood to constitute a biopolitical “currency” that states may use to negotiate, barter, and exchange. In the European context, this specifically consists in a state enforcing the protracted unofficial detention at sea of Black and Brown migrant lives for the purpose of retreating from and abdicating as much as possible its own responsibility to host refugees or adjudicate asylum petitions, while exploiting their precarious lives as a bargaining chip when negotiating with other states the asylum seekers’ relocation and prospective resettlement elsewhere in the EU. All of these examples expand how we might conceive of extortion as a feature of kidnapping when deployed as a state tactic of bordering.

State tactics of kidnapping migrants may not necessarily be motivated by any such interests in extortion, however. Instead, these tactics often operate as a kind of seizure/capture and hold/sequestration over migrants that replicate many aspects of detention, and are clearly punitive deprivations of liberty, but are exercised precisely as unofficial punishments, largely outside of the



purview of the law, and enforced as retribution for no other “offense” than unauthorised border crossing itself. Thus, state tactics of migrant kidnapping often have the ostensible character of “non-punishment punishments” – punitive measures that are officially unacknowledged as such, enacted against what are often officially non-criminal “offenses,” administered as border enforcement “policies” that are not even stipulated or regulated by the law (Price 2020). A focus on kidnapping also enables us to politicize the analysis of migration controls and securitarian-humanitarian assemblages by framing these as political technologies aimed at hunting for and chasing unruly mobile subjects, in exercises of what Gregoire Chamayou (2012) defines as “cynegetic power.” In other words, while the protracted entrapment and confinement of migrants serve as disciplinary modes for temporarily blocking or decelerating mobility, they should also be seen as more direct and proactive techniques of capture and containment, which aim at repeatedly disrupting and regaining control over autonomous movements.

Ultimately, the kidnapping of migrants by state powers is a method intended to reassert control over “unruly” mobilities. Several scholars have analyzed the significance of mobility control for state formation, historically (Anderson 2013; Jones 2016; Mongia 2018).<sup>10</sup> Contemporary research investigating carceral geographies has specifically examined the economy of migrant detention as a political technology of governmentality (De Genova 2012b; Martin and Mitchelson, 2009; Moran, 2013; Moran et al. 2013; Oliver 2017). Furthermore, noteworthy insights into the forced mobility of migrant detainees (Gill, 2009; Hiemstra, 2013) have unsettled the presumable nexus between detention and immobility. This article builds upon those insights by drawing attention to the

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<sup>10</sup> Furthermore, some scholars have noted the important historical affinities and continuities between fugitive slave law enforcement and subsequent immigration controls (Stevens 2019). Indeed, the coercive assertion of control over unruly human mobilities has arguably been one of the defining features of state formation since the origins of the state. James Scott notably argues that “the accumulation of population by war and slave raiding,” which entailed the mass abduction and forcible resettlement and enslavement of war captives, served early states as a means to “replenish and enlarge their manpower base” (2009:67). Such tactics of coercive “sedentism,” most notably in the subjugation of mobile (nomadic) populations, Scott (2017) argues further, were a prominent feature of a more general “domestication” of the human species through early projects of state formation, subsequently celebrated as the birth of “civilization.”

heterogeneity of modes of migrant confinement, which are not reducible to detention as such, and may entail coercive forms of mobilisation rather than immobilisation as measures that serve the ends of governing the lives of border crossers. Another important and growing literature in the critical geography of borders identifies the enactment of temporal borders as regulatory tools for multiplying exclusionary boundaries and sorting migration (Mezzadra, Neilson, 2013a; Moran, 2012; Tazzioli, 2018). In this article, we underscore that the biopolitical effects of kidnapping migrants similarly operate on both the spatial and temporal levels: migrants are hampered in their movements, and not only are their bodies subjected to spatial sequestration but so also is their life-time held captive. Indeed, kidnapping not only decelerates migrant mobilities and forces migrants into conditions of indefinite waiting, but also more fundamentally contributes to disrupting migrants' lives and seizing their autonomous time. Shahram Khosravi (2018) has convincingly characterised this as the "stolen time" of migration.

In this respect, it is noteworthy to recall the genealogy of confinement that Foucault traces in *The Punitive Society* (1972-1973/2015), in which he focuses on the central importance of seizing workers to fix them to the apparatuses of production during the nineteenth century (2015:208). Foucault discerns a "kind of arbitral authority that seizes something, withdraws it from free circulation, and keeps it fixed at a certain point, for a certain time" (208-09). Notably, Foucault emphasizes that these modes of seizure and fixation were not only spatial but also forms of "temporal sequestration" that subjugated "the time of life" to "the time of production" (211). Plainly, kidnapping as a tactic of bordering does not resemble the coercive fixing of workers to the site of production, as depicted by Foucault. The relation of migrant kidnapping to the ultimately disciplinary productive effects of bordering is surely indirect and attenuated, inasmuch as this, like other forms of border violence, operates as yet another feature of an obstacle course that unauthorised migrants must navigate in the extended endurance test that finally shapes an indefinite

career as illegalised migrant labour (De Genova 2002; 2013). For present purposes, however, Foucault's widening of the notions of seizure and sequestration beyond mere physical capture and detention is particularly salient, highlighting temporality as an important dimension upon which acts of seizure and spatial confinement are enacted.

A focus on kidnapping enables us not only to analyse the reconfiguration of the spatial tactics of migration containment but also to grasp the biopolitical mechanisms that target and racialise migrants. By focusing on the mutual intertwining of geopolitical and spatial tactics on the one hand and biopolitical ones on the other, we conceive of the production of space as "always implicated in the production of subjectivity" (Mezzadra, Neilson, 2013b: 333). That is, a critical analysis of the restructuring of the border regime involves investigating bordering technologies together with the modes of subjection and subjectivation by which some mobile subjects are racialised and governed as "illegal migrants" or as shipwrecked lives, or how some migrants' or refugees' children are forcibly abducted from their parents and then racialised and governed as "unaccompanied minors." As we have already seen with the Trump administration's rationalizations for the "family separation" policy, kidnapping is sometimes justified as a biopolitical and spatial tactic of "deterrence," a mode used for punishing, exhausting, and thereby supposedly discouraging migrants and refugees from pursuing their mobility projects. Remarkably, the numbers of asylum seekers from Central America newly arriving at the U.S.-Mexico border continued to burgeon in the aftermath of this vicious and sadistic tactic, exposing the logic of deterrence to be a fallacy at best that nevertheless always serves the ends of gratuitous cruelty. The inevitable and irreconcilable conflicts between the subjectivity of the migrants/refugees and the state tactics devised for their subjection have thus generated new grounds for border struggles.

## **Border struggles**

March 27, 2019: After being rescued by a Turkish merchant ship called the *El Hiblu* in the central Mediterranean, 108 migrants hijacked the vessel in order to impede the crew from taking them back to Libya against their wishes. Salvini declared that under no circumstances would the migrants be permitted to disembark in Italy, and derisively depicted them as “pirates” (Schwartz 2019). Having campaigned on the contention that Italy must cease to serve as “the refugee camp of Europe,” Salvini was quick to discursively convert people seeking asylum into opportunistic criminals. The disparagement of migrants’ practices of resistance belongs to a longstanding criminalisation of racially subjugated subjectivities, inasmuch as, in Elsa Dorlin’s poignant observation, “every act, as long as it is made by a slave, an indigenous person, a colonised subject, or a Black person... becomes a criminal act” (2017: 28). Hence, when migrants on the *El Hiblu* took action in their own self-defence, they were readily depicted as riotous subjects. Indeed, when Maltese authorities eventually took control of the ship and allowed the migrants to disembark, three of the migrants on board were summarily arrested for diverting the vessel and were accused of “terrorism.”

The criminalizing discourse of piracy unwittingly evokes a much longer history of maritime rebellion against exploitation, deprivation, degradation, and cruelty (Linebaugh and Rediker 2000). In this respect, Salvini’s recourse to the rhetoric of piracy also revealed a deeper anxiety about the prospect of defiant self-assertion on the part of the asylum seekers whose mutiny signalled a readiness to exercise their freedom of movement by any means necessary. The heterogenous group of migrants and refugees, representing multiple nationalities, hijacked the merchant vessel in desperation to subvert the prospect of being coercively returned to Libya and subjected to renewed detention in prisons where they were assured of being tortured or blackmailed. At the same time, the collective hijacking of the *El Hiblu* was also a way for the migrants to prevent a standoff at sea, which would have been tantamount to being kidnapped, detained, and stranded for days aboard the ship with the grim prospect that no European member state would allow them to disembark. This

mutinous group of migrants, first “rescued” and then immediately confronted with the border regime’s tactic of kidnapping, therefore engaged in a collective act of what we might call *counter-kidnapping*, refusing both to be dragged back and dumped once again in Libyan prisons and likewise refusing to be detained at sea indefinitely. While the critical migration literature and legal scholars have begun to focus on citizen-led counter-kidnapping activities (O’Reilly, 2019), however, we draw attention here to how migrants themselves have also been the agents of their own liberation – through refusals, mutinies, and hijacking. Their putative “piracy” was arguably a repudiation of being objectified in the role of shipwrecked and helpless victims, presumptively relegated to the “protection” of others, and thus rendered captives: even if only temporarily and tentatively, they thereby exercised what may be designated as the “autonomy of asylum” (cf. De Genova, Garelli, and Tazzioli 2018).

Remarkably, the increasing criminalisation by European states of independent search-and-rescue actors, whether motivated by humanitarianism or a politics of solidarity (Cuttitta, 2018; Stierl, 2018; 2019; Tazzioli, Walters 2019), has notably been enforced politically and legally by equating acts of rescue with the rhetorical and juridical figures of “kidnapping,” as well as “smuggling” and “human trafficking.” When Salvini was accused of “aggravated kidnapping” for delaying migrants’ disembarkation in August 2018, he turned the accusation back against Sea-Watch, cynically declaring that the humanitarian NGO was exposing migrants to protracted suffering – by not returning them to Libya (Globalist 2019). Similarly, the U.S. Attorney General Sessions insinuated that migrant and refugee parents were culpable of “smuggling” their own children across the U.S.-Mexico border. Likewise, Trump turns every criticism of his border and immigration policies into an occasion either to deny the demonstrable truth of what his administration is doing, or to dissimulate his own responsibility by pretending that he is merely enforcing laws that he insists, in disregard of any historical facts, were proposed and passed by his political opponents, and blaming

Democratic Party lawmakers currently in the U.S. Congress for failing to pass new or different laws.

The notorious “zero tolerance” diktat that initiated the reckless campaign of state-mandated kidnapping at the US-Mexico border was issued following Trump’s furious reaction to news media reports of a caravan of approximately 1,200 migrants and refugees (mainly Honduran and other Central American women, children, unaccompanied minors, and LGBT persons). This migrant and refugee caravan was one of a series of such mobilizations over the preceding decade – organised annually by the transnational migrant solidarity organisation Pueblo Sin Fronteras (People Without Borders) — as a model of collective, organised migrant/refugee self-protection against the predations of the migratory journey as well as an affirmative protest mobilisation against unjust border and immigration policies. Indeed, upon its arrival at the U.S.-Mexico border on April 23, 2018, the caravan, having ultimately dwindled to fewer than 300 hundred people, culminated with some of the migrants and refugees triumphantly scaling and perching atop the border fence in a joyous celebration of what, at least at that moment, appeared to be the success of their journey and their defiance and subversion of the barricaded border. Sessions denounced the caravan as “a deliberate attempt to undermine our laws and overwhelm our system” (Semple 2018). Thus, what had provoked Trump’s reaction and his excoriation of this and subsequent caravans as an “invasion” – replete with repeated unfounded allegations that the caravan was host to countless violent gang members and even terrorists from the Middle East – was precisely the sort of diminutive but nonetheless audacious refugee self-assertion and self-organization that we have elsewhere called the autonomy of asylum (De Genova, Garelli, and Tazzioli 2018). Later, after hundreds if not thousands of asylum-seeker parents who had had their children kidnapped upon crossing the U.S.-Mexico border were deported without their children, in a memorable manifestation of what De Genova (2017a) has designated the “autonomy of deportation,” a group of 29 deportees collectively

organised to return together to the U.S.-Mexico border, demand reunification with their children, and petition for asylum once more, now directly linking their asylum claims to the kidnapping perpetrated by the U.S. border authorities themselves (Sieff and Kinosian 2019).

In November 2018, 95 migrants who had been intercepted in the Mediterranean by a merchant vessel refused for ten days to be disembarked in Libya and transferred to the notorious detention centres. The protracted standoff in the port of Misrata ended with the Libyan authorities resorting to tear gas and rubber bullets to force the migrants off the ship. Whereas Italy has refused to allow migrants to enter the ports and disembark, which we are characterizing as one kind of kidnapping at sea, Libya has refused to allow migrants *not* to disembark, and has used force to compel migrants off the boats. This remarkable bifurcation in fact signals a divergent economy of power corresponding to different state actors' attempts to capitalize upon the migrants as currency, which nonetheless must be understood to operate as a complementarity within the larger European border regime.

The migrants' collective refusal to disembark in Libya was succinctly explained by their repeated proclamations from the boat: "We would rather die than return to Libyan detention centres." In this manner, the migrants effectively turned on its head the minimalistic biopolitics that bifurcates between "letting die" (abandoning migrants on unseaworthy boats to drowning and death) or "making live" (i.e. "rescuing" migrants in distress at sea and saving their lives) (Doty, 2011; Topak, 2014).<sup>11</sup> They highlighted that if the price of being "rescued" consists of Libyan detention, this is ultimately tantamount to deliberately sending them to their deaths and cynically letting them die. Demands for the urgent evacuation of migrants from the proverbial "Libyan hell" must nonetheless not be disconnected from a critical analysis of the multiple and intersecting forms of kidnapping

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<sup>11</sup> For broader critiques of minimalist biopolitics, see Fassin (2007); Redfield (2005).

and entrapment to which migrants are subjected, not only in Libyan prisons, but also at sea, in Europe, as well as in other countries. This means that humanitarian pleas for migrant rescue cannot be reduced to a movement from the putatively barbarous “South” to the presumptively civilised “North.” Disrupting the larger *economy of migrant kidnapping* involves considering how heterogeneous modes of kidnapping, detention, and other forms of border violence cohere and operate as corresponding facets of a larger postcolonial global border regime. Indeed, even migrants who cross the Mediterranean from Tunisia and elsewhere, who do not fear for their lives if returned, have often engaged in acts of collective refusal against *rescue as capture* (cf. Moreno-Lax 2018): they repudiate the prospect of being “rescued” and thereby disembarked by state authorities or even by humanitarian NGOs, which for them amounts to being interdicted and eventually registered in a manner that would likely culminate in their *rejection* as mere “migrants”. Under these circumstances, even “rescue” comes to resemble being kidnapped inasmuch as it involves migrants being apprehended and turned over to authorities against their will and under conditions not of their choosing, which would almost inevitably defeat their migratory projects.

### **Rethinking violence: Beyond the biopolitical/ necropolitical binary**

Drawing attention to the various operations of migrant kidnapping enables rethinking border violence beyond the spectacular scenes of death and rescue. Indeed, migrants are violently obstructed, confined, cramped, entrapped, and injured in numerous ways (Altin, Minca, 2017; Coutin, 2010; De Genova 2017b; Tazzioli, Garelli, 2018; Walters, Lüthi, 2016). Such a heterogeneity of political technologies highlights the inadequacy of a conceit of violence developed in exclusively necropolitical terms, focused narrowly on migrants’ deaths while crossing borders, or according to the minimalist biopolitical opposition of “making live”/ “letting die.” The pervasive images of migrant/refugee victimisation and passivity that are relentlessly generated by border spectacles of desperation and death contribute inordinately to the migrants and refugees’



racialisation as Black or Brown bodies, even as the dominant discourses of border “crisis” dissimulate the specifically postcolonial racial dimensions of these human subjectivities and their heterogeneous formations of mobility.

Why, and how exactly, Europe and the United States have so deftly managed to convert the precarious lives (and distinctly racialised bodies) of migrants and refugees into overtly de-racialised “migrant” lives are pertinent and urgent concerns (De Genova, 2018a:1767). That these migrant and refugee lives can be systematically exposed to countless perils and rendered exceedingly vulnerable to premature death (abandoned and left to die, in other words), much as they may likewise be made to live in extraordinarily degraded and abusive circumstances, are both fundamentally sociopolitical effects of their (post)coloniality, and thus deeply *racial* facts. The necropolitical proclivity to render these migrant and refugee lives expendable has a deeply biopolitical ramification, just as the biopolitical recourse to regulating these lives in a manner that is oriented to the maximum extraction of their vital force and productive power is likewise inextricable from the compulsion to render them disposable (De Genova 2015; 2018b). Thus, we need to apprehend economies of violence that are simultaneously necropolitical and biopolitical (Aradau, Tazzioli, 2019; Brambilla, Jones, 2019; De Genova 2015). Both of these manifestations of a power over life and death, overwhelmingly perpetrated against racially subordinate populations, are inextricable from the centuries-old sociopolitical order predicated upon a global post/colonial regime of white supremacy.

The susceptibility of migrants to state tactics of kidnapping, then, presents simply one form of the enduring coloniality of contemporary border regimes. Kidnapping as a tactic used for containing and disrupting migration movements must therefore be situated in relation to its continuities with other historical modes of racialised subjugation that have entailed capture and coercive dislocation.

Life itself comes to resemble an unrelenting kind of entrapment within the continuum of modes of containment that have been historically at play against racially subjugated and colonised populations. Likewise, kidnapping migrants emerges as simply the latest innovation in the state's efforts to persistently refine and revise its tactics of domination in the ever-unfinished business of legitimating its monopoly on violence.

## **Conclusion**

Migrant kidnapping is a spatial, temporal, and biopolitical tactic increasingly used for regaining control over “unruly” mobilities. Both along the U.S.-Mexico border and across the European borderzone in the Mediterranean Sea, kidnapping is enacted in various ways – as outright abduction, physical constriction, arbitrary detention, and holding people hostage as a political weapon. The violence of kidnapping may be exercised through direct physical force. However, in other instances, it may eschew the exercise of direct physical violence in favor of tactical arrangements that compel migrants to remain confined against their will indefinitely in spaces not of their choosing. As in the cases of abduction in the Mediterranean Sea, migrant kidnapping can take the form of proactive measures for obstructing, diverting, returning, and thereby temporarily detaining migrants during their transit, for the purposes of “disrupting journeys en route” (Mountz, 2010: 136). In all of these instances, kidnapping nonetheless involves the coercive suppression of migrants' freedom of movement and the deprivation of other liberties. Notably, tactics of migrant kidnapping are mobilised not only to spatially confine migrants but also to disrupt and contain the autonomous movements of migrants who remain at large, by interrupting the temporalities of such movements by obstructing, diverting, and exhausting migrants in transit, accompanied by a multiplication of the mechanisms of de facto detention through various forms of abduction. Migrant kidnapping therefore cannot be adequately comprehended through the reductive biopolitical formula “making live/ letting die.”

The heterogeneity of spatiotemporal and biopolitical tactics through which migrants are seized, held, and contained, abducted or obstructed in their movements, is analysed here in light of political technologies of bordering that may be differently enacted but which nevertheless resonate and travel across distinct sites and border regimes. Such a transversality of the tactics and technologies of bordering is mirrored in the collective struggles in which kidnapped migrants engage. The multiplication of episodes of refusals, mutiny, and hijacking foregrounds the resistant practices of migrants liberating themselves from kidnapping and protracted situations of captivity in unofficial detention. At the same time, when migrants take such actions, they are often criminalised as riotous or criminal subjects. Thus, from having first been portrayed as trafficked or shipwrecked lives in need of rescue and protection, migrants and refugees – when they struggle – are converted into “bogus” refugees and criminalised as socially dangerous subjects: pirates, smugglers, traffickers, gang members, terrorists. Conversely, the continuum of criminalised migrant subjectivities highlights the transversality of those migrants’ struggles against diverse modes of kidnapping, at sea and on land, through which states try to tame the incorrigible autonomy and subjectivity of migration.

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