Full Length Article

The Sea in Sea Rescue: Conceptualising solidarity with maritime migrants

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A B S T R A C T

This article conceptualises how the sea comes to matter for practicing solidarity with maritime migrants. Adopting an interdisciplinary approach, the article proposes that migration and border studies' critique of methodological nationalism (Anderson, 2020) and focus on mobility (Scheel and Tazzioli, 2022) can be fruitfully combined with the challenge that ocean studies makes towards modernity's "terracentric normative ideal" (Peters et al., 2018, p. 2) to advance conceptions of *maritime* solidarity. Consequently, the article asks what happens when you detach solidarity from the "national order of things" and conceptualise it, instead, starting from the sea's "more-than-wet ontology" (Peters & Steinberg, 2019) – a political geography that is constantly in motion. Our argument is empirically grounded in original ethnographic research conducted with civil sea rescue and migrant solidarity actors in the English Channel and the Mediterranean Sea. Drawing on these case studies, we demonstrate how the sea presents migrant solidarity action with both *techno-material* (wind and waves) and *socio-legal* (maritime zones and port state control) challenges which solidarity actors navigate through the application of seafaring knowledges and common seafaring practice. We argue that in prioritising *seafaring* over *sedentary logics,* the practices of *seafaring activists* open up new paths to conceptualising solidarity in and beyond maritime geographies.

1. Introduction

In the third week of February 2023, at least 379 people took to the English Channel in eight small boats. We spent this week with a grassroots human rights monitoring organisation that acts in solidarity with maritime migrants. During our days at the Kentish coast, air temperatures ranged from five to ten and sea temperatures were around 7 °C. Despite these wintery temperatures, the group we worked with predicted particularly good crossing conditions based on their use of different apps monitoring the tide, weather and wind. Once we get to the coast, however, we realise that not much spotting is going to happen. Though the sun is shining, sea mist prohibits us from seeing anything in the distance and thus from what we are here to do: witnessing maritime bordering activities with our own eyes. Closer to shore, the blazing sunlight, reflecting from the sea's surface, makes it near impossible to monitor activity using binoculars or telescopes due to its blinding effect. We realise that a good day for sea crossings is not necessarily a good day for human rights monitoring with binoculars, thus, we asked ourselves: what is the role of the sea itself in solidarity work with maritime migrants?

In this article, we analyse the challenges and opportunities that the *techno-material* and *socio-legal* specificity of the sea presents to solidarity action with maritime migrants, based on original data conducted with migrant solidarity and civil SAR (search and rescue) actors in the English Channel and the Mediterranean Sea. Theoretically, the article offers a

new framework for conceptualising solidarity at sea, contributing in particular to discussions in migration and border studies, which aim to decentre the nation-state (Wimmer & Schiller, 2003) by centring mobility instead (Scheel & Tazzioli, 2022). We develop this framework by bringing together literatures that do not sufficiently intersect at present: firstly, we turn to migration studies scholarship, which has, in recent years, begun to highlight the specificities of *maritime migration* (Dickson, 2021a, 2021b; Lutterbeck, 2021; Mann, 2017; Stierl, 2016, 2021) as well as critical borders studies' invitation to focus on the mobility of borders themselves (Amilhat-Szary & Giraut, 2015; Rumford, 2006; Shachar et al., 2020); secondly, we draw on ocean studies scholarship, which has demonstrated the need to pay theoretical and empirical attention to the material and legal specificities of ocean space in order to better understand socio-political processes at sea (such as Steinberg & Peters, 2015; Peters & Steinberg, 2019; Hung & Lien, 2022), with a specific focus on studies discussing instances of maritime solidarity (Featherstone, 2022; Kosmatopoulos, 2019; Scharenberg, 2024).

Methodologically, our argument is grounded in six months of ethnographic fieldwork with civil society organisations practicing solidarity with maritime migrants in the English Channel and the Mediterranean Sea from December 2022 to May 2023. Using an engaged ethnographic approach (see Scharenberg, 2023), our two field sites on the English side of the Dover Strait and amongst a transnational network of actors operating across Europe thus derive from our active engagement as activist-ethnographers in maritime movements and migrant

solidarity networks, which precedes and outlasts this particular study. These networks, as we will elaborate later, are defined by a diverse range of solidarity actors, from coastal communities and solidarity cities to no borders activists, NGO and maritime workers, and, of course, the migrants themselves. As deliberately engaged researchers, we contributed to the struggle at stake, for instance by conducting monitoring activities, helping to maintain civil sea rescue vessels or doing research-based tasks. Agreeing with Heller et al. (2017), we have worked closely with our research participants to ensure that we do not reveal any information about migrants' tactics or movements that could be detrimental to actors on the move or those practicing solidarity with them.

Drawing on our participation as activist-ethnographers within these groups, the article bases its argument on data gathered via three methods: (1) textual analysis of organisational websites, alternative media and court cases; (2) 20 qualitative interviews with sea rescue and migrant solidarity actors; and (3) engaged participant observation at key events in UK (London, Dover) and Swiss cities (Geneva, Bern and Zürich) and during on-shore and ship-based work at the Kentish coast and the Mediterranean Sea. Importantly, the English Channel and the Mediterranean Sea are legally, politically and materially different in many ways, as we will demonstrate with concrete examples throughout this article. Notwithstanding these differences, we are interested in drawing out an epistemological baseline which these two political geographies *share* with regards to sea-specific aspects of solidarity action with maritime migrants.

Our argument is substantiated in four steps. First, we outline our theoretical framework by bringing together literature in the fields of ocean, border and migration studies. Second, we examine the *techno-material* specificities of solidarity action at sea through a focus on the sea's materiality as well as the different technologies and seafaring knowledge practices developed in response. Third, we discuss the *socio-legal* specificities of sea rescue and maritime human rights monitoring. Finally, we bring the techno-material and the socio-legal dimension together to highlight how these *sea-specific dynamics come to matter politically*. Ultimately, the article argues that it is in prioritising *seafaring* over *sedentary logics* that the practices of *seafaring activists* open up new paths to conceptualising solidarity.

2. Centring the sea: A new framework for conceptualising solidarity with maritime migrants

The oceans and seas have always been an important site of human mobility. Different and context-specific iterations of maritime migration may be traced throughout history (see Mann, 2017): from Jewish people taking flight across the sea during WWII to the Vietnamese 'boat people' of the 1980s or East Germans escaping the GDR via the Baltic Sea. What these examples reveal is that contemporary maritime migrations across the Mediterranean and the English Channel are far from unprecedented. Yet, it is since the height of Europe's so-called "refugee crisis", during which the Mediterranean Sea has been turned into one of the planet's deadliest borders, that maritime migration has come into more sustained scholarly focus.

In the aftermath of 2015, migration scholars have highlighted a number of issues that matter in this context. One key insight is the important role that media and communications technologies play for people crossing the Mediterranean, facilitated in particular by the crucial work and mobile infrastructure that the Alarm Phone network provides (Stierl, 2016; Noori, 2022). Other issues highlighted by scholars of maritime migration are the ongoing criminalisation of maritime mobility as well as of civil search and rescue activities (Cusumano & Bell, 2021; Tazzioli, 2018); the carceral dimensions of seascapes (Dickson, 2021b; Stierl, 2021); or how colonial histories and racialised violence continue to shape maritime crossings today, both in the Mediterranean (Mainwaring & DeBono, 2021) and, more recently, in the English Channel (Davies et al., 2021).

Most interesting for our own argument are studies proposing to pay attention to how the sea itself comes to matter for maritime migrants. Lutterbeck (2021) investigates the differences between "blue" and "green" borders. Mainwaring and DeBono (2021) argue that the cultural construction of the Mediterranean Sea results in an ambiguity that allows European nation-states to ignore their responsibility to rescue people in distress. Dickson (2021b) argues that "wetness" is applied as an instrument to legitimise pushbacks and dubious bordering practices. Dickson's work (2021b; see also 2021a) demonstrates particularly well why migration scholars have much to gain from engaging in ocean studies scholarship. Dickson bases her argument on a seminal text by geographers Steinberg and Peters who propose a view of the ocean as a "wet ontology" and a "fluid space" (2015), which demands particular attention to the ocean's material specificity (see also Peters & Steinberg, 2019). The text has been central to a wider "oceanic turn" (Brown & Peters, 2019, p.1) in the social and political sciences, which places particular emphasis on the ocean's material qualities.

It is important to stress that respective scholarship – including our own – does not seek to set up a false binary between the land and the sea, as Lehman et al. (2021) warn us against. Indeed, Peters and Steinberg's 'more-than-wet ontology' (2019) demonstrates precisely how different elemental geographies overlap and cannot be considered as strictly separate. The invitation, rather, is to begin to better understand how specific material aspects of the ocean *come to matter* in social and political processes, such as in our context of enacting solidarity with maritime migrants. We contribute here, in particular, to a recently emerging strand of social movement scholarship, which has begun to theorise the specificities of resistance in maritime space as "maritime solidarity" (Featherstone, 2022), "terraqueous solidarity" (Kosmatopoulos, 2019), "ocean activism" (Scharenberg, 2024) or "elemental activism" (Fish, 2022). As the work of Featherstone (2022) and Scharenberg (2024) demonstrates, maritime solidarities may be considered as a particular iteration of bottom-up internationalism, thus, building on previous generations of transnational and no border struggles, both conceptually and practically. Yet, "sea-based solidarity inadvertently crafts a novel space for solidarity politics" (Kosmatopoulos, 2019, p. 1) and opens "up different perspectives on the formations of solidarity" (Featherstone, 2022, p. 237), which becomes visible once we attain to the specificities of maritime geographies, as we do in this article (see also Mann, 2024; Scharenberg, 2024).

Two observations from respective scholarship are particularly crucial for us. Firstly, we follow the calls of Scharenberg (2024) and Fish (2022), who urge us to pay particular attention to how materiality matters in political struggles at sea, and how the "elements of the water and the atmosphere mediate political possibility" (p.2). In this article, we adopt their suggestion to attend to material specificities of the sea alongside the technological mediation of solidarity (what we refer to as *techno-material* specificities). Secondly, existing scholarship of maritime solidarities demonstrated how our present understanding of this phenomenon is limited because it has "often been ignored or down-played by nation- and terra-centric approaches" (Featherstone, 2022, p. 244; see also Kosmatopoulos, 2019). Indeed, a key point of the wider "oceanic turn" has been to demonstrate just how much of modern thought and political theory is conceptually *tied to the land*. Peters et al., for instance, have argued that the social sciences are often permeated by a "landward (terrestrial) bias" or "terracentric normative ideal" (Peters et al., 2018, p. 2). Moreover, Steinberg (2001) has insightfully demonstrated how our accompanying image of the ocean has been *socially constructed*, which also translates into a particular legality (what we refer to as *socio-legal* specificities). As respective scholarship has demonstrated, sea-oriented thought as well as seagoing practices invite us to question modernity's primacy of the "land-based Westphalian concept of nation-state sovereignty" (Hung & Lien, 2022, p. 3) and "opens up paths to alternative political imaginations *outside* of nation-centred narrations" (Scharenberg, 2024, p. 11, original emphasis).

It is in their shared insistence to de-centre the nation that ocean scholarship may productively be brought into conversation with migration and border studies scholarship. Contemporary research in these fields has already begun to highlight how migration is often understood primarily from the perspective of nation-states, adopting what is known as "methodological nationalism" (Wimmer & Schiller, 2003) – the tendency to naturalise the nation-state as the universal container of all social and political processes. Employing a nation-state perspective is central to the framing of migration as a "problem" because migrants enact a "problematic mobility" that threatens the natural/national order of things in ways that are often raced and classed (Malkki, 1992). In response, migration studies scholars have not just begun to critique the dominance of the nation-state perspective. There have also been efforts to develop alternatives, such as a methodologically de-nationalist approach (Anderson, 2020) to the study of migration or new frameworks that centre mobility (Scheel & Tazzioli, 2022). What unites these approaches is their shared attempt to make *human mobility* an analytic lens.

While migration studies challenges methodological nationalism through a focus on the mobility of *people*, border studies contests the principle of *territory*. Two decades ago Balibar (2004) observed that contemporary borders are not mere lines on a map but cut across internal political space. Operating in the opposite direction, the many bilateral and multilateral externalisation agreements have been offshoring border control and migration management to "third-countries" (Bialasiewicz, 2012; Brachet, 2016). As a result, the field of border studies has advanced greatly, attempting to "theorise borders" (Rumford, 2006) more concretely through a "processual" turn (Brambilla, 2015) that moved away from static conceptions of the border to think more about practices and notions of "bordering (Van Houtum & Van Naerssen, 2002). Consequently, we should view borders as neither fixed lines of demarcations nor sustained efforts that prevent movements. Rather, borders have been conceptualised as both mechanisms of "differential inclusion", designed to control and regulate mobility and sites of contestation (Mezzadra & Neilson, 2013; Nail, 2016). Theorised as both *mobile* (Amilhat-Szary & Giraut, 2015) and *shifting* (Shachar et al., 2020), contemporary border regimes disrupt methodological nationalism because, as Rumford observes, "political space can no longer be equated with that of the nation-state, and, as a consequence, bordering processes have under-gone concomitant changes, acquiring a spatiality beyond territoriality" (2006, p. 160).

In sum, the sea-oriented conceptualisation of solidarity with maritime migrants, which we develop in this article, contributes to respective discussions in migration and borders studies in that it shares the same ambition: to destabilise the holy triad of the sovereign nation-state, made up of the convergence of *people, territory*, and *state.* Migration studies has begun to decentre the nation-state through a focus on the mobility of *people,* while border studies challenged the simple elision of nation-state with a distinct *territory*. Our complementary contribution is to further complicate the *terra-centrism* on which the entire triad is built – a dimension that is currently frequently overlooked in respective conceptions. To do so, we draw on ocean studies scholarship, from which we derive our two analytical categories and which led us to pay conceptual attention to the *techno-material* and the *socio-legal* specificities of practicing solidarity with migrants in maritime geographies. Ultimately, what our analysis will reveal is that respective solidarity actions are defined by seafaring practices and logics, which address our terra-centric bias and "sedentary metaphysics" (Malkki, 1992) precisely because they developed in response to the *mobile materiality* of the sea. In doing so, we introduce a new figure of solidarity: *the seafaring activist.*

3. Techno-material specificities of solidarity with maritime migrants

In this section, we look at how the sea's material composition affects the work of those acting in solidarity with maritime migrants in a variety

of ways. As mentioned above, we are largely inspired by the idea of the ocean as a "wet ontology" (Steinberg & Peters, 2015), which urges us to pay attention to how the sea matters *materially* in its elemental capacity as a body of water that *moves*. Discussing both our two seas' differences and similarities, this section zooms in on two material capacities that matter to civil society actors in the English Channel and in the Mediterranean Sea as these have stood out most prominently in our fieldwork: (1) weather and winds and (2) waves and tides. As we will demonstrate, civil society actors use different technologies to mitigate and navigate the sea's material specificities through the application of seafaring knowledges.

3.1. Weather and winds

As the anecdote at the beginning of our article demonstrated, weather shapes how solidarity is practiced with maritime migrants in a variety of ways. First and foremost, weather of all kinds matters for the people crossing as it impacts on the routes and conditions of their journeys, in both the Channel *and* the Mediterranean. In the Channel, we learned during our fieldwork, wave heights above 0.5 m and wind speeds of more than 13 mph (or 12 knots) make a crossing less likely, as do Southerly winds, which typically make for a more difficult journey. In the Mediterranean, there is the additional issue of exposure to direct sunlight, which can result in dehydration, severe sunstroke or loss of consciousness, particularly after long journey times, which vary depending upon which routes are taken at a given time. Thus, knowledge of the weather forecast, which activists gather from sources like Windy, XCWeather or the MET Office does not only inform what to expect but also *whether and how to act.* For instance, knowing the wind direction and speed can inform predictions about a boat's journey time. With small vessels with an outboard motor typically taking 15–24 hours to cross, activists spotting a boat leaving the French coast can make predictions about when to come back to shore to witness its interception or arrival. Vice versa, on a day of adverse crossing conditions, people would not go out to spot.

While it is not our focus in this article, it is important to stress that weather conditions do not only affect the work of civil sea rescue actors. Doty's (2011) study on border crossing deaths in the North American desert and Dickson's (2021a) work on the framing of maritime geographies as an unruly space have powerfully shown how dangerous geographies are used as a tactic of migration management and containment. In our own study, we witnessed a similar dynamic: when crossings were highly unlikely based on the weather, all border force vessels we were able to monitor stayed in port. On such days, they seemed to let the marine elements do the bordering work for them. By contrast, material challenges do not stop the solidarity work of civil society actors but lead to the need to navigate these by means of different nautical technologies and knowledge practices.

One of the best examples for this is the crucial work of the Alarm Phone network, which has become fundamental for practicing solidarity in this context, not least by facilitating a stable and reliable connection between maritime migrants and those acting in solidarity on land, at sea and in the air (in humanitarian planes) via the use of mobile and satellite phones (Noori, 2022; Stierl, 2016). Indeed, the groups we worked with both in the Channel and in the Mediterranean were related and contributed to this network. In addition to the important role of the Alarm Phone, we want to highlight two other technologies that stood out in our own fieldwork besides the use of binoculars: vessel tracking apps and VHF radio, each of which comes with its own advantages and challenges. Indeed, what we found particularly interesting was activists' use of *nautical* technologies to maintain agency at sea.

One key technology used for both onshore and at sea monitoring are AIS tracking apps such as Boat Watch, Marine Traffic and Vessel Finder (see Pezzani & Heller, 2019). The apps are based on data using vessels' live AIS (Automatic Identification Systems) signals, a navigational safety device which all vessels greater than 300 GT are required to have

onboard as per the IMO's SOLAS (Convention for the Safety Of Life At Sea) Regulation V/19.2.4, although there are exceptions for border force vessels, as we observed. When activated, AIS reveals detailed information about a vessel's name, classification, route, home port and destination. During our time at the Channel, fellow volunteers instruct us on how to use the apps to follow the patrol patterns of vessels conducting SAR and border enforcement operations. Some of the border force vessels we monitor are clearly identifiable through their rather intimidating names: *BF Ranger*, *BF Typhoon*, *BF Hurricane*, and *BF Defender*, or, on the other side, a vessel named *French Warship*. Other vessels are not as clearly marked by name but seem to also be involved in SAR operations: MCS Taku CPP or MCS Blue Norther, for instance. Learning how to distinguish one type of vessel from another and whose pattern to follow is crucial, for while we may spot hardly any vessel from shore, the Channel remains densely populated with pleasure crafts, RNLI Lifeboats, the seemingly never-ending cargo vessel convoy passing through the traffic zones in the middle of the Channel and the back-and-forth passage of the Dover-Calais ferries.

As much as binoculars fail in certain contexts, vessel tracking apps, too, have their limitations. Here, another type of technology is just as crucial for interpreting what we are seeing (or not seeing in some cases) on the vessel tracking apps: VHF radio. The radio, as we realised quickly, is a key communications device in the Channel – a way of "seeing" and monitoring what's going on in the absence of visual cues on the horizon. Knowing how to use the radio, enables you to become part – even while on shore – of a world that is otherwise largely inaccessible to most land-dwellers: the world of seafaring. Using the radio, our mapping of the Channel expands even further. For instance, it is only when we overhear the Dover Coast Guard instructing a bypassing cargo vessel to give way to the aforementioned vessel MCS Blue Norther on Channel 16 on frequency 156.800 (the channel commonly used by all seafaring vessels to issue distress and safety calls or to anticipate and avoid collisions) that we can say with certainty that they were indeed "conducting search and rescue operations" around the MPC Buoy, at the midway point in the Channel between Dover and Calais. The Dover Coast Guard also issues a regular Service Broadcast, during which they remind all vessels in the Dover Strait to watch out for and report small migrant vessels crossing. After a few days of using the radio, we learned to distinguish between more and less relevant messages and the broadcast and navigational exchanges on Channel 16 become the refrain of our days at the Kentish Coast.

Hence, while different weather and wind phenomena present challenges to the work of those acting in solidarity with maritime migrants, what the ethnographic anecdotes in this section reveal is that activists can mitigate and, indeed, *navigate* some of these sea-specific challenges with different technologies and knowledge practices. More specifically, it is activists' ability to handle *nautical* technologies (binoculars, vessel tracking apps, VHF radio) and *seafaring* knowledges (including the ability to read and interpret weather predictions and navigate hydrographic charts) that enables them to become actors in ocean space. Shore-based activists, too, become "dry" seafarers as they learn about weather and winds and use technologies like radio and AIS to mitigate elemental limitations to their work. Hence, what our material-focussed analysis of solidarity with maritime migrants reveals thus far is that activists are required to develop and draw on seafaring skills and knowledges to navigate the sea-specific challenges of maritime geographies.

3.2. Waves and tides

When trying to better understand the power of the sea's elemental forces and how they influence social and political processes at sea, a second phenomenon we may pay attention to are waves and tides, which invite us to "rethink motion and matter and how it shapes the world as we know it" (Steinberg & Peters, 2015, p. 250). Indeed, in the case of civil sea rescue in the Mediterranean, waves have very concrete impacts.

Once again, waves primarily matter in that they make the journey even more lethal for the people crossing. One example of how civil society actors navigate waves was mentioned to us in an interview with an activist who has worked in the Aegean, where the material specificities of the local maritime geography make waves particularly dangerous. Here, one key task of respective actors is to steer and redirect migrant vessels into areas where they are safe from hazards.

In addition to making the journey more dangerous for people crossing, waves – which vary according to the seasons – also make it harder for them to be spotted by both seagoing vessels and reconnaissance aircraft. Civil sea rescue captain Claus-Peter Reisch, who faced criminalisation based on his work on Sea-Eye's vessel *Lifeline* in 2019 and who shares respective experiences in a book, explains how the calmer seas of the summer months have two crucial advantages:

> Firstly, we were able to spot the boat outstandingly early. The only thing on a cheap rubber dinghy that sends a radar echo is the outboard motor. When the swell is high, the motors disappear in the wave through. Now, however, the sea's surface is as smooth as that of a quarry pond. And this means, secondly, that we can push the refugee boat alongside the *Lifeline*. Boat and ship can be moored onto one another. (Reisch, 2019, pp.15-16; own translation from the German)

One interviewee similarly described how waves affect the actual rescue operation when people had to move from a higher vessel onto their RHIB (rigid-hulled inflatable boat), which lay much lower in the water:

> We had a quite dramatic night rescue with a wooden boat … I was on the RHIB, and my task was to stand on the RHIB and hold on to a rope with knots in it, which was hanging down from the boat, so that we would not drift away. Every time the waves lifted us up, a person was seated on the edge and when we were at the highest point, the person was somewhat heaved down and we had to catch them … We did that fifty or sixty times … [the waves] were 2 or 1,5 m high. It was definitely demanding.

Finally, another factor complicating this physically demanding work was mentioned by another interviewee: "you're on the ship, there's the seasickness". In this way, the mobile materiality of the sea limits both the agency of maritime migrants and civil sea rescue actors alike.

As was the case with weather, sea rescue actors are not entirely at the mercy of waves. They employ sea-specific knowledges (e.g. navigation) and technologies (e.g. the ship itself) to mitigate the waves' worst effects and even enhance their agency in some cases. For instance, one interviewee recalled a scene in which a sea rescue vessel in rough seas sought the help of a nearby cargo vessel and positioned itself in such a way to benefit from the larger vessel's wind- and wave shadow so as the be able to proceed in a safe way. In some cases, civil sea rescue actors even employ waves and weather as part of their strategy to resist bordering actors' common strategy of denying civil sea rescue vessels a safe port of call and letting them wait out at sea for long stretches of time. Here, one interviewee said, captains can demand a quicker procedure if forecasted weather and swell would make it too dangerous for the rescue vessel to stay out at sea. In this case, nautical knowledges are mobilised not only for practical but also *political* navigation.

Of course, in the Channel waves matter too, dictating to a large degree when crossings happen. A key difference, however, is tides. While the tidal rise and fall is comparatively minimal in the Mediterranean, they are a key determinant of when and how to act in the Channel. As mentioned in the previous section, knowing that migrant vessels do not commonly depart when waves are above a certain height, allows shore-based actors to plan actions more efficiently. Knowledge of where and when the tide will commonly carry migrant boats can inform where solidarity infrastructures are based. For instance, towns further North along the coast are generally better for spotting. Here, the use of tide calendars and apps allows these groups to predict when people could

arrive and where, thereby enabling them to act as efficiently as possible and distribute actions across different geographies.

What we witnessed in both the Channel *and* the Mediterranean, then, is that those acting in solidarity with maritime migrants can navigate, and indeed mobilise seafaring knowledges (such as predicting the effects of tides) and nautical skills (such as the ability to manoeuvre a given vessel). However, as the next section will demonstrate, respective knowledges are not only useful during practical sea- or shore-based work. Rather, as we will see, activists even mobilise seafaring knowledges in the courtroom.

4. Socio-legal specificities of solidarity with maritime migrants

A second important dynamic of how the sea matters for practicing solidarity with maritime migrants derives from the fact that the sea is not only materially specific, but also legally and socially constructed (Steinberg, 2001). In undertaking this exploration of the *socio-legal specificities* of sea rescue, we adopt a particular understanding of law and society. Contrary to traditional jurisprudence (for example Hart, 1961), we investigate the function of law in the everyday lives of solidarity actors by drawing attention to the ways in which "law is implicated in social practices, as an always potentially present dimension of social relations, while at the same time reminding us that law is itself a product of the play and struggle of social relations" (Hunt, 1993, p. 3). Simply put, law is political: it not only shapes social and political relations but is also a product of them.

The "messy registers through which we engage the seas" (Braverman & Johnson, 2020, p. 4) are a case in point. The United Nations Convention on the Law of the Sea (UNCLOS) is the primary legal framework, that "sketches the political geography of today's oceans and sets up the normative framework that governs it" (Hung & Lien, 2022, pp. 871–872). Key to this governance framework is a division of the ocean into legal zones, including those where individual states have exclusive rights (such as territorial waters and exclusive economic zones) and the high seas, which lie outside national jurisdiction. With regards to the legalities of maritime search and rescue, UNCLOS creates a duty for ships to rescue persons in distress at sea, so long as it does not seriously endanger themselves, in Article 98. The same article also sets out a duty for states to provide SAR services and coordinate with neighbouring states when conducting SAR operations. In addition to UNCLOS, the International Convention on Maritime Search and Rescue (hereafter, SAR Convention) sets out a framework for international cooperation when it comes to coordinating SAR operations, as well as establishing and specifying SAR zones of responsibility.

As we will demonstrate, our socio-legal approach highlights the complex interplay between the law and social practices, which derive from the fluid materiality of the sea. In what follows, we illustrate the ways in which the social practices of sea rescue are shaped by the interaction of sea-specific legalities – and how, in turn, these practices might have the force to shape legal meaning. We argue that maritime law, derived as it is from custom and in particular forms of solidarity that did not always exist on dry land (Mann, 2017, p. 42), can be mobilised to generate justiciable claims in support of maritime migrants.

4.1. Documenting the evasion of responsibilities at maritime borders

As mentioned above, SAR operations are organised according to the SAR Convention, which divides the Mediterranean into search and rescue zones with respective responsibilities clearly assigned to bordering nation-states. However, while state and EU actors like coastguards do perform a significant proportion of rescues, non-assistance remains systematic and instances of people dying while states evade their responsibilities are common. Furthermore, not only do states fail to perform their SAR duties, they are often complicit in illegal pushback to Libya (Alarm Phone, 2020, Alarm Phone, 2023). As Mainwaring and DeBono (2021) observe, one of the reasons why European nation-states

are able to violate their legal SAR obligations is the idea of the Mediterranean simultaneously as *mare nostrum* and *mare nullius* – our sea and nobody's sea. The Mediterranean is articulated as both a vast empty space free of obligations and rights and as a site of overlapping obligations and laws, particularly when it comes to protecting Europe's economic interests. What this reveals is how the *social construction* of the sea (Steinberg, 2001) comes to function politically in the service of power. The work of Doty (2011) and Dickson (2021a), discussed above, is instructive. Doty (2011) highlights how geography of the desert provides a "moral alibi" that allows state actors to wash their hand of responsibility for migrant deaths. Dickson applies this to the Mediterranean, demonstrating how historic articulations of the sea as "perilous" and "ungovernable" feeds a narrative through which "the sea has been turned into an agent of migration governance, assuming responsibility for migrant death" (2021a, p. 1006). It is this "social construction of the Mediterranean as an empty space, alongside the associated spectacles of enforcement and humanitarianism, [which] allows the EU and its member states to avoid responsibility for deaths at sea" (Mainwaring & DeBono, 2021, p. 1032).

Given European nation-states' evasion of responsibility for maritime migrant deaths, solidarity in the Mediterranean is consequently made up of two crucial elements: (1) the operation of civil sea rescue vessels performing rescues in order to fill the gap created by states' failure to perform rescues, and (2) the documenting of precisely this evasion of responsibility as well as the failure to cooperate with the civil sea rescue actors who act in their place. One key actor here is the Civil MRCC, a collaboration of organisations which took its name from the term MRCC (maritime rescue coordination centre) - that is the state actors responsible for coordinating SAR efforts - and which regularly issues respective reports.

In the Channel, the situation is somewhat different. For one, the maritime zone between Calais and Dover where most crossings take place, lies either in the territorial waters of France or the UK respectively (although solidarity is also practiced at the Belgian coastline), meaning only two states are primarily responsible for rescues. Moreover, solidarity in the Channel is less about the actual provision of rescues, as is the case in the Mediterranean, and more focused on shore-based solidarity. This is because both the French Coast Guard and UK Border Force do monitor the Channel and conduct SAR operations. In addition to this, the UK has a national charity, the RNLI, whose primary purpose it is to perform rescues at sea. Yet states still evade their responsibilities and people still drown. How is this the case?

In the worst tragedy recorded yet in the English Channel, on November 24, 2021, 27 people lost their lives while the French and UK Coast Guard argued about who was responsible for conducting SAR operations. Almost 2 hours after the initial mayday message, a passenger made one final call to the French authorities, telling them they are literally "in the water". The coastguard replies "Yes, but you are in English waters, sir" (Dalton, 2022). Subsequently, we learnt that in the run up to this shipwreck non-assistance was a regular occurrence, with at least 19 reported cases of distress calls from small boats being ignored (Walawalkar et al., 2023). Nor was this the only incident of its kind in the Channel. A further tragedy took place on December 14th, 2022, during our fieldwork. This case was documented by Alarm Phone and Utopia 56, a French grassroots network of migrant solidarity activists, who received the distress call. That night, four people lost their lives and, at the time of writing, the exact number of people who died remains unknown, according to the Maritime Accident Investigation Bureau. A report by Alarm Phone states that there was no apparent rescue effort from the French side despite calls for help by phone (2023). Despite the relatively clear legal jurisdictions in the Channel, the materiality of maritime space offered a convenient "moral alibi" that allows states to enter into "a potentially endless deferral of human responsibility" (Doty, 2011, p. 609). If it were not for the crew of the fishing vessel Arcturus, who were able to rescue 31 people, many more would have died.

What these examples of nation-states evading their responsibilities

for migrant deaths in both the Mediterranean *and* the Channel reveal, then, is how it is not only maritime *materiality*, but also *legality* that affects the work of those practicing solidarity with maritime migrants. It is important to stress, once again, that how shared legalities like the SAR Convention are put into practice differs across the two seas. In the Channel, it is two *nation-states* that are primarily to be held responsible. In the Mediterranean, solidarity actors struggle not only against individual nation-states, but also with a supra-national organisation: the EU. Despite this, the logic of bordering and statecraft remains, executed through the EU's border enforcement agency Frontex. In the Aegean, for instance, where pushbacks are rife, Frontex cedes operational control of border management to the Greek Coast Guard (see Bachiller López, 2023). This is indicative of how "Fortress Europe" has not overcome nationalist imaginaries but merely "fortified" them" (Adam & Hess, 2023).

Despite these differences, what we want to highlight here are the similarities of practicing solidarity in both the Channel and the Mediterranean, namely that solidarity actors must have *knowledge* of and the *ability to navigate* the specificities of *maritime legalities*. In other words, solidarity actors must know who *is* responsible in principle, according to how the respective stretch of sea is socially and legally constructed, so as to be able to demand responsibility of applicable actors in the given context. Consequently, both in the Mediterranean and the Channel, solidarity actors employ these knowledges in the creation of documents and reports that demonstrate nations' (or the EU's) evasion of responsibility for migrant deaths at sea and demand change. Beyond documenting violations, solidarity actors also employ their sea-specific knowledges in court to hold states to account, as the next section will demonstrate.

4.2. Demanding responsibility through seafaring practices

While the sea's material specificity contributes to the production of a "moral alibi" (Doty, 2011) through which state actors evade their responsibility, it may equally be mobilised to contest border violence – through the legal application of common seafaring practices. In what follows we examine two recent court cases, demonstrating how the customs of the sea – its social practices – can gain legal force and shape the meaning of domestic laws, opening up new horizons of solidarity and justice for maritime migrants.

Reports of a new "pushback policy" in the English Channel, emerged in late 2021 (Dathan, 2022). Developed in conjunction with the Secretary of State for the Home Department, the idea was that Border Force vessels – most likely armoured jet skis (Haigh, 2021) – collide with small boats transiting the Channel, pushing them back into French waters. The human rights monitoring organisation we worked alongside documented training for the policy in September 2021 and then witnessed it being put into action in January 2022. The policy was widely condemned by both legal experts and human rights organisations as posing a threat to life and unlawful (Bulman, 2021). The policy was challenged in court through judicial review and the UK Government withdrew it shortly before going to trial (Pennington, 2022).

What is now commonly referred to as the "pushbacks case", was brought by three separate claimants. One claim challenged the policy on three grounds, which were specifically based in *maritime* law.

(1) The policy is internally inconsistent and therefore irrational, and incompatible with international maritime law.
(2) The policy is contrary to the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1996 (SB/420).
(3) The policy is contrary to the ordinary practice of seamen and so is contrary to the implied limitations to the Immigration Act 1971 and/or the common law.

(The Public And Commercial Services Union & Anor, R (On the Application Of) v Secretary of State for the Home Department [2022] EWHC

517 (Admin), 2022)

Most important for our analysis are grounds two and three and their interrelation. We propose that this dimension of the claim is illustrative of how the very materiality of the sea generates certain types of social practices: 'the ordinary practices of seamen'. Inherent in the notion of the ordinary practices of seamen is an ethos of responsibility towards others, irrespective of nationality, and that these practices produce justiciable claims that can contest and shape the law. The Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1996 (hereafter, COLREGS) set out the legal framework for maritime traffic to operate under to prevent collisions. It was argued that the pushbacks policy clearly violates the terms of the convention in defining a standard operating procedure for Border Force officials to follow that encourages the turning back of small boats through physical force.

What is particularly interesting about the COLREGS is that in section 2 they set out an account of "responsibility", which "basically says[…] that you must always follow these rules, but that you must also deviate from these rules when necessary to avoid an accident" (Porathe, 2019, p. 513). For example, while ships approaching each other are meant to pass port-to-port, this may not be possible under "special circumstances", such as the presence of a shoal, other overtaking vessels or a whole range of scenarios we regularly witnessed during our fieldwork on VHF channel 16. Under such circumstances captains have a *responsibility* to avoid a collision, which may mean deviating from the letter of the law, as is required as per 'the ordinary practice of seamen'. Here, the very materiality of the sea (weather, hazards etc …) dictates that in developing a notion of 'responsibility', 'the ordinary practice of seamen' has legal force that is in excess of written statute.

It is this notion of "ordinary practice" that formed the basis of the claim against the UK Government. To make the case for grounds two and three of their challenge, the claimants drew on the submission of expert testimony of master mariner Captain John Simpson to argue that the risks of the pushback policy are unacceptably high and that the Policy is unsafe. In his testimony, Captain Simpson wrote that there was a "risk of the interception of a migrant boat becoming, if it was not already, a distress situation" and that a small boat "could not be safely turned back … without extreme risk to the lives of those onboard", meaning "the Policy would create a real and present danger to life at sea". Consequently, in his expert opinion, the pushback policy was "completely at odds with the *ordinary practice of seamen*, good seamanship and a contravention of the COLREGs" (emphasis added). Because the pushback policy was withdrawn before going to court, it is impossible to know the precise legal force of these arguments. However, in revoking the policy, it seems that the Government suspected it was unlawful.

The pushbacks case in the Channel is not the only example of common seafaring practices being mobilised in legal struggles. Another case that illustrates this point originated in the Mediterranean, revolving around the practice of port state control. Port state control is a common seafaring regulation and refers to "the inspection of foreign ships in national ports to verify that the condition of the ship and its equipment comply with the requirements of international regulations and that the ship is manned and operated in compliance with these rules" (IMO, no date, online). Port state control is regulated through nine regional agreements to aid flag-state-led inspections and ensure states maintain control over shipping standards. Yet, as the IMO clarifies on their website, while "as many ships as possible" should be inspected, vessels should not be "delayed by unnecessary inspections".

It is precisely this ambiguous point around what counts as a "necessary" or "unnecessary" inspection that allowed states to detain NGO vessels in ports throughout 2020, as one interviewee recalled:

> In 2020 basically all NGO ships were blocked, for months, under this port state control regulation … The idea was to say that they were ships registered as cargo ships … They were saying that cargo ships were used for different use, which is not commercial, but search and rescue and therefore were not respecting other conventions because

they were basically transporting too many people. It's a very complicated topic … but … this was one of the most powerful tools that has been used to prevent NGOs from being at sea.

The case of port state control is particularly interesting not only because it is "one of the most powerful tools" to limit NGO vessels' capacity to act at sea. Strategically used, port state control is also a practice that solidarity actors with maritime migrants were able to contest in court. This case was led by Sea-Watch, which challenged unnecessary port state controls in front of the European Court of Justice in 2022 and won (Sea-Watch, 2022). Importantly for our argument, the court did not only rule that there was no "ground for a control" in the case in question, in which a vessel was detained because there were allegedly too many people on board after a rescue, by pointing to both UNCLOS and the SOLAS Convention. The court also ruled that while port states do have the power to issue controls and corrective measures in principle, these must be "suitable, necessary and proportionate" (Court of Justice of the European Union, 2022). Unfortunately, the judgement has not stopped states politicising port state controls to inhibit solidarity with maritime migrants once and for all. However, it was the knowledge that port state control was employed here in a way that was unusual considering international maritime conventions that allowed civil sea rescue actors to fight back.

5. Decentring the nation through a seafaring epistemology

In the previous two sections, we described and analysed how sea-specific features of maritime geographies shape the work of actors practicing solidarity with maritime migrants. In this final section, we set out how and why these *sea-specific dynamics matter politically*: they decentre the nation-state-based logic of bordering and governance, and prioritise, instead, a *seafaring logic* based on solidarity.

Indeed, what runs through both previous sections is the observation that seafarer knowledges and practices matter for practicing solidarity action at sea. Firstly, we demonstrated how the sea's material challenges lead activists to employ *seafaring technologies* (including radio, AIS and, of course, ships), as well as specific *seafaring knowledges* (such as navigational skills and the ability to read the weather and tides), which allow them to become political actors in maritime space. Secondly, at sea and in the courtrooms, knowledge of common *seafaring practices* aids in the struggle against maritime border regimes. Here, it is activists' ability to judge *what is common in seafaring* which becomes an advantage in the legal struggle against bordering practices. What we derive from both these cases is that the sea's techno-material and socio-legal specificities create a new figure of solidarity - the *seafaring activist*.

Why, then, does it matter that activists take on seafaring logics and become quasi-seafarers? In what follows, we answer this question in two steps. Firstly, activists' use of seafaring knowledge and practices are the grounds upon which our conception of maritime solidarity is built. Secondly, our conception of maritime solidarity enriches and advances work in the fields of migration and border studies by instantiating new political imaginaries and practices that break with methodological nationalism *and* terracentrism.

Solidarity is a slippery concept – often used, yet frequently ambiguous and, thus, contested (see Sangiovanni, 2023). For instance, Featherstone defines solidarity as "a relation forged through political struggle which seeks to challenge forms of oppression" (Featherstone, 2012, p.5); more capaciously Sangiovanni sees it "as a particular form of *joint action* characterized by a typical profile of commitments, intentions, and attitudes, and triggered by, *inter alia*, an identification with others on the basis of a shared cause, role, way of life, condition, or set of experiences" (2023, p.5, original emphasis). While different in terms of scope, what both definitions share – and what we agree with – is that solidarity has no fixed essence, based on a fixed identity, but is a process of identification. Conceptualising solidarity requires us, then, to pay attention to how it *comes into being* – that is, how solidarity is constructed

through *practice*.

Indeed, it is through common practice that solidarity has become embedded in international maritime law. Because, as Mann observes, custom is the foundation of maritime law, it inscribes a principle of "solidarity that did not always exist on the continent" (Mann, 2017, p. 42). These principles are enshrined in international law and continue to shape relations at sea. One interviewee put it like this:

> You have the duty to help … I understand this as a code of honour for seafaring, it is seafarers' conception of their occupation. … Essentially, all life at sea, it doesn't matter what kind, whether it is the life of marine animals or the life of seafarers, or the life of people seeking refuge across the sea, depends on people having a sense of social responsibility … I learned this from professional seafarers that came into the NGO world. For many of them, this was their motivation, they saw it as their responsibility as seafarers … because you are exposed to conditions that people on land don't understand.

This quote is revealing for two reasons. Firstly, it echoes what scholars like Kosmatopoulos (2019) and Featherstone (2022) demonstrated for the case of dockworker alliances, namely that maritime solidarity is not only enacted by civil society actors alone. The sea is, of course, a space where a multiplicity of different (political) actors and legalities interact in various ways, including in the context of sea rescue. In the Mediterranean, rescues are performed not only by civil society vessels (and, indeed, by border enforcement agencies like coast guards), but also by merchant vessels, fishermen (Chemlali, 2024), with the help of airborne actors, such as humanitarian pilots, as well as landed actors like Alarm Phone, the Civil MRCC and shore-based solidarity groups (Stierl, 2016; Noori, 2022). What the previous quote illustrates, however, is how these diverse actors do not only collaborate in practice, but how the expertise and knowledge practices of seafaring folk of all kinds bleeds into civil sea rescue actors' solidarity practice. Traditional seafarers join activist groups while these groups also employ seafaring knowledges.

Second and most importantly for our argument, the quote reveals the specificity of how solidarity comes about in maritime space. Here, *solidarity is "grounded" in* and derives *from* the specific conditions and materiality of *the sea itself*. Sangiovanni's (2023) question on what *ground* people come together to act in solidarity is useful here. He argues that this ground may be given when "we identify with one another on the basis of a shared way of life, cause, set of experiences, condition, or role" (p.66). For instance, one of the best examples for a shared way of life would be national solidarity, where people come together based on "a territorially defined public culture" (p.67). Alternatively, people may come together based on a shared *condition*, such as workers on the ground of labour-based exploitation (p.74), or grounded on gender identity, due to common subjection under particular social structures (p.85).

In the case of practicing solidarity with maritime migrants, we can take those terms "ground" and "condition" literally, that is we understand them materially. Here, the shared *ground* is the mobile territory of the sea itself. As Mann observes, deriving from custom, during an age of rival empires, "the law of the sea used to create a framework of mutual solidarity among the world's seafarers, all exposed to sudden storms and unforeseen weather damage in the maritime space. What enabled rival powers to come together and formulate rules for mutual assistance between their ships was a common external enemy – nature." (2024, p. 94) In creating a shared "set of experiences" – perhaps even "a shared way of life" – the sea itself is the "ground" upon which alternate forms of solidarity emerge. Solidarity, here, is the enactment of "social responsibility" that arises because the conditions require it - "*conditions* that people on land don't understand" (emphasis added), as our interviewee put it. Put simply, solidarity, in a seafaring context, is a commitment to *mutual aid and collaboration that arises in the face of the sea's material and potentially lethal force.* Here, in the exact opposite logic to how the sea's "fatal materiality" is mobilised to justify migrant deaths

by border enforcement actors, as Dickson (2021a) has insightfully shown, the dangers of being at sea are mobilised as a common ground for solidarity.

To be sure, it is important to highlight that this commitment is not always enacted in practice and we are acutely aware of the danger of romanticising seafaring especially when we find, across maritime history as well as the contemporary situation in the Mediterranean and the Channel, countless examples of rescues not being performed. In this sense, rather than stating that maritime solidarity, as we conceptualise it, is an empirical guarantee, we are interested in its underlying logic: a *seafaring epistemology* based on knowledge of and practical experience at sea. For this seafaring epistemology may be mobilised politically, both by civil sea rescue actors (as we have shown), and by critical migration and border studies (as we will now argue).

So how does a seafaring logic decentre and denaturalise the hegemonic nation-state standpoint?

According to Wimmer and Schiller, in naturalising the nation-state as the universal container of all political processes there is an implicit *territorial limitation* that takes "for granted nationally bounded societies as the natural unit of analysis" (2003, p. 579). This results in what Malkki calls "sedentary metaphysics" (1992) that is most apparent when it comes to the politics of migration. Malkki argues that there is "a powerful sedentarism in our thinking", in which a "national geographic" is discursively articulated as the "taken for granted" order, while simultaneously pathologizing movement and territorial displacement (1992, p.31). A *sedentary epistemology,* as Malkki shows, depends on the notion of rootedness, spatial order and an assumed fixed territory that must be defended. By contrast, a *seafaring epistemology* centrally starts from the question of what kind of action makes sense at sea. In so doing, it reconfigures the terms upon which migration is conceived as a problem in the first place. Put simply, in a sedentary epistemology, *territory needs to be protected* from *mobile people*. A seafaring epistemology, by contrast, turns this logic on its head: *people need to be protected from mobile territory* (the sea).

This is why a sea-centred perspective opens up new possibilities not only for our conceptualisation of solidarity but also for scholars interested in mobility justice: seafaring practices break with the epistemic trap that naturalises a stable and sedentary correspondence between *people*, *state* and *territory* and bring into being new relations of solidarity emerging upon a mobile maritime territory. The very grounds for these relations of maritime solidarity sit outside the territory of the "national geographic", shaping the ways in which social responsibility is thought and practiced. This is not merely a theoretical observation but shapes practical politics, resulting in forms of law that are transnational "all the way down" (Mann, 2024, p.79) and generating new justiciable claims that hold states to account. In consequence, the seafaring practices employed in solidarity action with maritime migrants invite us to conceive of the relationship between people, territory and state otherwise.

6. Conclusion

In this article we proposed a theoretical framework and methodological approach that centres the sea rather than land-based territory, arguing that it opens up new ways of conceptualising solidarity with maritime migrants. Adopting a specific focus on the sea and highlighting its techno-material and socio-legal specificities, we pointed to political imaginaries derived directly from the sea. Indeed, what defines the *seafaring activist* as a new figure of solidarity is this: while border agents try and apply a sedentary epistemology to the sea, solidarity actors*,* who incorporate seafaring knowledges and practices in their work*,* adopt a *seafaring epistemology* which starts from the sea itself and challenges *terrestrial* conceptions of territory. In so doing, activists engage in new forms of solidarity that contest and overflow the "national order of things" (Malkki, 1992). To begin to see the world as seafarers would thus involves a set of "world-making practices" (Tazzioli, 2023, p. 6) through

which new forms of justice come into view over the horizon.

Consequently, we believe that our sea-centred conceptualisation of solidarity is not only useful to those interested in solidarity at sea, but also for scholars seeking to overcome the conceptual boundaries of methodological nationalism. Our approach in this article enriches and extends respective efforts towards new justice claims that decentre the nation-state by challenging *terra-centric* notions of *territory* through a seafaring epistemology. While we do not think that a seafaring epistemology can be readily applied to other contexts, we do believe that it highlights how attention to *geography matters for our understanding of solidarity* across different contexts. In this sense, our argument stands in conversation with and adds to other studies which have shown how this is the case for the desert (Doty, 2011) or the mountains (Tazzioli, 2023). As our study illustrates, starting from geography, rather than the pre-defined container of the nation, can expand our knowledge of how a world beyond borders might look. Our hope is that scholars may take up our invitation and continue to explore how the political implications of material and legal geographies may help to unsettle, de-naturalise and develop alternative conceptions to the "national order of things".

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