

Chloe Howe Haralambous

# The Rescue Plot: Maritime Encounter and the Borders of Europe

On 14 June 2019, the humanitarian reconnaissance aircraft *Goldfinch* flew a wide search pattern around 34°09'N 12°46'E, the last known coordinates of Distress Case (DC) 317 and an approximate midpoint between Zuwara, Libya, and the Italian island of Lampedusa.<sup>1</sup> I and the rest of the four-person crew were already familiar with the case. The wooden boat had left the Libyan coast with seventeen people on board in the early morning of 10 June and had run out of fuel a few hours into the crossing in international waters. Thirty-six hours later, when no one called to say they had reached the other side, a relative of one of the passengers launched a distress signal. On 13 June, *Goldfinch* spotted the boat drifting in the Maltese Search and Rescue zone, two nautical miles away from the Greek chemical tanker, the *Andromache*. Claiming concern for his crew's safety from COVID-19, the captain refused to take the people on board. However, he informed *Goldfinch*'s crew that Malta had instructed him to remain on scene. *Goldfinch* was running low on fuel; with the vessel stable, the Maltese authorities proactive about coordinating the rescue, and the captain committed to watching the boat, little more could be done from the air.

Returning to the boat's position the following morning was a formality. The *Andromache*'s overnight tracks on the marine traffic positioning system showed her making fast headway towards Italy, suggesting either that the captain had taken the people on board or that a Maltese state asset had arrived, relieving the *Andromache*. But in order to close the case, the mission's Operations Coordinator (OPCO) plotted the day's search pattern beginning at DC317's last known coordinates; finding nothing or finding the boat empty would confirm that a rescue had been carried out.

At 100 knots, a vessel the size of a migrant dinghy crosses a spotter's field of vision for an instant.<sup>2</sup> It is easy to miss – all the more so as spotting from the aircraft involves training the naked eye against the glare coming off of a monotone maritime landscape. With its colour making

no contrast with the sea and without a plume of spray trailing it as with a boat under way, a blue wooden boat adrift is one of the most notoriously difficult ‘targets’ to make out. Which is why none of the crew spotted DC317 until the aircraft was almost directly above it and a patch of sea foam caught the pilot’s eye. The boat was still there and seemed buoyant, but the men had gone overboard; the white caps we had spotted were the bubbles they made churning the surface to stay afloat. Launching into protocol, the OPCO sent out a Mayday relay via radio to all ships in the area and approached the nearest one, the Singaporean-flag chemical tanker, the *Valiant*, under way four nautical miles from DC317. Circling above her bridge, the OPCO repeated the Mayday, stressing that there were people in the water, and that the *Valiant* was the closest vessel. A mate responded, and the ship seemed to be changing course towards DC317. We turned back as well.

As *Goldfinch* approached the boat a second time, the crew tried to reconstruct what had happened: what had brought the *Andromache*’s captain to abandon the people and why a vessel that seemed stable had suddenly buckled, tipping people into the water. We were missing something. As the boat came into focus, the scene looked different. We could no longer see anyone in the water, but there were people on the boat itself. The boat was not sinking after all. Two nautical miles out from DC317’s position, our aircraft must have entered the people’s range of vision. Five of them jumped overboard holding onto empty fuel canisters while gesturing to the aircraft. We looked back to gauge how long it would take the *Valiant* to reach them. But the *Valiant* was no longer heading towards the case. *Goldfinch*’s audio recording from that day is crackly, barely audible. The day’s logbook, however, confirms the resoluteness with which the captain, having assumed command from the mate, refused to engage. ‘The people are not in the water’, he insisted; ‘and they are not my problem’. When reminded that, as the closest asset, he had a legal obligation to assist, he rebutted, ‘I don’t take orders from you; who even are you?’<sup>3</sup>

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In the wake of the October 2013 and April 2015 shipwrecks between Libya and Italy that left thousands dead, the question of rescue has been at the heart of contending efforts to respond to Europe’s ‘refugee crisis’. As people continue to attempt the sea crossing, the scene of migrants’ distress has been the daily fare of European media and political debate; successive European border enforcement operations aimed at repelling migrant boats have framed their mandate in some relation to the duty to save refugees from drowning;<sup>4</sup> humanitarian giants and radical collectives have marshalled an ‘underground railroad’ of solidarity across

the passage behind the call to save human life. Since Italy began to subcontract the Libyan Coast Guard to intercept people attempting the crossing, those interventions too are called ‘rescues’; while border crossers’ own efforts to reach Europe often revolve around the right to survive at sea.<sup>5</sup>

The political versatility of rescue lies in its potential to conduct while simultaneously mystifying the contradictions accumulating within it behind the universal and pre-political question of survival. Both in the daily interactions at Europe’s external borders and in the public fora in which those interactions are imagined and debated, the scene of distress is saturated with interests. And yet all actors involved in it – politicians, migrants, border officials, humanitarians and merchant sailors – pursue those interests by mobilising the *disinterested*, apolitical and transcendent value of human life. For the purposes of this article, I have coined the term ‘the rescue plot’ to describe that tension. I argue that the ways in which actors at sea manipulate, subvert and (mis)interpret rescue crystallise the tensions that shape the relationship between migration and politics in Europe: between hospitality and security, life and politics, European liberalism and its colonial underpinnings. The scene of distress, in other words, is a theatre in which the central contradictions at stake in the ‘refugee crisis’ are brought into relief and, in some instances, worked through.

As the first part will elaborate, the rescue plot is a ‘masterplot’ to the degree that it is expected to reflect certain common moral and cultural values: the significance of universals such as humanity, the origin and meaning of responsibility, the claims of strangers, the nature of vulnerability and the expression of power.<sup>6</sup> Versions of it circulate in actual texts, from the Old Testament to *The Decameron*, from *Frankenstein* to *Benito Cereno* and *Lord Jim*, and reverberate in the life of Europe’s external borders. Though the masterplot does shape the scene of rescue – not least in the international legal directives that lay out the obligation to do it – the vicissitudes of the Central Mediterranean derive in part from the fact that actors who encounter each other in the migrant passage often do not stick to script. Those deviations, the perpetual thwarting of assumptions actors bring to the scene of rescue, are also instantiations of the rescue plot. Adrift in the high seas without food, water or shade, the people on board DC317 were patently in distress. And yet the men’s repeated gesture of jumping overboard, the *performance* of the distress that they were already in, in order to force a negligent captain to play his part as rescuer demonstrate that rescue is a negotiation; it typically unfolds in actors’ manipulation of the conventions of the rescue plot itself.

This article begins with a (failed) performance of the rescue plot by migrants and merchants as seen from the sky during the course of my fieldwork on board the NGO aircraft, *Goldfinch*. It concludes in the port city of Trapani, with the legal proceedings concerning another encounter between a migrant boat and the commercial fleet: the case of the *Vos Thalassa*, in which a group of migrants stood accused of mutinying against the crew that rescued them. The contrasting accounts of the event given by the survivors, the crew, the judges and the prosecutors exemplify the ambivalence of the rescue plot as an ‘enabling fiction’ capable of absorbing contradictory political impulses.<sup>7</sup> On the one hand, the paranoid reading practices that underlie merchants’ and prosecutors’ interpretation of the rescue plot express the colonial violence that underpins the border regime’s desire for (and fear of loss of) mastery over the Mediterranean.<sup>8</sup> On the other hand, the rescue plot provides a narrative schema that those materially excluded from that universal can wield against the grain in the furtherance of their own political project. The *Vos Thalassa* case emblematises the ways in which migrants’ mobilisation of the rescue plot resists, exceeds or subverts the terms of recognition that undergird it even as, at least in the cases presented here, it does not transcend them.

## 1 The masterplot: law, politics, ethics

The moment of rescue at sea – sometimes called the ‘human rights encounter’ – is popularly treated as occurring in spaces exceptional to the conventions of national sovereignty. Instead, it unfolds simultaneously at scales both smaller and greater: the hyperlocal and specific (two people) and the universal and abstract: humanity. The reasons for this are rooted in the legal infrastructure of sea rescue and in its theoretical and political underpinnings. In most common law systems, the duty to rescue does not hold on land. The social contract at the basis of modern sovereignty stipulates the surrender of personal violence to the sovereign’s monopoly control as a precondition for the latter’s legitimate arbitration among citizens. In return for this ‘gift’ of personal violence, the citizen has the right to reasonably expect the state’s protection from the violence of others; the state becomes accountable for her survival. A triangulation takes form in my encounter with the other as our relation to each other’s well-being is mediated by our common deference to the state; it is the state and not I which is bound in a relation of accountability to that other’s life. Our encounter happens within a common understanding that, in ceding personal violence to

the state, we have also ceded, or liberated ourselves from, our obligation to protect each other – our responsibility for each other.<sup>9</sup>

On the high seas, no such deference is possible since, outside of territorial borders, the sovereign contract and the triptych of state, population and territory are suspended; it is not by chance that Hugo Grotius describes the extraterritorial space of the sea as ‘a state of nature’. The subject on the high seas is displaced from the governing assumptions of the social contract; her ability to act violently is returned to her and, in the absence of the mediating function of the state, so is her accountability to the other before her. Crucially, the absence of the terrestrial orders of the political (territory, nationhood) means that accountability to the other precedes any recognition of their *distinctiveness*. In other words, the ideal scenario of rescue presents a relation between people who do not know each other (they could be anybody) and whose identity *must not* matter. In that sense, all sea rescue is humanitarian in its claim to be apolitical.

But the sea is equally a space that is *pre-political*: a place where politics *has not yet* happened but from which politics might proceed. It is partly that suspension of distinctions together with the scalar relationship forged by, on the one hand, the immediacy of care performed by one person for another and, on the other, the fact that that care is enacted in the name of a common and abstract *humanity* that has made the scene of rescue such fertile terrain for considering the universal. Paul Gilroy takes sea rescue as an example of what he calls a ‘lowly orientation’ to the elaboration of a new humanism issuing from ‘the ordinary virtue that can be glimpsed in disaster altruism and disaster solidarity’.

[The] maritime archive can help to tune us precisely to the demands resulting from contemporary attempts to divine and apply a different humanist ethos: one that is not congruent with the racial nomos and has been conditioned by emergency conditions, in particular by proximity to water and the obligation to confront its special perils when the fate of other human beings demands it.<sup>10</sup>

If the masterplot of rescue values the water’s absence of distinctions because it inspires a sense of universal humanity, to the political theorist Carl Schmitt the sea’s ‘smoothness’ is treacherous – and partly for the same reason.<sup>11</sup> For Schmitt, the sea is both a site and a metaphor, a space and a dynamic. Even as it is the materiality of the sea that enables and, in some instances, limits, the forms of power exercised on it,

seaness is better understood as a heuristic for understanding a particular kind of power (colonies, for instance, are also 'sea'): one that 'flows' outside the boundaries that express and vouchsafe the legal-political orders of the terrestrial (*nomos*) and which Schmitt identifies with, among others, unlimited warfare, violence, imperialism, capitalism and, in some senses, humanitarianism.<sup>12</sup> Both Gilroy and Schmitt, then, posit the sea as a space of exception, a *utopia*, 'counter-site' or the negative space of politics – where principles of political and social divisions (race, class, gender, nation) that govern life on land are projected in inverted form, or dissolved altogether, revealing, in Gilroy's figuration, 'the composite of human frailty and interdependency',<sup>13</sup> or, to Schmitt, humanity's unbridled capacity for violence.

If rescue in the contemporary Mediterranean unfolds on the knife-edge between humanitarian imperative and political interest, vulnerability and violence, its vicissitudes cut both ways. In 2012, the court ruling on *Hirsi Jamaa versus Italy* established that when a migrant encounters a European asset at sea, for all legal purposes, she enters into that flag state, is subject to its jurisdiction and thus has the right not only to be rescued but also to seek asylum – she cannot be returned. A satellite of her flag state's authority, law and obligations, the rescuer's responsibilities are triggered wherever she finds herself in a position of power over another. For border guards entrusted with protecting national territory, their investiture as carriers of their state's obligation paradoxically makes them *vulnerable* to the other.<sup>14</sup> The more apparent the migrant's distress – the more pronounced the disparity between shipmaster and migrant – the greater the shipmaster's exposure to the other's claim. If the captains of ships such as the *Valiant* aim to avoid an encounter with a migrant boat at sea, it is in order to escape these contradictions of rescue – specifically, to resist migrants' ability to activate the rescue plot in the presence of a European ship that will take them to Europe. It was this, after all, that the people on board DC317 sought to achieve. Having failed to interpellate the captain of the *Andromache* into the terms of the rescue plot the previous day, they jumped overboard, *performing* the motions of a distress they were already in, in order to corner the shipmaster into a position of moral and legal capture in a space where an imbalance of power could be represented or *staged*.

The sea *is* different from land, but it is not a 'counter-site' to land; the relation between the two is more complex than one of simple inversion or opposition. Here, following Foucault's heterotopias,<sup>15</sup> I want to propose a reading of the scene of maritime distress not as an unreal space in which the social and political orders of land are suspended or undone

– but rather as an exceptional but very real site in which those orders are present, only manifest differently, and so can be understood differently. They thin out, waver or come unbundled, exposing their inner contradictions and enabling illusions.

The merchants, migrants and activists that traverse the Central Mediterranean navigate the politics of the passage by trying to read each other while remaining illegible themselves: smuggling vessels masquerade as trawlers, border forces deploy stealth ships, merchant vessels misreport cargo or port of call, humanitarians register their ships as pleasure craft. To authorities and NGOs trying to map a social thalassography of the Mediterranean passage, the sea *appears* as an immense accumulation of signs: a space of manifestation in which otherwise inscrutable social realities thin out and become (partially) visible. Phenomena at sea appear to the observer as *clues* intimating without fully revealing the complex arrangements that surround them and that cannot be grasped in their totality: the trafficking cartel, the alien and obscure social orders of a former colony, the political and economic affiliations of the humanitarian sector, the covert arrangements among European border authorities and between them and the Libyan Government of National Accord.

One reason I have chosen to frame rescue in terms of ‘plot’ is in order to foreground the encounter at sea as an exercise in interpretation: one not only enacts but *reads for* the rescue plot. If the social life of the sea is saturated with artifice, then the reading practices that shape maritime encounters are almost always paranoid – intent on ‘unmasking’. To be ‘at sea’ is to be confronted with uncertainty: a struggle to establish the place where one stands in relation to an object when familiar frameworks for understanding are unavailable. Approaching the sea as a space of impasse rather than exception, the following section takes the legal investigation into the *Vos Thalassa* case as a vantage onto the ways in which conflicting interpretive approaches to the rescue plot crystallise the tensions within the political orders that underlie them: race, empire and humanity.

## 2 The rescue quandary

On 8 July 2019, the captain of the *Vos Thalassa*, a supply tugboat for the Al Jurf oil fields offshore Libya, notified the Italian Maritime Rescue Co-ordination Centre (MRCC) that he had saved sixty-seven migrants from a floundering boat. The case was in the Libyan Search and Rescue (SAR) zone, but the Libyan MRCC, the organisational centre of the Libyan Coast Guard funded by Italy as part of Europe’s border externalisation



policy, was not responding to the captain's calls. The *Vos Thalassa* began to make slow headway northwards toward the closest port of her flag state, the Italian island of Lampedusa. She had sailed well into the Maltese SAR zone when Libyan authorities finally made contact. The Libyan commanding officer instructed the *Vos Thalassa's* captain to *turn back* for a rendezvous with their patrol vessel, the *Tallinn*, sixteen nautical miles from the Libyan shoreline.

The sixty-seven rescued people had spent the afternoon on deck, resting in the certainty that they were safe on board a ship that would take them to Europe. None of them were sailors; they did not notice that the *Vos Thalassa* had taken a southerly bearing until their phones began to buzz as they joined Libyan networks. Checking their location GPS, they realised the captain had tricked them; they were not being taken to Europe at all but *back* to Libya. Accounts differ as to what happened next. What is certain is that, in response, the captain activated anti-piracy protocols, bunkered the crew into the citadel (the heart of the ship), sealing them off from the migrants on deck, and turned the ship around *again* towards Italy.

Two months later, a summary court convened in the Sicilian coastal town of Trapani to establish just what had happened on board the *Vos Thalassa* on the night of 8 July 2019. The ship's thirteen crew members alleged they had been victims of a mutiny and identified two men as its ringleaders. Having made it to Europe, those men faced charges of assault and aiding illegal immigration. The following witness accounts, which I reproduce at length, are excerpted from the first-instance decision.

When the migrants realised that the *Vos Thalassa* was taking them back to Libya, the only crew member on deck was an AB seaman, who testified first:

I found myself surrounded by most of the male migrants who furiously communicated to me that they had no intention of returning to Libya, where they said they would be killed [...] they addressed to me an unequivocal gesture of slitting my throat. [...] I remember two of them [...]: one of them was tall with very black skin, and was inciting another man, also with very dark skin, but short and wearing a white jumpsuit. The latter was the one who commanded the other migrants, who shouted and gave orders and riled them up to insist that they not be returned to Libya.<sup>16</sup>

The AB Seaman's story is corroborated by the first mate. When it came to their turn, the migrant witnesses, too, had almost the same account but resigified the 'unequivocal gesture'. One witness testified:



We were calm, it was night, and we were resting when, suddenly, a Sudanese man spoke to us migrants in Arabic in a very agitated manner and told us that the ship was taking us back to Libya. [...] He, together with the Ghanaian migrant, turned to the crew and demanded an explanation. At that point the Sudanese, turning to us, told us that we should put on our life jackets and that if the ship continued to make headway towards Libya, we were to jump overboard because it was better to drown at sea than be returned to Libya.<sup>17</sup>

Another explained, ‘In the moment of agitation, we simulated throwing ourselves in the water to communicate that we would rather do that than go back to Libya. Passing a finger across our throat was not meant as an intimidating gesture against the crew but an effort to communicate the danger of being sent back to Libya’.<sup>18</sup> Finally, another witness testified, ‘One woman spoke to the captain in English and said that if he returned her to Libya, she would throw herself into the sea with her children’.<sup>19</sup> This final witness was decisive; her testimony includes a lengthy account of the events that preceded her encounter with the *Vos Thalassa* – specifically, the cruel and degrading treatment to which *she* had been subjected in Libya and which all the migrants feared if they were forced to return there. It was ultimately her testimony, and the judge’s decision to take it as representative of the whole group, that determined the two men’s acquittal on grounds that they had acted in self-defence.

On the face of it, the ‘quandary’ of the *Vos Thalassa* case arises out of a failure to convincingly execute the rescue plot and a resulting impasse in interpretation: the crew are both rescuers and captors, even as the migrants are both supplicants and mutineers, revolting against their rescuers by threatening to kill either them or, paradoxically, themselves, by *jumping back into* the water (with lifejackets), reopening the script of rescue. The confrontation in court after the encounter at sea, then, is a second-order drama of (re)reading, staging the collision among conflicting reading practices and between those frameworks of interpretation and an object they cannot quite master. For their part, the crew harnessed the frameworks most readily available to them: a mutiny by the two ‘very black’ demagogues. The captain’s construal of himself as a victim of hijacking likely served to convince an insurance broker that losses to cargo and carrier incurred while the migrants were on board could not have been avoided. Here, however, I want to focus on the relation between the migrants and the differing positions of the state given in the Trapani Court’s decision to acquit the defendants and in the

Palermo Court of Appeals' decision to sentence them only a few months later.<sup>20</sup>

The case of the *Vos Thalassa* is unusual for its acknowledgement of what everyone pretends not to know: that rescue is a performance and that the 'ideal' victim of shipwreck is as implausible in reality as the 'ideal' refugee for whom she functions as an enabling metaphor in the European rights imaginary. During the 2015 'refugee crisis', a project to rejuvenate Europe's image as a citadel of human rights had triumphed off (but had certainly not invented) the figure of the refugee as one driven by necessity and lacking in agency, desire or demands. On the one hand, a key dimension of the masterplot of rescue discussed at the beginning of this article is a celebration of that European liberal temperament: an encounter between it and its 'ideal' beneficiary as she appears as a pure embodiment of human suffering adrift off the shores of Europe and in need of salvation.<sup>21</sup> On the other hand, however, the rescue plot also exposes the secret underbelly of that political imaginary.

In its decision to sentence the two men, the Palermo Court of Appeals cautioned against being a naïve reader of the rescue plot, by specifying that migrants and traffickers '*artificially* constructed' a state of emergency at sea by boarding an overcrowded and unseaworthy boat 'in order to trigger a rescue operation that would ensure [...] the migrants' disembarkation in Italy'.<sup>22</sup> The reasoning reopens the interpretive problem at the heart of distress first posed by DC317. Since most migrant boats are unseaworthy overcrowded vessels, their distress is *real*; without rescue, the people on board will likely drown. And yet that distress is not simply an *accident* which rescue, understood solely as the salvage of life, promises to remedy. To the degree that distress is also *deliberate*, part of a broader project (to reach Europe), it is an artifice. The implication of guile and desire makes rescue criminally suspect and speaks to a pervasive fear not only that the terms of recognition (the victim, the innocent, the drowned) through which Europe confers humanity on its ex-colonised subjects do not properly reflect their object, but that those subjects might *escape* the forms of control enabled by those terms, and use them instead, and at times violently, in order to claim the very forms of political possibility they were designed to foreclose.

Underlying the courtroom's grasping for available frames of interpretation is an attempt to reckon with the reality of migrants' desire *beyond* necessity – a desire they are not supposed to have and which becomes a political identity when it is expressed in concert. At stake in the *Vos Thalassa* case is the political signification of that desire and hence of that collectivity, to which the crew's conjuring of the demagogic

mutineer is one response. But the migrants, for their part, proposed another. The people on board the *Vos Thalassa* did not know each other or even have a language in common before they boarded the wooden boat that failed them. They did, however, have a project in common and they did form a political assembly on deck which manifested itself twice: in their protest on board and later, during their trial, in the community of interpretation they formed to resignify the ‘unequivocal gesture’ of throat-slitting and in their decision to let one woman’s experience speak for the whole group. In his reasoning for the acquittal, the Trapani Judge for Preliminary Hearings accepted that (re)presentation. Building off the woman’s testimony of her experience of torture in Libya, he ruled that the men had acted in self-defence: that violence, and the subversion of the rescue plot, was the necessary and legitimate means by which the group rescued themselves.

I have tried to demonstrate the political versatility of rescue. But I do not, for that, mean to celebrate it as at all emancipatory. In the normalised violence of Europe’s external border, migrants’ daily manipulation of the dynamics of distress as *means* for securing a political existence which Europe perpetually denies them does amount to a form of resistance: to the border regime, to racialised structures of expropriation, to control over their bodies, aspirations and trajectories. But the politics of the rescue plot remain deeply pessimistic. First, because attempting to secure a political future by gambling with life itself is evidence of the miserably narrow and perilous space of action available to people on the move; of the seventeen people who left Zuwara on board the blue wooden boat that became DC317, thirteen made it to Lampedusa. And second, because even in those instances in which they win that bargain, making it to the other side, migrants’ successful *subversion* of the terms of recognition through which Europe identifies the worthy beneficiary of its care is simultaneously an admission that they cannot properly be transcended.

## Notes

- 1 Dates, case numbers and the names of ships and aircraft have been changed. Since the details concerning the case of the *Vos Thalassa* are already on the public record, I have not changed them.
- 2 In my work, I use the term ‘migrant’ as an umbrella term for people making the Mediterranean crossing to Europe. They do so for a variety of reasons: from the search for refuge and economic security to the advancement of political struggles.
- 3 The survivors on board DC317 were eventually rescued by a supply vessel for the nearby oil fields.

- 4 See, for instance, operations Triton and Themis run by the European Border Guard, Frontex; operations Sophia and Irini run by the European Naval Force Mediterranean (EUNavforMed).
- 5 See Chloe Howe Haralambous, 'How to Do Things with Rescue: Politics and Humanitarianism at Sea', Response article for The Ethics of Migration Policy Dilemmas project, Migration Policy Centre (MPC), European University Institute (2022; [https://migrationpolicycentre.eu/docs/dilemmas/3rd\\_dilemma\\_4th\\_response.pdf](https://migrationpolicycentre.eu/docs/dilemmas/3rd_dilemma_4th_response.pdf)) (15 January 2023).
- 6 For more on the cultural conventions and social value of masterplots, see H. Porter Abbott, *The Cambridge Introduction to Narrative* (Cambridge: Cambridge University Press, 2002), 42.
- 7 Joseph R. Slaughter, 'Enabling Fictions and Novel Subjects: The *Bildungsroman* and International Human Rights Law', *PMLA*, 121: 5 (2006), 1405–23.
- 8 I take the notion of 'paranoid reading' from Eve Kosofsky Sedgwick, *Touching Feeling* (Durham, NC: Duke University Press, 2003). For a discussion of colonialism and its disavowal in the Mediterranean, see Gabriele Lazzari, 'Theorising from the European South: Italy, Racial Evaporations, and the Black Mediterranean' in this issue.
- 9 Itamar Mann, *Humanity at Sea: Migration and the Foundations of International Law* (Cambridge: Cambridge University Press, 2016), 14–16.
- 10 Paul Gilroy, 'Never Again: Refusing Race and Salvaging the Human', Holberg Prize Reception Lecture, 4 June 2019 (Bergen: University of Bergen, 2019); <https://holbergprize.org/en/holberg-lecture-never-again-refusing-race-and-salvaging-human> (15 January 2023).
- 11 Schmitt was resolutely opposed to all universalisms but especially to humanity; the reasons for this include but are not limited to his Nazism.
- 12 Carl Schmitt, *The Nomos of the Earth in the International Law of Jus Publicum Europaeum*, trans. G. L. Ulmen (New York: Telos Press Publishing, 2002).
- 13 Gilroy, 'Never Again'.
- 14 Mann, *Humanity at Sea*, 163.
- 15 Michel Foucault, 'Of Other Spaces', *Diacritics*, 16:1 (1986), 22–7, p. 24.
- 16 Caso Vos Thalassa, Trapani Court of Preliminary Investigations (GIP), sent. 23 May 2019 (dep. 3 June 2019), Judge Grillo, 4. All translations from Italian are my own.
- 17 *Ibid.*, 14.
- 18 *Ibid.*, 12.
- 19 *Ibid.*, 14.
- 20 The question was finally resolved by the Italian Supreme Court in December 2021, who ruled in favour of the defendants and acquitted them. Since the majority of the Court's reasoning is either procedural or simply echoes the one proposed by the Court of Trapani, I have chosen not to examine it here.
- 21 See Miriam Ticktin, 'A World without Innocence', *American Ethnologist*, 44:4 (2017), 577–90.
- 22 Caso Vos Thalassa, Palermo Court of Appeals, crim. sec. IV, 3 June 2020, n. 1525, Presiding Judge Corleo, 7.