

MULTIPLE FRAMES: REMARKS ON THE FRAMING OF BORDERS AND MIGRATION

HEIDRUN FRIESE

heidrun.friese@phil.tu-chemnitz.de

Heidrun Friese is a professor (emeritus) for Intercultural Communication at Chemnitz Technical University. Her research interests focus on social and political theory, postcolonial perspectives, borders, mobility and everyday racisms. She is currently working on a book on *Bordering Europe: Law, Philosophy and Global Justice*.

KEYWORDS

framing, mobility/migration, biopolitics, thanatopolitics, necropolitics, human rights

PUBLICATION DATE

Issue 18, May 31, 2025

HOW TO CITE

Heidrun Friese. "Multiple Frames: Remarks on the Framing of Borders and Migration." *On_Culture: The Open Journal for the Study of Culture* 18 (2025).
<<https://doi.org/10.22029/oc.2025.1509>>.

DOI: <<https://doi.org/10.22029/oc.2025.1509>>.



Multiple Frames: Remarks on the Framing of Borders and Migration

_Abstract

This *_Essay* attempts a preliminary framing of what we can understand by the work of ‘framing’ in the context of borders and migration and its inherent tensions. These are articulated in current biopolitics which are committed to life, care and humanitarian reason (Frame 1: Life). At the same time however, current biopolitics produce death zones. Therefore, the current politics in the Mediterranean are framed by what, following Foucault’s concept of biopolitics, Roberto Esposito calls thanopolitics and Achille Mbembe necropolitics (Frame 2: Death). These tense, overlapping and intertwined framings of migration and the discursive networks also refer to legal norms and norm-setting, the law and its violence, the right to life and the limits of current humanitarian law and Human Rights (Frame 3: Law).

1_Preface

And if it were a frame —Jacques Derrida¹

What do we address with the terms frame and framing? What are we talking about?

When I get stuck and lost, I turn to Grimm’s German dictionary:

FRAME, framing, frame, and support, rack, enclosure [...] 2) frame, as the weaver’s frame: the weaver’s ram to the cloth [...] 3) frame, in braiding, embroidery, and sewing [...] 4) frame, the wooden frame that holds the window, cf. window frame: ram to the window, tigus [...] 5) frame, the ledge in which a mirror, a painting is fixed, Dutch: raem, margines tabulae, fulcrum quadratum tabulae [...] 6) frame also means a scaffold in the torture chamber: [...] 7) fram economically, rack for various purposes; in cellars and pantries for the storage of food [...] 8) framing, framing, multiple with the trades (Gewerken): with the carpenters, a square beam, which lies over the pillars or stems of a wooden building and in which these are mortised; ramen or pieces of leaf [...].²

These references provide a starting point, an initial framework, a preliminary orientation as to what to look for and what previous readings memory can hold. The noun frame (*Rahmen*) obviously refers to the enclosure of something else, a manual aid, a craft or “frame” (*Gestell*),³ an object, something that attaches, enframes something else, such as the frame of a mirror or a picture is the work of en-framing.⁴ This frame, this En-framing therefore, is bound to a form of labor, an assembly, fabrication, production (*her-stellen*), frames are created, require a technique, they are bound to production (*Herstellung*) as well as to imagination, they can be worked upon, ordered (*bestellen*), placed in a service: “the essence of modern technology lies in Enframing,” as Martin Heidegger notes.⁵

These meanings are supported by a look at an etymological dictionary of the English language and the lemma frame and framework:

Frame, Old English framian “to profit, be helpful, avail, benefit,” from fram (adj., adv.) “active, vigorous, bold,” originally “going forward,” from fram (prep.) “forward; from” [...] c. 1200, “profit, benefit, advancement;” mid-13c. “a structure composed according to a plan,” from frame [...] Meaning “sustaining parts of a structure fitted together” is from c. 1400. Meaning “enclosing border” of any kind is from c. 1600; specifically “border or case for a picture or pane of glass” from 1660s. The meaning “human body” is from 1590s. Of bicycles, from 1871; of motor cars, from 1900. Meaning “separate picture in a series from a film” is from 1916. From 1660s in the meaning “particular state” (as in Frame of mind, 1711). Frame of reference is 1897, from mechanics and graphing; the figurative sense is attested from 1924.⁶

“Framework 1640s, ‘structure for enclosing or supporting,’ from frame (n.) + work (n.). Figurative sense ‘adjusted arrangement’ is from 1816.”⁷ In this sense, the following is addressed: a “sustaining parts of a structure fitted together,” i.e. a helpful, useful, advancing structure is actively put together and something else is added: “a structure composed according to a plan.”⁸ The assembly is not arbitrary; rather, it is structured and follows a plan—one might, one should inquire, at this juncture, what precisely constitutes a plan?—, the assemblage is imbued with purpose, objective, and *telos*.

The term’s initial combination of elements—work, technology, structure, plan, and *telos*—suggests a preliminary understanding of framing as strategic, goal-oriented work, technique, and the production of a structure. However, the term’s semantic scope extends beyond this initial conception. It is also linked to the concept of a body and to a ‘particular state,’ as in the phrase ‘frame of mind.’ This notion, therefore, appears to align with Erving Goffman’s concept of “organization of experience” as outlined in his seminal frame analysis.⁹

As part of experience, are frames not associated as well with repetition, habits in thinking, acting, judging, and their organizing certainties? Frames are then also linked to normative—moral and ethical—principles, criteria and instructions that define what is recognized as right and true or what is considered and evaluated as wrong and untrue. In this sense, frames demonstrate the “tendency to elevate the factual to the normal,” the establishment of the “normative power of the factual.”¹⁰ The factual thus, finds its “justification in its existence” through the autoreferential repetition of the familiar, the rehearsal of the given.¹¹ Concurrently, is the revocation of the established ‘normative

power of the factual,' a shift from familiar, restrictive frameworks of practiced customs, habits, adaptations to the framework of the given not also quite liberating and transformative?

These questions are immediately succeeded by the subsequent questions: are we not discussing re-presentations, i.e., that which renders the absent present, that which represents something else? Do frames, then, frame linguistic and pictorial representations, irrespective of their nature? If the term 'frame' refers to language and the stock of images that guide what appears to be factual, given, natural, and creates the framework within which we organize and interpret the world and experience, then this can be recognized as part of the work of framing and can be reorganized and shifted as well. Significations invariably entail the reference to that which is purportedly 'outside' the delineated framework of significations, thereby facilitating an exchange that amalgamates the 'inside' and 'outside' dimensions, rendering them indistinct and referencing the context, the interweaving of elements, and the transformation of these elements.¹²

The preliminary investigation into the subject of my remarks appears to be delineated and framed by these references to semantic domains and meanings. However, once the *framework* has been instituted, the subject is immediately dissolved, connecting with that which has not (yet) been framed linguistically. After all, does not every word, every concept, operate as a demarcation, acquiring its specific meaning only within a system of relations? At the same time: is not what has been said and signified already related to what has not been said, how can that which has not been said be differentiated from what has been said and vice versa? How do we know what has not been and will not be said so that something can be said at all?

Is meaning clearly framed, delimited, delimitable? Is it not always already shifted, uncertain? Was it not Jacques Derrida who pointed to the double aspect of the sign, which shatters unambiguous significance, and did he not term this difference, postponement, deferral as *différance*? Significations are hardly given or fully present, but always both present and absent. Not only the difference from others, but also the inconclusive, un-closable reference of the signifier to other signifiers, the constant postponement of meaning, refuses the assumption that a signified could escape "even if recaptured, the play of signifying references that constitute language" or could guarantee a truth to be found or revealed outside of this play.¹³

These questions are also followed by the question: Could we not—or even must we not—think about frames as multiple relations and connections, that is, what Michel Foucault called “dispositive” as the network of heterogeneous elements (from discourses to institutions to architecture), the structuring of this network and finally its “*strategic function*.”¹⁴ In this sense, Michael Foucault also conceptualizes epistemes as “strategic dispositifs” that facilitate the separation of “the scientifically qualifiable from the non-qualifiable” within a scientific domain.¹⁵ Is it therefore necessary to pursue the question of frames with regard to the question of how epistemes, discourses and discursive boundaries are determined, what can be said at a historical point in time, what cannot go together and creates zones of indeterminacy?

If these networks also indicate a state of mind, then the frames themselves, as well as my notes and my following remarks regarding frames—that is to say, the various versions of framing migration—are, in essence, components of the overarching endeavor of framing, that is, the establishment of a *framework*. In this endeavor, the fabrication of frames entails the framing of the state of mind and its patterns, it entails a discernible objective, a political strategy, even if the ultimate *telos* is deferred, not accomplished, and perpetually contingent of action, circumstances, and configurations. This strategy aspires as well to engender order, intelligibility and to arrest ambivalences and disturbing contingencies.

Obviously, a frame defines the boundary to something else. If a frame signifies ‘enclosing a border of any kind,’ is the framing of borders, as the title of these remarks indicates, not a—more or less—meaningful doubling? If the frames of ‘borders’ and ‘migration’ (these terms are already normatively framed), or rather mobility are addressed, then the following remarks are to be understood in a double sense as framing the object of the framing and the inclusive-exclusive statements, images, representations, etc.

The ensuing remarks address the issues at stake in three steps of framing. They seek to elucidate the multiple, dynamic elements that constitute an entangled network to generate discursive frames which are interconnected, require each other. However, they invariably exclude other elements on which they are, nevertheless, dependent.

Discourses on migration are framed on the one hand by the concept of the people, i.e., concepts of sovereign power, nationalism, belonging, and on the other hand, by the biopolitical concept of population. Modern nation states are constituted by territorial

borders that define, among other things, state sovereignty, citizenship and the boundaries of democratic deliberation and law. Current migration, border policies and public opinion that frame them are thus embedded in multiple tensions.¹⁶ These are articulated in current biopolitics, which, directed at the population, are committed to life. On the one hand, they are committed to the particular life of their own community and articulate established everyday racisms. Linked to (Christian) ethics on the other hand, humanitarian legacies are oriented towards universalist norms and values that demand support, relief, assistance in the face of human vulnerability and exposure. They are thus located on both sides of biopower. In this sense, they work on the framing of framing, on the structuring structure of biopolitics (Frame 1: Life). However, current biopolitics also produce mass death and borders are to delineate the right to life as well as death zones. In a second step therefore, the current politics in the Mediterranean are outlined, which are framed by what, following Foucault's concept of "biopolitics," Roberto Esposito calls "thanapolitics" and Achille Mbembe "necropolitics" (Frame 2: Death).¹⁷ These tense, overlapping and intertwined framings of migration and the discursive networks also refer to legal norms and norm-setting, the law and its violence, the right to life and the limits of current humanitarian law and Human Rights (Frame 3: Law).

2_Frame 1: Life

Modern biopolitics are directed at life. They are committed to its production, recording, health, monitoring, correction and improvement. In short, they are a form of government. They target both the population and the individual, both physically and mentally. They thus also frame normality and deviation. Biopolitics appears both as a positive power over life, a "regulation" of life, and as the "power to subject an entire population to death."¹⁸ Biopolitics in this sense refers to the affirmation of—now sacralized—life as such, which must be governed and regulated. This also establishes specific forms of the relationship between life and death, which also and especially become virulent in the context of migration and its ambivalent framings.

The advent of modern biopolitics signaled a pivotal moment in the relationship between statistics and scientific inquiry. In the wake of this development, a multitude of scientific disciplines, including demography, population science, eugenics, genetics, hygiene, medicine, and sexology, underwent a profound transformation. These fields

undertook a shift in their epistemic and material orders. The newfound emphasis on the study of the population—especially the popular classes—led to the development of novel ways of measuring and examining bodies. Indicated by the adoption of statistical methods viewed bodies through the lens of number, average, normality, deviation, and improvement. Such a shift not only fostered the study of statistics but also led to the enforcement of life policies, which were designed to influence and regulate various aspects of human life. Its methods established a nexus between statistical procedures and the conceptions of health, thereby giving rise to specific notions of health and illness. Moreover, they forged a nexus between life and what is currently understood as the environment; they also grounded biological racism, the deadly, genocidal separation of races, the separation between civilized and primitive life.

Such conceptual frameworks—the delineation of normality and deviation—remain influential in contemporary society, particularly through their processes of metrization and datafication. They serve to bind together and institutionally anchor population, danger, and security. These notions are also foundational to prevalent forms of everyday racism,¹⁹ and their connection to mainstream migration discourses, particularly those rooted within the so-called political center. These discourses often portray the native population as opposed to external Other, thereby fostering the perpetuation of racial prejudice and discrimination. Organicist conceptions of the population as a homogeneous national body—that is, the notion of an organic, living national entity [Volkskörper] that must be immunized against pests, parasites, and intruders and whose health must be protected—are also central to everyday processes of racialized framing.²⁰

Two examples of the biopolitical framing of migration in public opinion in relation to institutional security and migration policies may suffice here:

Especially at the beginning of the Ukraine war, there was also a lot of willingness there [in the East] to take in Ukrainian refugees. The fact that almost 90% of refugees from Africa and the Middle East, consisting of young men, are viewed more critically there has little to do with xenophobia, but is simply common sense [gesunder Menschenverstand, which literally translates to sane common sense]. Even the Scandinavian countries have changed their migration policies in this regard because of precisely these groups. Only in Germany do the political elite and their army of do-gooders [Gutmenschen] continue to convince themselves that it is purely a question of good will to cram vast numbers of single young men into provincial villages. The East already has a massive demographic problem—after all, it is mainly young women who are moving away.²¹

Racism is not merely seen a practical accomplishment of mental sanity; it is also a manifestation of health and a testament to the enduring influence of Nazi ideology.²² The ‘sick’ political elite, the moralizing do-gooders, are opposed to a healthy, vigorous *doxa*, a truthfulness, opinion, confirmation, and recognition of the power relations embedded in everyday life. From the perspective of the domestic *oikos*, the *polis*, the political community, is governed by the simple rules of domestic economy and its daily orderings. Given the complexity of the world, simplicity becomes an explanation and a viable way to solve domestic problems. The adjective and particle ‘simply’ or ‘just’ emerge as a solution and substitute. Deporting migrants to former colonies, as well as the restriction of benefits and freedom of movement for migrants ‘to the maximum,’ can be executed ‘simply.’ The modification of migration laws can be implemented easily: just ‘give’ the Spanish region of Ceuta to Morocco.²³ In this perspective, the world appears to be a rather straightforward, simple place.

In such a view, women and children in particular are in need of protection and care [Besorgnis], as they are the guardians of life, the future of a homogeneous cultural community—the familiar *Kulturkreis*—and its biological and cultural continuity, which are threatened by foreign, colored young men and whose dangerous mixing of bodies must be prevented by all means. The contemporary resurgence of this motif in everyday racism and the colonial imagination of unbridled sexuality, underscores the pervasive influence of biopolitical dispositif in everyday life and its institutionalization. This interplay of ‘too little’ life here and a threatening, dangerous ‘too much’ there, serves as a poignant metaphor for the complex and nuanced dynamics of social and cultural interactions. The racist-colonial and ethnic community, in this context, comes to itself, to self-awareness, situating the quotidian, sexualized dynamics of violence within its own foreign exterior, and establishing a nexus with the expulsion of the human surplus into the “dumping grounds for the human waste” in the former colonies.²⁴

However, such caring ‘concern’ is not only for the body of the people, but also for their natural habitat: “The current immigration requires the construction of a new large city every year. How can you better protect the environment and the climate with more land sealing, road users and energy consumers is beyond me.”²⁵ In such an environmentalist framing, migrants take up space and consume space, resources and energy, not only devouring money but also nature that needs to be nurtured and cared

for. Migrants seal the land and thus life; like the natural soil, the community cannot absorb everything. In this mixed situation, mobile people become a threat to nature conservation and the heritage of homeland protection. Again, too much life there correlates with too little life here, and it is precisely this correlation that organizes biopolitics and its power in popular and scientific discourses. Life and its improvement are by no means universalized, but rather oriented towards the well-being of one's own life and the community. Life and the concern of its improvement are by no means universalized, but rather oriented towards the well-being of one's own life and the well-being of the national body. In this racist framework, life is not life, but valuable, precious, beneficial life compared to worthless life that can be handed over to death, delivered to death. Life here concerns non-life there, and is thus what constitutes biopolitics.

Accordingly, migration may be permitted in consideration of the requisite workforce, particularly if it comprises highly qualified life and human resources, on the condition that skilled life 'integrate' into the national body and become culturally indistinguishable and indiscriminate. This perspective posits that migrating life serves to ensure the functioning of the national body, its prosperity, its welfare, all of which have gone out of balance due to declining birth rates and a 'lack' of life. In this context, national welfare is conceptualized as both an economic calculation and its technocratic planning through the techniques of so-called migration management.²⁶

Calculation is the *modus operandi* of biopolitics. While statistics, probability calculations and risk analysis have long been elements of the racialized politics and management of mobility, these techniques have developed into a previously unimaginable, ubiquitous, and capillary "digital biopolitics," which are particularly dedicated to the technocratic protection of borders against mobile people.²⁷ Digital biopolitics is increasingly focused on the organization of movement in space and the prevention of unwanted mobility.²⁸ Significant digital upgrades are currently underway, encompassing big data and artificial intelligence tools utilized by entities such as Frontex. These tools include biometric recording, fingerprinting, iris scanning, facial recognition, lie detection at border crossings, and automated decision-making systems both before and during border crossings. By using advanced technologies such as big data analysis, artificial intelligence, biometric recognition, and automated decision-making systems, the development of a comprehensive truth machine aims to

uncover human appearances, deceptions. The digital screening and monitoring of subjectivity, the reading of traces by tracking spatial movement, the evaluation of images, cell phones and automated speech recognition reach across time and space to create a capillary border system of surveillance in which civilian and military use overlap.

The European Travel Information and Authorization System (ETIAS), the European Border Surveillance System (EUROSUR), the Schengen Information System (SIS I, II), EURODAC and the Visa Information System (VIS) are used to collect and analyze enormous amounts of data, and “big data for migration” is gaining central importance for the government of movement and its policies.²⁹ Algorithmic inspection, calculation and predictive behavioral analysis are intended to identify patterns, intentions and motivations before they have even become actions. In this way, particular risk factors are correlated.³⁰ The reduction of complexity, data processing, automation of recognition, cognition and decision-making and the prevailing algo-governance not only lead to inequality and racialization, mobility becomes a general security risk that needs to be managed efficiently.³¹ Mobile people are not treated as subjects with inalienable rights, but according to the specifications of programmers, computer scientists, data engineers and their (social) technological intentions, in which prejudice, stereotypes and racialization are incorporated. In this context, mobility is perceived as a constant threat, and the imposition of immobility is regarded as a means of ensuring security. Rather than adapting alleged ‘protection’ to the actual risk, the security framing leads to the perception of risk being adapted to the growing need for protection, whereby protection itself becomes a major risk. Conversely, the securitization and its framing engender risk for those targeted by it. The very concept of ‘security’ evolves into a potential hazard, security for the privileged is insecurity and a risk of death for the rest. Life policies become synonymous with death policies.

Once framed in this way, the government of migration is guided by probabilistic logic and future probability scenarios, the epistemes of risk calculation and associated corporate management directives. Biopolitical governance of mobility indicates data-driven efficiency, which also dominates current management and corporate logics. Consequently, the “strategic risk analysis” of Frontex is presented as an “ambitious exercise that aims to provide long-term foresight and future scenarios for effective policymaking.”³²

Technocratic utopias of the governability of the world develop frameworks of thought, epistemologies, and a “work of culture—the sorting, classifying, and hierarchizing of people, places, objects, and ideas.”³³ These frameworks are inscribed in “data-intensive computational processes,” which are subjected to the economic interests of companies specializing in the field. In this *modus operandi*, social assessments and relevance settings are modeled and operationalized, pressed into “measurable relationships, actionable and strategic targets, and threshold indicators of success.”³⁴ In this sense, algorithmization can be understood as nothing other than a tireless, capillary, data-supported, inclusive-exclusive framing work that relates body images, socio-cultural and economic representations. However, this also signals that responsibility, democratic and legal accountability are vanishing. At the digital borders, there are no border guards with guns, no actors, no eyewitnesses, and there is no accountability.

Postcolonial everyday racism and the institutional digital sorting machines introduce a caesura, “the break between that which must live and that which must die,” as Foucault notes.³⁵ The “first function of racism” is “to fragment, to create caesuras within the biological continuum addressed by biopower” and to inscribe it into an old logic of war, the logic of friend and foe.³⁶ The death of the racialized other makes the life of the invigorated population “healthier and purer” and thus also normalizes the killing of Others: “exposing someone to the risk of death, increasing the risk of death for certain people, or quite simply political death, expulsion, deportation, etc.”³⁷ The caesura, the separation between making life and letting die brings forth the tension between current death policies and humanitarianism, humanitarian impetus and humanitarian violence, which is directed at life itself and the improvement of life.

Humanitarianism, by contrast, does not address human life in terms of the enemy, security, demographics, sexuality, or the environment. It is not oriented towards a particular national welfare of a people or strict economic benefit calculation. The all-encompassing recommendations of Christian ethical heritage emphasize *pietas*, *miser cordia*, *caritas*, fraternity, and human vulnerability which have been preserved and transformed into solidarity and the contemporary figure and image of the victim.³⁸ However, even ethically based universalism and its morality of empathy and watchfulness can hardly avoid the provisions of contemporary care. As David Lyon notes, humanitarian aid operates within the “continuum between care and control,” thus

rendering its objects of care to biopolitical framings.³⁹ Through the professionalized and efficiency-oriented care work and its associated victim semantics, control is humanitarianized.⁴⁰ Exemplifying this form of humanitarianized control The *United Nations High Commissioner for Refugees* (UNHCR) and the ProGres database, established in 2003 serves the purpose of “registration and identity management.” It is integrated into the Biometric Identity Management System (BIMS), the Global Distribution Tool (GDT), the Rapid Application (RApp), IrisGuard, RAIS, and the Population Registration and Identity Management Eco-System.⁴¹

The humanitarian framing that has emerged in contemporary migration policies and the legitimizing figures that underpin them is a salient example of this phenomenon. As Fassin notes, “the correlation between the marked decrease in political asylum and the increasing recognition of humanitarianism is not mere coincidence.”⁴² Fassin has termed these paradoxical practices and their institutionalized framing “compassionate repression,” a term denoting the oscillation between enforcement and humanitarianism, thereby bringing together “a politics of pity and policies of control.”⁴³

“The EU should step up efforts to provide smuggled migrants, in particular vulnerable groups such as children and women, with assistance and protection,”⁴⁴ are the repetitive justifications for increased surveillance that serve to blend human trafficking with unwanted mobility, effectively bringing it close to terrorism.

This blend of humanitarian gestures and surveillance can serve to morally legitimize and enforce repressive policies. This phenomenon is particularly evident in the context of European death policies in the Mediterranean, where the justification for these policies is often linked to the fight against human trafficking or the presence of criminal smugglers. Tied to humanitarian gestures, surveillance can legitimize and enforce repressive policing and the militarization of borders. However, it is crucial to recognize that illegalized border crossings are frequently the sole viable route to Europe, facilitated by the services of informal border economies and mobility entrepreneurs. These mobility regimes, in essence, constitute European death policies, as Europe, at its borders externalized to former colonies, permits the death of individuals and wielding and exercising biopolitical power over life and death.

3_Frame 2: Death

Orchestrated by public opinion, everyday racism and migration policies which position life and death as a zero-sum game and the (civil) death of others to protect the body of the nation and privilege of life, postcolonial biopower frames life and death both in its interior and its exterior. Judith Butler addresses the question of “framing: the frames through which we apprehend or, indeed, fail to apprehend the lives of others as lost or injured (lose-able or injurable),” i.e., the power-laden “epistemological frames” that determine which lives are considered life at all.⁴⁵

The deserts of sub-Saharan Africa and the Mediterranean have become zones that expose to death those who are denied mobility. European “necropolitics” and “thanatopolitics” prevail in these zones.⁴⁶ The concept of “thanatopolitics,” as coined by Esposito, refers to the political dynamics surrounding death and dying.⁴⁷ In these regions, the right to “make life and let it die” is spelled out on a daily basis and distributes life and death beyond and on this side of borders.⁴⁸ The politics of death, as explored by Mbembe, underscores the current biopolitical landscape, where calculation and the management of death serves as an executor of the politics of life.⁴⁹

Roberto Esposito’s conceptualization of modern biopolitics, as it pertains to sovereignty, law, life, and death, operates within and on this tension between the affirmative, positive, and the negative and lethal moment.⁵⁰ At the core of this framework is the unifying moment of *immunitas*/immunity.⁵¹ *Immunitas* can be conceptualized as the negative counterpart of *communitas*, which establishes legally binding, mutual bonds and: community. *Immunitas*, therefore, represents the negation that pervades *communitas*. The concept of immunity signifies the release from the obligation or duty that binds members of the same community. *Immunitas* thus, denotes the immunity that disrupts mutual bonds and allows for their non-applicability. Immunization is thus a negative way of positively protecting both life and community,⁵² it presupposes what it negates, and shapes modern biopolitics that autoimmunizes communities.

It is precisely this connection between community and immunity in the constitution of sovereignty that links protection with thanatopolitics that are directed against life, a politics “that introduces [...] the normative caesura between those who need to live and those who need to die.”⁵³ By its very nature, *immunitas* carries with it its opposite, its negation: a thanatopolitics that pushes the system of life protection so far as to deny

life itself. Within the (auto)immunization process, death becomes “both the object and instrument of the cure.”⁵⁴ Sovereignty, the protection of life and at the same time the negation of life, precisely this form of “indistinguishability that makes one the opposite and complement of the other,” are particularly evident in the politics of death and autoimmunization in the Mediterranean.⁵⁵

Rescue at sea is systematically obstructed and criminalized. The Italian government’s legal decrees are to restrict Search and Rescue (SAR) in the Mediterranean. The Piantedosi Decree,⁵⁶ an Italian legislative decree at the beginning of 2023—introduced of all things, shortly after the shipwrecking at Cutro and about 100 drowned humans—stipulates, among other things, that non-governmental rescue vessels if they are not to be subject to significant sanctions are obliged to call at the assigned port immediately after the first rescue, without rescuing people from other boats in distress en route. In the last two years, for example, the *Geo Barents*, a rescue ship belonging to *Médécins sans Frontières* (MSF), has been detained four times by the Italian authorities for failing to comply with these regulations. In addition, the Central Rescue Coordination Center in Rome does not assign NGO’s rescue ships to the nearest safe port, as required by international maritime law, but to distant ports in northern Italy. For example, the *Geo Barents* was ordered to the port of Genoa or La Spezia, more than 1,000 kilometers away, to disembark 13 survivors. MSF has declared that it will discontinue the missions that have saved the lives of more than 91,000 people since 2015.⁵⁷ Another means to obstruct SAR missions is the outsourcing of illegal push-backs by the Libyan so-called coast guard, which is generously supported by Italy with equipment and training and whose actions—including armed actions—openly violate international law and human rights.

In addition to robust measures at sea, a system of internal and external warehousing of human beings has been established, rendering the distinction between the interior and exterior increasingly blurred and indistinct. Consequently, the walls are expanding both outwards and inwards and acts of exclusion invariably exert an inward effect. The ‘migration management’ system, as it is termed, governs the detention, imprisonment and forced deportation of migrants and asylum seekers. The EU-GEAS decision, effective from May 2024, stipulates the detention of up to 120,000 individuals, including children, within designated camps.⁵⁸ In addition, Italian legislation stipulates the extension of the maximum period of detention in closed detention centers (CPR) to

a maximum of 18 months. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe has identified significant shortcomings in the Italian camps, including structural defects and the administration of addictive psychotropic drugs to sedate the inmates.⁵⁹ Concurrently, there are extended possibilities for the detention of asylum seekers, an accelerated procedure at the border and the externalization of camps.⁶⁰ The recent Italian-Albanian protocol provides the establishment of reception and deportation camps within Albanian territory, which are operated by Italian personnel and contractors, and subject to Italian jurisdiction.⁶¹ The protocol incorporates externalization models, such as those that were to be agreed with Rwanda (which however, has never been enacted because UK's Supreme Court ruled that the Rwanda policy was unlawful because Rwanda was not a safe country to which asylum seekers could be removed). For decades, and in particular since the 2017 protocol between Italy and Libya, meant deter migrants from crossing the sea, Italy has been complicit in the outsourcing torture and crimes against humanity to stop migrants in Libyan torture camps.

Autoimmunization does not only articulate itself in internal camp storage of human life. It takes up what it practices in relations with the 'outside.' The politics of death co-operate extensively with the dictatorships from which people are fleeing in droves. Mobility is to be stopped long before the European borders, in the former colonies, and extraterritorial camps are to be removed from legal control and testimony. This institutionally state-organized human trafficking, which exchanges billions for forced immobility, has created an almost unmanageable network of bilateral and multinational agreements on so-called migration management.⁶² The government of transnational mobility aims at externalization, the multiplication of borders and their comprehensive control and seeks to secure this through profitable 'counter-deals,' including the Rabat Process (2006), the ACP-EU Migration Dialogue (2010), the Khartoum Process (2014) and its continuation in the Valetta Action Plan, which includes 'Better Migration Management' and the European Union Emergency Trust Fund for Africa (EUTF). "Managing flows, saving lives" is the explicitly biopolitical motto that combines management logic and military operations with humanitarian legitimization and the death policies outlined above.⁶³ The European deals with Tunisia, the "EU has provided Tunisia with more than 2 billion Euros in grants and 1.4 billion Euros in loans since

2011” and the “July 16, 2023 Memorandum of Understanding between Tunisia and the European Union, in which the EU pledged €1.1 billion for Tunisia” are to stop migration.⁶⁴ The recently agreed military equipment and training program with Egypt is intended, among other things, to secure borders and is part of “cooperative deterrence” of migrants, including unlawful refoulement.⁶⁵

Many affluent states, in Europe and around the world, make public legal commitments to protecting the world’s most vulnerable populations. At the same time, they seek to prevent such protections from stimulating demand for access and employ various measures designed to ‘deter’ unauthorized migration. The latter is a polite term for the idea that *some migrants must suffer to prevent other migrants from seeking remedies*.⁶⁶

Together, off-shoring and outsourcing are also the *modus operandi* of current politics of death: Europe does not shoot, torture and kill, Europe lets die, it finances the externalized torture and killing beyond its unseen borders.⁶⁷ Such policies make a distinction between “the principle of destruction—which serves as the cornerstone of contemporary policies of enmity—and the principle of life,” as Mbembe states.⁶⁸ Mbembe also takes up Foucault’s concepts of biopower and biopolitics and reorganizes these terms. Contemporary “forms of the subjugation of life to the power of death,” enmity, the suspension of law and human rights, the creation of “death-worlds” and “living dead” characterize “necropolitics, or necropower.”⁶⁹ Such policies, which cynically argue with life and bring death, dissolve binding legal frameworks and suspend the law.

As we have already seen, the tension between contemporary politics of death and humanitarianism, which is concerned with the improvement, the enhancement of life and the preservation of life, is situated in the caesura, the separation between making life and letting it die. However, human rights, the law and its affirmation of life are also located in this caesura.

4_Frame 3: Law

“Everyone has the right to life, liberty and security of person,” states the Universal Declaration of Human Rights (1948, Article 3, 3). “Everyone has the right to leave any country, including his own, and to return to his country” and “everyone has the right to seek and to enjoy in other countries asylum from persecution,” according to the Universal Declaration of Human Rights (1948, Article 5, 13, 2 and Article 14). Now, we know that these rights to freedom of movement are incomplete rights: the right of

nation states to sovereign deliberation on admission and residence excludes the right to free mobility, indicates the “paradox of democracy,”⁷⁰ the tension between universalism and particularism and the “limits of human rights.”⁷¹

It is nevertheless evident that human rights and international law are being systematically violated in the Mediterranean region. The Mediterranean Sea and the neighboring countries have become a lawless space for mobile people, be they legally framed as refugees or migrants. The principle of national state power is not framed and contained by international law. In this region, law is suspended, bearing witness to a state of lawlessness in the “age of law.”⁷²

Autoimmunization is directed against international law and universal human rights, thereby creating lawless areas, which are achieved precisely through offshoring and outsourcing that are to guarantee impunity. Paradoxically, successes in the enforcement of human rights have also produced their violations. Moria Paz asserts that the contemporary race for separation and the hasty construction of new border walls are, paradoxically, also attributable to these accomplishments.⁷³ Racialized vulnerability and lethal violence at the borders are both manifestations of (illegal) complicity with this violence, as they are also manifestations of its opposition in law and legal struggles.

The establishment, equipping, training, and financing of the so-called Libyan coast guard exemplifies the outsourcing of politics of death drastically,⁷⁴ thereby engendering a new form of immunity: immunity from international law. In January of this year, General Najeem Osema Almasri, head of the Libyan prison police and responsible for the torture of migrants, against whom the ICC issued an arrest warrant “for crimes against humanity and war crimes committed in Mitiga prison (Libya) since February 15, 2011, punishable by a maximum sentence of life imprisonment,”⁷⁵ was arrested in Italy. On the same day, the wanted torturer was flown out to Libya on an Italian state plane and greeted by the members of his militia with cheers and fireworks. Italian ministers have—officially for reasons of state security, i.e., migration ‘management’—placed political reasons above the law. International law is not only suspended but trampled underfoot and lawlessness is sealed in the cheers of the torturer’s supporters.

International law experts and human rights lawyers Omer Shatz and Juan Branco deemed these policies as Crimes Against Humanity and turned to the *International Criminal Court* (ICC) in 2019,⁷⁶ as they show a

shift toward deterring migrants from crossing the Mediterranean to reach the EU resulted in: (i) the deaths by drowning of thousands of migrants, (ii) the refoulement of tens of thousands of migrants attempting to flee Libya, and (iii) complicity in the subsequent crimes of deportation, murder, imprisonment, enslavement, torture, rape, persecution and other inhuman acts, taking place in Libyan detention camps and torture houses.⁷⁷

The ICC has been investigating the situation in Libya since 2011 and has also been investigating migrant-related crimes since 2017.⁷⁸ The European Center for Constitutional and Human Rights (ECCHR) and other human rights organizations have also joined in the cause and are calling for European responsibility and accountability for these long-established death policies:

Migrants and refugees who are intercepted while crossing the Mediterranean and forcibly returned to Libyan detention centers are subjected to grave human rights abuses. Despite knowledge of these crimes, a number of EU actors have increased their cooperation with Libya. To push for an end to this impunity, we filed a communication to the International Criminal Court (ICC) in November 2022 against 24 individuals, including 16 high-level decision makers from EU member states, the EU Commission, the EU border management agency FRONTEX, the European External Action Service EESA, and the EU military mission EUNAVOR MED.⁷⁹

At present, it seems, the “universal right to life” of refugees and migrants, is

limited by nationality, bounded by borders and visas and, ultimately, determined by the randomness of one’s birthplace. *Yet* every human being, including those without formal authorization to cross a border, is entitled to the right to life—the most fundamental human right and *the basis for all other rights*—and entitled to protection,⁸⁰

as the Special Rapporteur of the Human Rights Council notes. It is precisely this “yet” that locates the caesura between the sheer contingency of *natio*, the place of birth and *nationally* defined belonging to a political community, between politics of death and universal politics of and for life, between negation and affirmation of the law. However, it is as well the caesura that allows the opening of a space of law and thus the shifting of current biopolitics and its framings. Hannah Arendt had already identified the fundamental tension between universal human rights, its framing by the nation state, and the reduction of refugees to bare life.⁸¹ That is why she insisted on the “right to have rights,” i.e., the right to belong to a political community,” that is: “to bear political agency.”⁸²

Current death policies thus indicate both the limits of human rights, the effective enforcement of (international) law and the universal and inalienable right to life. At the same time, however, these policies are both affirming the validity of human rights and

are demanding its shift: namely, a shift in the biopolitical framework in terms of ‘population’ and the political framework in terms of ‘people,’ exclusive-inclusive citizenship and political rights.

To be effective in this sense, law must not guarantee a universal right to life as such (i.e., bare life), but bind this right to a political community as well. It is vital however, that such a political human right is not framed within the common boundaries of the nation-state, the national people and population, thus rendering the right to have rights *de facto* ineffective. In summary, the conventional paradigm of positive law—predicated on contract theory—must be adapted and opened in two respects. Firstly, it must be adapted with regard to transnationally *enforceable* law and effective universal accountability. Secondly, it must be adapted in view of the political subjects up to now enclosed in the frames of the nation-state, and the respective biopolitical framing of the people and population. Such a law would have to open towards *communitas* and a transnational, active and plural citizenship and membership.⁸³ In this sense, it is imperative indeed to develop a “transnational legal theory”⁸⁴ that is both universally applicable and recognized, and which can address, move, and shift the different yet interconnected frameworks outlined above, such as nation-state, sovereignty and borders, biopolitics and the law.

5_Postscript

Especially at a time when the strangely brittle language of law has to bow to the populist-racist mood, to subjective feelings and has to arouse “even in defeat the sympathy of the masses against the law,”⁸⁵ even if law is bent and bows to power and violence, it is becoming increasingly urgent to ask questions about democracy, law and justice and their framework. For it is not without reason that today’s authoritarian forces make the law, its institutions and representatives their first target.

In this context, the most urgent task of our time is to actively shift these *frameworks*, to work on a transnational way of thinking, a “state of mind” that literally upsets the previous frameworks of the nation-state and the prevailing, autoimmunizing biopolitics. Such a labor of framing also needs an opening to a concept of life that breaks with the distinction between inside and outside, and between life to be preserved and life to be destroyed. Such a framework undertakes a break with the current biopolitics that negates *communitas* and human rights and reduces its subjects to bare

life and mere survival. Such a break instigates a rupture in the continuum between biopolitics and autoimmunization and calls for a rethinking of the relationship between individual and human rights in relation to the sovereignty of the nation-state.⁸⁶

The task therefore is the interruption of deadly political frameworks that perpetuate racism and exclusion from community. Such a task envisions living together, *communitas*, the enforcement and extension of universal and pluralized human rights, and the universal and effective sanctioning of their violation. It is about “overturning the bio-thanatological principle,” about transforming “its immunitarian (i.e. self-negating) declination” and thus about an affirmative, positive form of life and a plural, political *communitas*.⁸⁷

Endnotes

- 1 Jacques Derrida, *The Truth in Painting* (Chicago/London: The University of Chicago Press, 1987), 23.
- 2 “Deutsches Wörterbuch von Jacob Grimm und Wilhelm Grimm,” Kompetenzzentrum Trier Center for Digital Humanities, accessed September 30, 2024, <<https://woerterbuchnetz.de/?sigle=DWB&lemid=R00403>>, transl. mine.
- 3 The German term *Gestell* used by Heidegger has been translated as frame as well as *En-framing* as “it should preserve the suggestion of another *Stellen* from which it stems, namely, that producing and presenting [Her- und Dar-stellen] which, in the sense of *poiesis*, lets what presences come forth into unconcealment.” “The verb *stellen* (to place or set) has a wide variety of uses. It can mean to put in place, to order, to arrange, to furnish or supply, and, in a military context, to challenge or engage.” The noun *Gestell* (translated as *Enframing*) indicates a technological understanding of Being that underlies and makes up our age, a way of engaging the world. Martin Heidegger, “The Question Concerning Technology,” in *The Question Concerning Technology and Other Essays*, translated and with an introduction by William Lovitt (New York/London: Harper, 1977), 7–40, here: 21, 65.
- 4 For an account of the frames of paintings, see Verity Platt and Michael Squire, *The Frame in Classical Art: A Cultural History* (Cambridge: Cambridge University Press, 2017).
- 5 Heidegger, “The Question,” 17, 23.
- 6 “Origin and History of *Frame*,” Online Etymology Dictionary, accessed October 31, 2024, <<https://www.etymonline.com/word/frame>>.
- 7 “Origin and History of *Frame*,” Online Etymology Dictionary.
- 8 “Origin and History of *Frame*,” Online Etymology Dictionary.
- 9 Erving Goffman, *Frame Analysis: An Essay on the Organization of Experience* (Boston: Northwestern University Press, 1986).
- 10 Georg Jellinek, *Allgemeine Staatslehre* (Berlin: Verlag O. Häring, 1914), 338.
- 11 Jellinek, *Allgemeine Staatslehre*, 339.

- 12 Framing is therefore by no means a question of “falsification” of an objectively given reality, the representation of which is (un)intentionally distorted, even if “strategic frames are frequently used” or “enable a representation of a situation or the specific evaluation of a state of affairs that is conducive to the communicators.” At the same time, the term does not have a uniform definition in different academic fields, disciplines and theoretical viewpoints. Michael Oswald, *Strategisches Framing: Eine Einführung* (Wiesbaden: Springer VS, 2022), 4, transl. mine. On these debates, see also Robert M. Entman, “Framing: Toward Clarification of a Fractured Paradigm,” *Journal of Communication* 43, no. 4 (1993): 51–58 and Paul D’Angelo, “News Framing as a Multiparadigmatic Research Program: A Response to Entman,” *Journal of Communication* 52 no. 4 (2002): 870–888. Doi: [10.1111/j.1460-2466.2002.tb02578.x](https://doi.org/10.1111/j.1460-2466.2002.tb02578.x). On the lack of inclusion of socio-political power structures in frame studies, see Kevin M. Carragee and Wim Roefs, “The Neglect of Power in Recent Framing Research,” *Journal of Communication* 54, no. 2 (2006): 214–233. Van Dijk comes to the succinct conclusion: “given the limited theoretical and methodological value of the notions of frame and framing, cultural social movement research should abandon using these notions and make use of more precise theoretical and methodological concepts.” Teun van Dijk, “Analyzing Frame Analysis: A Critical Review of Framing Studies in Social Movement Research,” *Discourse Studies* 25, no. 2 (2023): 153–178. Doi: [10.1177/14614456231155080](https://doi.org/10.1177/14614456231155080).
- 13 Jacques Derrida, *Of Grammatology*, transl. by Gayatri Chakravorty Spivak (Baltimore/London: The John Hopkins University Press, 1997), 7.
- 14 Michel Foucault, *Dispositive der Macht: Michel Foucault über Sexualität, Wissen und Wahrheit* (Berlin: Merve, 1978), 119–120, transl. mine.
- 15 Foucault, *Dispositive*, 124, transl. mine.
- 16 See Heidrun Friese, *Flüchtlinge: Opfer—Bedrohung—Helden. Zur politischen Imagination des Fremden* (Bielefeld: transcript, 2017); Heidrun Friese, “Mobilität, Grenzen und das Paradox der Demokratie,” in *Konfliktfeld Fluchtmigration: Historische und ethnographische Perspektiven*, eds. Reinhard Johler and Jan Lange (Bielefeld: transcript, 2019), 83–104. Heidrun Friese, “European Border Regimes: Necropolitics, Humanitarianism and the Democratic Order,” in *Embodied Violence and Agency in Refugee Regimes. Anthropological Perspectives*, eds Sabine Bauer-Amin, Leonardo Schiocchet and Maria Six-Hohenbalken (Bielefeld: transcript, 2022), 39–61.
- 17 Michel Foucault, *Society Must be Defended: Lectures at the Collège de France 1975–76*, eds. Mauro Bertani and Alessandro Fontana, transl. David Macey (New York: Picador, 2003); Achille Mbembe, *Necropolitics*, transl. Steven Corcoran (Durham: Duke University Press, 2019); Roberto Esposito, *Bíos: Biopolitics and Philosophy* (Minneapolis: University of Minnesota Press, 2008).
- 18 Foucault, *Society*, 257.
- 19 See Heidrun Friese, “Der Fremde als Feind: Mikrorassismus Online,” in *Rassismus im Alltag: Theoretische und empirische Perspektiven nach Chemnitz*, eds. Heidrun Friese, Marcus Nolden and Miriam Schreiter (Bielefeld: transcript, 2019), 31–60.
- 20 On the perception of strangers as “parasites,” see Friese, *Flüchtlinge*, 35–36.
- 21 This reader comment on *Zeit Online*, a liberal newspaper—and its cultural-racist elements is cited in Heidrun Friese, “Migration, Biopolitiken, Alltagsrassismus: Europäische Grenzen und populäre Diskurse,” in *Brennpunkte der ‘Neuen Rechten’. Globale Entwicklungen und die Lage in Sachsen*, eds. Stefan Garsztecki, Thomas Laux and Marian Nebelin (Bielefeld: transcript, 2024), 245–249. The interpretation of these comments on migration show that cultural racism is also widespread in the so-called socio-political middle classes. Racism is not an exclusive feature of socially marginalized classes. Racism is deeply rooted in everyday life and has even an integrating social function. Reader comment to Tom Kroll, “Ein Dorf in Angst,” *Zeit Online*, February 04, 2023,

- <<https://www.zeit.de/gesellschaft/zeitgeschehen/2023-02/upahl-mecklenburg-fluechtlingsunterkunft-landrat-buergerdialog?page=14#comments>>, transl. and emphasis mine. See also Friese, “Der Fremde als Feind.”
- ²² See Astrid Messerschmidt, “Postkoloniale Selbstbilder in der postnationalsozialistischen Gesellschaft,” *FKW: Zeitschrift für Geschlechterforschung und visuelle Kultur* 59 (2016): 24–37. Doi: [10.25595/2200](https://doi.org/10.25595/2200).
- ²³ “Just limit the benefits and freedom of movement for migrants as much as possible, then it will quickly take care of itself...” or: “Does Spain need Ceuta? Exactly. You could just hand it over to Morocco and that would be the end of the matter. And Spain would have one less problem,” reader comments for “Tausende versuchen in spanische Exclave Ceuta zu gelangen,” *Zeit Online*, August 27, 2024, <<https://www.zeit.de/politik/2024-08/migration-spanien-ceuta-marokko-migration>>, transl. mine.
- ²⁴ Zygmunt Bauman, *Wasted Lives: Modernity and Its Outcasts* (Cambridge: Polity, 2004), 8.
- ²⁵ Reader comment for Vert Tealos, “FPD schlägt Grünen-Realos Gespräche über neue Migrationspolitik vor,” *Zeit Online*, February 19, 2023, <<https://www.zeit.de/politik/deutschland/2023-02/vert-realos-fdp-bijan-djir-sarai-migration?page=2#comments>>, transl. mine.
- ²⁶ Friese, *Flüchtlinge*, 39–42.
- ²⁷ Felicity J. Coleman, “Digital Biopolitics: The Image of Life,” in *Resisting Biopolitics: Philosophical, Political, and Performative Strategies*, eds S. E. Wilmer and Audrone Zukauskaitė (London: Routledge, 2015), 189–201.
- ²⁸ Heidrun Friese, “Mobilität, Krise, Kontingenz,” in *Krisen und Soziologie*, eds. Johannes Kiess, Jenny Preunkert, Martin Seeliger and Joris Steg (Weinheim: Beltz/Juventa, 2023), 138–161.
- ²⁹ Linnet Taylor and Fran Meissner, “A Crisis of Opportunity: Market-Making, Big Data, and the Consolidation of Migration as Risk,” *Antipode* 52, no. 1 (2020): 270–90. IOM and European Commission, “Big Data for Migration Alliance (BD4M): Harnessing the Potential of New Data Sources and Innovative Methodologies for Migration,” IOM Global Migration Data Analysis Centre and European Commission Knowledge Centre on Migration and Demography, 2017, accessed December 1, 2024, <<https://knowledge4policy.ec.europa.eu/sites/default/files/big-data-for-migration-alliance-concept-note.pdf>>.
- ³⁰ Martina Tazzioli and William Walters, “The Sight of Migration: Governmentality, Visibility and Europe’s Contested Borders,” *Global Society* 30, no. 3 (2016), 445–464. Doi: [10.1080/13600826.2016.1173018](https://doi.org/10.1080/13600826.2016.1173018).
- ³¹ For an overview see Roxana Akhmetova, “Efficient Discrimination: On How Governments Use Artificial Intelligence in the Immigration Sphere to Create and Fortify ‘Invisible Border Walls’.” *Centre on Migration, Policy and Society*, Compas Working Paper 20, no. 149 (2020); see further Tuba Bircan and Emre Eren Korkmaz, “Big Data for Whose Sake? Governing Migration Through Artificial Intelligence,” *Humanities and Social Sciences Communication* (2021): 1–5. Doi: [10.1057/s41599-021-00910-x](https://doi.org/10.1057/s41599-021-00910-x).
- ³² Frontex, *Strategic Risk Analysis 2022*, Risk Analysis Unit (Warschau: 2022). Doi: [10.2819/76165](https://doi.org/10.2819/76165).
- ³³ Ted Striphas, “Algorithmic Culture,” *European Journal of Cultural Studies* 18, no. 4–5 (2015): 395–412, here: 396. Doi: [10.1177/1367549415577392](https://doi.org/10.1177/1367549415577392).
- ³⁴ Tarleton Gillespie, “Algorithm,” in *Digital Keywords: A Vocabulary of Information Society and Culture*, ed. Benjamin Peters (Princeton: Princeton University Press, 2016), 18–30.
- ³⁵ Michel Foucault, *Society Must be Defended: Lectures at the Collège de France 1975–76*, eds. Mauro Bertani and Alessandro Fontana, transl. David Macey (New York: Picador, 2003), 254.

- 36 Foucault, *Society*, 255.
- 37 Foucault, *Society*, 255, 256.
- 38 Lilie Chouliaraki, *The Spectatorship of Suffering* (London: Sage, 2006); Friese, *Flüchtlinge*.
- 39 David Lyon, *Surveillance Studies: An Overview* (Cambridge: Polity, 2007), 3.
- 40 Btihaj Ajana, “Digital Biopolitics, Humanitarianism and the Datafication of Refugees,” in *Refugee Imaginaries: Research Across the Humanities*, eds. Emma Cox, Sam Durrant, David Farrier et al. (Edinburgh: Edinburgh University Press, 2020), 463–479, here: 473.
- 41 Such integrated and transnational surveillance systems are actually referred to as an *ecosystem*: “The Population Registration and Identity Management Eco-System (PRIMES) is a platform for all UNHCR registration and identity management tools and applications, including existing tools such as proGres, the Biometric Identity Management System (BIMS), the Global Distribution Tool (GDT), the Rapid Application (RApp), IrisGuard and RAIS, as well as those to be developed in the future. PRIMES applications are designed to work in offline, online and GSM environments, and will be interoperable with IT systems used by governments and partner organisations such as WFP (SCOPE) and Unicef (Primer). New PRIMES applications going forward will aim to promote direct access by persons of concern (e.g. access to personal data, entitlement accounts, identity wallet),” “Planning and Preparing Registration and Identity Management Systems,” UNHCR, accessed December 5, 2024, <<https://www.unhcr.org/registration-guidance/chapter3/registration-tools/>>.
- 42 Didier Fassin, “The Biopolitics of Otherness: Undocumented Foreigners and Racial Discrimination in French Public Debate,” *Anthropology Today* 17, no. 1 (2001): 3–7, here: 4.
- 43 Didier Fassin, “Compassion and Repression: The Moral Economy of Immigration Policies in France,” *Cultural Anthropology* 20, no. 3 (2005): 362–387, here: 366.
- 44 European Commission, “Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions: The EU Action Plan Against Migrant Smuggling (2015–2020),” Bruxelles, May 27, 2015 COM(2015) 285 final, <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0285&from=EN>>.
- 45 Judith Butler, *Frames of War: When Is Life Grievable?* (London/New York: Verso, 2009), 1.
- 46 Mbembe, *Necropolitics*; Esposito, *Bios*.
- 47 Esposito, *Bios*.
- 48 Foucault, *Society*, 241.
- 49 Mbembe, *Necropolitics*.
- 50 I engaged with the perspectives of Foucault, Mbembe, Agamben and Esposito in more detail and adopt them here in very abbreviated form. Heidrun Friese, “Necropolitics,” in *Handbook of Mass Violence*, eds. Mina Kristoffersen, Nerina Weiss, Linda Green and Maria Six-Hohenbalken (London: Routledge, 2025, vol. in preparation). Heidrun Friese, *Das Ende der Menschenrechte: Leben oder Tod an Europas Grenzen* (Giessen: Psychosozial Verlag, 2025 vol. in preparation).
- 51 Roberto Esposito and Timothy Campbell, “The Immunization Paradigm,” *Diacritics* 36, no. 2 (2006), 23–48. <<https://www.jstor.org/stable/20204124>>. Roberto Esposito, *Immunitas: The Protection and Negation of Life* (London: Polity, 2011).
- 52 Esposito and Campbell, “Immunization Paradigm,” 24.
- 53 Esposito, *Bios*, 137.
- 54 Esposito, *Bios*, 138.

- 55 Esposito, *Bios*, 110
- 56 “Decreto-Legge, 2 gennaio 2023, n. 1 (Raccolta 2023): Disposizioni urgenti per la gestione dei flussi migratori,” *Gazzetta Ufficiale Della Repubblica Italiana*, accessed December 1, 2024, <<https://www.gazzettaufficiale.it/eli/id/2023/01/02/23G00001/sg>>. This decree has since been further tightened “Decreto-Legge, 5 ottobre 2023, n. 133,” accessed December 1, 2024, <https://www.gazzettaufficiale.it/atto/stampa/serie_generale/originario>. In December 2024, the Senate approved an amendment to Decree-Law 145/2024 (decreto flussi). This provides for further sanctions—official decommissioning, confiscation and fines—and includes not only ships, but also NGO aircraft, which not only make a decisive contribution to sea rescue, but have also documented systematic, serious human rights violations by the Libyan so-called coast guard.
- 57 “MSF Ends Operation of Geo Barents with Commitment to Return to Central Mediterranean Sea,” MSF, December 13, 2024, <<https://www.msf.org/msf-ends-operation-geo-barents-commitment-return-central-mediterranean-sea>>.
- 58 “The Common European Asylum System (CEAS): Reliable management and organization of migration in the EU—Fundamental right to asylum—Responsibility and solidarity—Maintaining open borders—Measures against secondary migration” is how the resolution is celebrated by the Federal Ministry of the Interior and for Home Affairs. BMI, “Das Gemeinsame Europäische Asylsystem (GEAS),” accessed November 23, 2024, <<https://www.bmi.bund.de/DE/themen/migration/gemeinsame-europaeische-asylsystem/gemeinsame-europaeische-asylsystem-node.html>>.
- 59 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Council of Europe, “Report to the Italian Government on the Visit to Italy Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 12 April 2024,” accessed December 13, 2024, <<https://rm.coe.int/1680b2c7e7>>.
- 60 Cf. the legislative decrees no. 20, March 10, 2023, Disposizioni urgenti in materia di flussi di ingresso legale dei lavoratori stranieri e di prevenzione e contrasto all’immigrazione irregolare, 23G00030v, <<https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2023-03-10;20>>; No. 124, September 19, 2023, Disposizioni urgenti in materia di politiche di coesione, per il rilancio dell’economia nelle aree del Mezzogiorno del Paese, nonché in materia di immigrazione, 23G00137, <<https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2023-09-19;124>> and the law no. 14, February 21, 2024, Ratifica ed esecuzione del Protocollo tra il Governo della Repubblica italiana e il Consiglio dei ministri della Repubblica di Albania per il rafforzamento della collaborazione in materia migratoria, fatto a Roma il 6 novembre 2023, nonché norme di coordinamento con l’ordinamento interno, <<https://def.finanze.it/DocTribFrontend/getAttoNormativoDetail.do?id=%7B98D3669E-F3CD-466C-94F1-A40C8ACE9E23%7D&primoPiano=true#:~:text=14,coordinamento%20con%20l'ordinamento%20interno>>.
- 61 These externalized camps, whose construction and operating costs amount to around 1 billion euros, have not yet been put into operation. On the basis of the ruling of the EU Court of Justice regarding safe third countries (C-406/22, 4.10.24), Italian courts classified the Italian government’s designation of safe countries as unlawful and all prospective camp inmates had to be returned to Italy.
- 62 For an update on bilateral processes, platforms, panels and the New Pact on Asylum and Migration (September 23, 2020) the Global Approach to Migration Management (GAMM), see “Update on the State of Play of External Cooperation in the Field of Migration Policy,” Council of the European Union, Brussels, July 6, 2021, 10471/21, LIMITE, JAI 846 ASIM 51 RELEX 638, <<https://www.statewatch.org/media/2614/eu-council-pact-external-migration-state-of-play-10471->

- 21.pdf>. See as well the “Update on the State of Play of External Cooperation in the Field of Migration Polity,” Statewatch, Version of 14 January 2022, <<https://www.statewatch.org/media/3092/eu-council-migration-external-cooperation-5351-22.pdf>>.
- 63 “Questions & Answers: Migration on the Central Mediterranean Route,” European Commission and High Representative of the Union for Foreign Affairs and Security Policy 2017, January 25, 2017, <http://europa.eu/rapid/press-release_MEMO-17-135_en.htm>.
- 64 Sarah Yerkes, “EU-Tunisia Relations: It’s All About Migration. The Essence of the EU-Tunisia Partnership can be Summed up in Three Words: Halting Migration Flows,” *Italian Institute for International Political Studies*, July 23, 2024, <<https://www.ispionline.it/en/publication/eu-tunisia-relations-its-all-about-migration-181484>>.
- 65 James C. Hathaway and Thomas Gammeltoft-Hansen, “Non-Refoulement in a World of Cooperative Deterrence,” *Columbia Journal of Transnational Law* 53 no. 2 (2015): 235–284, <<https://repository.law.umich.edu/articles/1485>>. “Council Decision (GAS P) 2024/2843, 5.11.2024 on a Support Action Under the European Peace Facility in Support of the Egyptian Armed Forces,” Official Journal of the European Union, 2024/2843, accessed December 2, 2024, <https://eur-lex.europa.eu/legal-content/DE/TXT/HTML/?uri=OJ:L_202402843>. The support is part of a broader project to support the North African rulers. In March 2024, Cairo and Brussels signed a Strategic Partnership Agreement that will allow Egypt to receive €7.4 billion in grants and loans until 2027.
- 66 Itamar Mann, *Humanity at Sea: Maritime Migration and the Foundations of International Law* (Cambridge: Cambridge University Press), 4–5 (emphasis mine).
- 67 Thomas Gammeltoft-Hansen and Jens Vedsted-Hansen, eds., *Transnational Law Enforcement and Human Rights: The Dark Side of Globalisation* (London: Routledge, 2016).
- 68 Mbembe, *Necropolitics*, 117.
- 69 Mbembe, *Necropolitics*, 92.
- 70 Chantal Mouffe, *The Democratic Paradox* (London/New York: Verso, 2000). Heidrun Friese, “Mobilität, Grenzen und das Paradox der Demokratie,” in *Konfliktfeld Fluchtmigration: Historische und ethnographische Perspektiven*, eds. Reinhard Johler and Jan Lange (Bielefeld: transcript, 2019), 83–104.
- 71 Ayten Gündogdu, “Grenzen der Menschenrechte: Territoriale Souveränität und die prekäre Rechtspersönlichkeit von Migrant*innen,” *Zeitschrift für Praktische Philosophie* 8, no. 1 (2021): 569–604. Doi: [10.22613/zfpp/8.1.23](https://doi.org/10.22613/zfpp/8.1.23).
- 72 Ayten Gündogdu, *Rightlessness in an Age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants* (New York: Oxford University Press, 2015); Daria Davitt, “Biopolitical Borders and the State of Exception in the European Migration ‘Crisis’,” *The European Journal of International Law* 29, no. 4 (2019): 1173–1196.
- 73 Moria Paz, “Between the Kingdom and the Desert Sun: Human Rights, Immigration, and Border Walls,” *Berkeley Journal of International Law* 34, no. 1 (2016): 1–43, here: 1. Doi: [10.15779/Z380P11](https://doi.org/10.15779/Z380P11).
- 74 Cristina Orsini, Jordan Street, Lewis Brookes, “Enshrining Impunity: A Decade of International Engagement in Libya,” Lawyers for Justice in Libya and Saferworld, accessed December 10, 2024, <https://cdn.prod.website-files.com/5a0d8805f2f99e00014b1414/620cee862939c7150e1933d2_Enshrining-Impunity-Report-Eng-lfjlibya.pdf>.

- 75 “Caso Almasri: l’ordinanza della Corte di Appello di Roma,” *Giurisprudenza Penale*, January 23, 2025, <<https://www.giurisprudenzapenale.com/2025/01/23/caso-almasri-lordinanza-della-corte-di-appello-di-roma/>>.
- 76 For a discussion of the turn to criminal law in the context of non-compliance with human rights, the ‘black hole’ of the law, the lawlessness of migrants at sea—and the mass deaths in the Mediterranean, see Mann, *Humanity*; see as well Itamar Mann, “Maritime Legal Black Holes: Migration and Rightlessness in International Law,” *The European Journal of International Law* 29, no. 2 (2018): 347–372. Doi: [10.1093/ejil/chy029](https://doi.org/10.1093/ejil/chy029) and Itamar Mann, “The New Impunity: Border Violence as Crime,” *Journal of International Law* 42 (2020): 675–736. Doi: [10.2139/ssrn.3548181](https://doi.org/10.2139/ssrn.3548181). Gammeltoft-Hansen and Tan have addressed the legal problems of the “deterrence paradigm” and attempts to enforce international law nationally, as well as the ‘globalization’ of migration control. Thomas Gammeltoft-Hansen and Nikolas F. Tan, “The End of the Deterrence Paradigm? Future Directions for Global Refugee Policy,” *Journal on Migration and Human Security* 5, no. 1 (2017): 28–56. See as well Thomas Gammeltoft-Hansen and Jens Vedsted-Hansen, eds., *Transnational Law Enforcement and Human Rights: The Dark Side of Globalisation*, (London: Routledge, 2016).
- 77 Omar Shatz and Juan Branco, “EU Migration Policies in the Central Mediterranean and Libya (2014–2019),” Communication to the Office of the Prosecutor of the International Criminal Court Pursuant to the Article 15 of the Rome Statute, statewatch, accessed June 3, 2019, <<https://www.statewatch.org/media/documents/news/2019/jun/eu-icc-case-EU-Migration-Policies.pdf>>.
- 78 “Situation in Libya, ICC-01/11,” International Criminal Court, accessed May 5, 2025, <<https://www.icc-cpi.int/situations/libya>>. The ICC has been investigating the situation in Libya since 2011. The investigations include charges of crimes against humanity. The ICC prosecutor, Fatou Bensouda, informed the UN Security Council in 2017 that the possibility of opening an investigation into crimes relating to migrants in Libya was being examined.
- 79 “Severe Deprivation of Liberty in the Mediterranean Sea and in Libya—The ICC Must Investigate,” ECCHR, 2022, <<https://www.ecchr.eu/en/case/interceptions-of-migrants-and-refugees-at-sea/>>, accessed October 1, 2024. See as well the Report: *No Way Out: Migrants and Refugees Trapped in Libya Face Crimes Against Humanity*, Reliefweb, November 23, 2021, <<https://reliefweb.int/report/libya/no-way-out-migrants-and-refugees-trapped-libya-face-crimes-against-humanity>>.
- 80 Emphasis added. “Unlawful Death of Refugees and Migrants: Report of the Special Rapporteur of the Human Rights Council on Extrajudicial, Summary or Arbitrary Executions,” A/72/335, August 15, 2017”, United Nations, <<https://documents.un.org/doc/undoc/gen/n17/258/06/pdf/n1725806.pdf>>.
- 81 Hannah Arendt, “Es gibt nur ein einziges Menschenrecht,” *HannahArendt.net* 1, 5 (2009): 1–17, <<https://www.hannaharendt.net/index.php/han/article/view/147>>.
- 82 Hannah Arendt, *The Origins of Totalitarianism* (London: Penguin, 2017), 388.
- 83 Isin sketched such an “activist citizenship,” a (performative) citizenship that is not bound to conventional concepts of citizenship granted by birth or naturalization. Engin F. Isin, “Citizenship in Flux: The Figure of the Activist Citizen,” *Subjectivity*, 29 (2009): 367–388, here: 368. Doi: [10.1057/sub.2009.25](https://doi.org/10.1057/sub.2009.25). On the relations between citizenship, human rights and international law, see Alison Kesby, *The Right to Have Rights: Citizenship, Humanity, and International Law* (New York: Oxford University Press, 2012); Jacques Rancière, “Who Is the Subject of the Rights of Man?” *The South Atlantic Quarterly* 103, no. 2/3 (2004): 297–310; Barbara von Rütte, *The Human Right to Citizenship: Situating the Right to Citizenship Within International and Regional Human Rights Law* (Leiden/Boston: Brill/Nijhoff, 2022).

- ⁸⁴ Itamar Mann, “Dialectic of Transnationalism: Unauthorized Migration and Human Rights, 1993–2013,” *Harvard International Law Journal* 54, no. 2 (2013): 315–391.
- ⁸⁵ Walter Benjamin, “Critique of Violence,” in *Selected Writings 1913–1926*, eds. Marcus Bullock and Michael W. Jennings (Cambridge (MA)/London: The Belknap Press of Harvard University Press, 1996), 236–252, here: 239.
- ⁸⁶ Esposito, *Bios*, 147, 148.
- ⁸⁷ Esposito, *Bios*, 157.