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Reluctant Conformity: Volunteers' Faith in, and Expectations of, Law when Performing Maritime Search and Rescue Work

Matt Howard * , Neil Graffin ** , Joanne Vincett ***

ABSTRACT

This article examines how Search and Rescue (SAR) volunteers think of and narrate their experiences of the law in the course of their work and assesses the legitimacy of the actions of coastal states when responding to refugees making sea crossings. This article argues that a narrative schema of "reluctant conformity" explains how SAR volunteers practically reconcile the faith they demonstrate in law with their operational reality, in light of multiple, competing obligations. The encapsulation of volunteers' confidence in the law and legal education within this narrative of legal consciousness underscores the challenges that SAR workers in small, volunteer-led organisations face when the faith and expectations they have in the law are dashed. The article sits within the wider literature on legal consciousness research to explain how people understand and sustain conceptions of "the law" in the face of multiple competing legal orders operating in the same context, and ends with a reflection on the importance of legal education to address the expectations people may have of law within a "reluctant conformity" legal consciousness.

KEYWORDS: search and rescue, humanitarianism, legal consciousness, morality, critical legal pluralism

1. INTRODUCTION

There is an established obligation in international maritime law to conduct Search and Rescue (SAR) at sea.[1] The SAR Convention provides that the obligation to rescue persons

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[1] UN General Assembly, *Convention on the Law of the Sea (UNCLOS)*, 10 December 1982; International Maritime Organization (IMO), *International Convention on Maritime Search and Rescue (SAR Convention)*, 27 April 1979, 1403 UNTS;

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in distress is "regardless of the nationality or status of such a person or the circumstances in which that person is found".[2] Despite the existence of international laws governing SAR, though, thousands of people have died attempting to cross the Mediterranean, and states have been criticised for treating SAR as a secondary consideration to border securitisation.[3] In 2015, there was a significant increase in people making dangerous crossings in the Mediterranean Sea and, from then, non-governmental organisations (NGO) increasingly took on responsibility for SAR in the absence of effective state operations.[4] This article examines how notions of legitimacy and legality are narrated by volunteers in the specific setting of SAR operations at sea, and their navigation of multiple (and sometimes competing) legal frameworks. It is based on interviews with 22 SAR volunteers conducted as part of a project that both sought to examine SAR volunteers' relationships to and perceptions of law through their work. One of the supplementary purposes of that project was to provide legal education resources for SAR volunteers, and it was a deliberate feature of the project to ask about legal education needs at the end of the interview, so participants could provide input on the resources that the project team later produced.

In light of the accounts given to us by project participants, we present how SAR volunteers articulate their positionality in relation to the legal orders they have to navigate, through the lens of legal consciousness. Legal consciousness can be defined in several ways, from a means of understanding the ways in which recognisable legalities are produced, to encapsulating how experiences can be translated into legal scripts.[5] The experiences of SAR volunteers undertaking work in urgent situations offer a specific example for understanding both how legalities are situationally produced out of competing normative guidelines through lay actors *and* how their experiences and actions come to be expressible and rationalisable through legal concepts. As such, this article seeks to offer two reciprocal contributions. First, it contributes to the field of socio-legal studies by developing an understanding of legal consciousness, inclusive of a narrative schema representing the experiences of those undertaking voluntary humanitarian activities in spaces characterised by multiple, often conflicting, legal orders and within adverse national political and bureaucratic environments. Secondly, the legal consciousness narrative identified here also acts as a vehicle for shedding light on SAR operations. It enables an understanding of the difficulties SAR volunteers face in the course of their work and offers insight into how some SAR volunteers operate within and across different scales of legal frameworks.

Our participants exhibited a narration of their legal consciousness that we consider to amount to reluctant conformity. Reluctant conformity is heavily shaped by: a humanitarian imperative to rescue in times of emergency, SAR volunteers' evolving relationship with state authorities, and general ideas of what law and legitimacy are. The elements of this reluctant conformity narrative are: (1) overwhelming compliance with obligations set by state actors, (2) a commitment to evidence and documenting operations, (3) an appeal to higher legal and moral imperatives, and (4) a generally positive framing of law, but a generally negative impression of state actors and public authorities. These features of this legal consciousness

International Maritime Organization (IMO), *International Convention for the Safety of Life At Sea (SOLAS Convention)*, 1 November 1974, 1184 UNTS 3.

[2] SAR Convention, Ch 2, 2.1.10.

[3] E. Cusumano, "Emptying the Sea with a Spoon? Non-Governmental Providers of Migrants Search and Rescue in the Mediterranean", *Marine Policy*, 75, 2017, 91–98; L. Fekete, "Migrants, Borders and the Criminalisation of Solidarity in the EU", *Race and Class*, 59(4), 2018, 65–83.

[4] L. Stavinoha & K. Ramakrishnan, "Beyond Humanitarian Logics: Volunteer-Refugee Encounters in Chios and Paris" *Humanity: An International Journal of Human Rights, Humanitarianism, and Development*, 11(2), 2020, 165–186.

[5] S. Silbey, "After Legal Consciousness", *Annual Review of Law and Social Science*, 1, 2005. 323–368; K Sandvik, "The Physicality of Legal Consciousness: Suffering and the Production of Credibility in Refugee Resettlement", in R. Wilson & R. Brown (eds.), *Humanitarianism and Suffering: The Mobilization of Empathy*, Cambridge University Press, 2009, 223–244.

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schema underscore how state-level obligations and policies are sustained in practice, even when they conflict with what our participants understand to be unequivocal international legal obligations and moral/humanitarian imperatives to save lives in urgent situations. It is a narrative that emerges out of the plurality of legal, political, and bureaucratic orders SAR volunteers have to comprehend; privilege (and deprivilege), in terms of their perceptions of legality and legitimacy; and deploy in their activities.

While the narrative schema we identify, therefore, is situationally specific, we are not suggesting that it is a legal consciousness narrative that can *only* emerge in this specific context. It is a legal consciousness narrative that is characterised by an anchoring of behavioural expectations and criticisms of state action to particular legal and moral imperatives that they privilege. It does, however, stop short of encouraging the gaming or subversive transgressions of competing legal frameworks. Indeed, as will become clear, participants explicitly convey the need for compliance based on deference to law, broadly and conceptually thought of as undivided and an appreciation of legal authority, while still positioning the actions of state actors as problematic and transgressive. As such, it is a narrative that can articulate, within a variety of contexts, how conduct is actualised within a plurality of legal frameworks.

What additionally emerges in the interviews conducted is that their disposition is based on faith or reliance on legal knowledge. This faith noticeably shapes SAR volunteer expectations of law as they undertake their role, and there is the potential for such expectations to be dashed. This is important to reflect upon from the point of view of volunteer wellbeing and the experience of trauma, as, in the context of SAR work, dashed expectations can compound fatigue and the emotional toll of the work they do.

The article sets its focus against the backdrop of other research on maritime SAR. We then situate the article in the wider literature on legal consciousness before constructing an account of a reluctant conformity, arising out of the themes emerging from participants' interviews. It is not necessarily a stable and consistent narrative, but one which is identifiable within the context of their role, the navigation of multiple legal frameworks and scales. It involves the *narrative* privileging of legal frameworks which align closely with the moral imperatives that inform their work, but the *practical and reluctant* observance of those which do not. As such, it is related to, but distinct from, dissenting collectivism, and is a schema that we develop out of participant accounts against a backdrop of a critical legal pluralism: what legal concepts are deployed in the making (sense) of law, and in the decision-making of SAR volunteers, in the face of multiple and often competing legal and bureaucratic frameworks? Within this context, we see an idiosyncratic amalgam of various schemas of legal consciousness which do not themselves adequately explain the legal consciousness narrated here or encapsulate the problem of how SAR workers think about their role and relate it to perceptions of law. To address the latter point, the article ends with a brief contemplation of the need to address perceptions of the protective power of law when designing the legal education resources for SAR volunteers in support of their work.

2. THE CONTEXT: SAR WORKERS AT SEA

While an increased number of refugees are making perilous sea journeys to Europe, attempts at establishing European Member State rescue obligations have been frustrated by populist agendas in European states and the prioritising of border securitisation. This leaves both refugees and SAR workers in critically dangerous positions.[6] While European states dial back on their own SAR responsibilities and activities, a proliferation of NGOs and small volunteer

[6] V. Moreno-Lax, "Seeking Asylum in the Mediterranean: Against a Fragmentary Reading of EU Member States' Obligations Accruing at Sea", *International Journal of Refugee Law*, 23(2), 2011, 174–220.

groups have been established to cover the gap. However, such groups have been the subject of criminalisation, with anti-trafficking and anti-smuggling laws being used against them.[7] Beyond this, the idea that SAR workers constitute a "pull factor" and are to be blamed for more deaths by encouraging crossings through their actions is a regular feature of narratives circulated by politicians and within the media.[8] This is set against participant perceptions of previously good working relationships[9] between state actors and non-state SAR workers (Interviews 1, 8, and 15), and positive state attitudes towards the work that SAR workers do (Interviews 9 and 21).

Against this backdrop, we set our project apart from other research undertaken in the field of refugee law and human rights around the world[10] and in relation to Europe.[11] The project itself set out to develop a greater understanding of the role of humanitarian workers undertaking maritime SAR of refugees while they also encounter bureaucratic environments and legal processes which have been made more complicated and increasingly opaque. The literature concerning the criminalisation of SAR work is a growing field,[12] but the literature concerning how SAR workers think about their role and plot it in relation to their understandings and perceptions of both law and their ethical duties is relatively underdeveloped;[13] this research offers its own contribution to addressing this gap by considering how SAR volunteers narrate their relationship to, and understanding of, law while navigating the fact that they operate at the nexus of multiple legal frameworks, areas, and dimensions, and what this says about how they understand law. This can initially be framed in terms of legal pluralism. At its most general level, legal pluralism can be understood as the functioning of multiple legal orders in a particular context[14] with the attendant question of how claims of the legitimacy of each competing legal order in any given situation are made.[15] Within this framing is the core question of how social actors experience and navigate multiple legal orders. Beyond this, a critical legal pluralism seeks to ask how social actors do not just

[7] Fekete, "Migrants, Borders and the Criminalisation of Solidarity in the EU"; T. Basaran, "Saving Lives at Sea: Security, Law and Adverse Effects", *European Journal of Migration and Law*, 14, 2016. 365–387.

[8] E. Cusumano & F. Bell, "Guilt by Association? The Criminalisation of Sea Rescue NGOs in Italian Media", *Journal of Ethnic and Migration Studies*, 47(19), 2021, 4285–4307.

[9] See also, F. Montanaro, I. Mathioudaki, & F. Alagna, "Space of Exception: Health Protocols, Non-Governmental Sea Rescue, and the Border Regime", in E. Cusumano, L. Raineri, & D. Caballero-Vélez (eds.), *Varieties of Securitization: Migration Governance along the Central Mediterranean Route*, Palgrave Macmillan, 2026, 105–124.

[10] R. Barnes, "Refugee Law at Sea", *The International and Comparative Law Quarterly*, 53(1), 2004, 47–77; N. Klein, "A Case for Harmonizing Laws on Maritime Interceptions of Irregular Migrants", *The International and Comparative Law Quarterly*, 63(4), 2014, 787–814.

[11] L. Mavelli, "Governing Populations through the Humanitarian Government of Refugees: Biopolitical Care and Racism in the European Refugee Crisis", *Review of International Studies*, 43(5), 2017, 809–832; V. Moreno-Lax, "The EU Humanitarian Border and the Securitization of Human Rights: The 'Rescue-Through-Interdiction/Rescue-Without-Protection' Paradigm", *Journal of Common Market Studies*, 56(1), 2017, 119–140; D. Ghezelbash, V. Moreno-Lax, N. Klein & B. Opeskin, "Securitization of Search and Rescue at Sea: The Response to Boat Migration in the Mediterranean and Offshore Australia", *The International and Comparative Law Quarterly*, 67(2), 2018, 315–351.

[12] See, for example, E. Cusumano, "Straightjacketing Migrant Rescuers? The Code of Conduct on Maritime NGOs", *Mediterranean Politics*, 24(1), 2019, 106–114; Ghezelbash et al, "Securitization of Search and Rescue at Sea"; L. Fekete, "Migrants, Borders and the Criminalisation of Solidarity in the EU"; JD. Janer Torrens, "Migrant Search and Rescue Operations in the Mediterranean by Humanitarian Organizations: Migrant Smuggling or Humanitarian Assistance?", *Paix et Sécurité Internationales: Journal of International Law and International Relations*, 8, 2020, 381–401; E. Cusumano & M. Villa, "From 'Angels' to 'Vice Smugglers': The Criminalization of Sea Rescue NGOs in Italy", *European Journal of Criminal Policy Research*, 27, 2021, 23–40; C. Mainwaring & D. DeBono, "Criminalizing Solidarity: Search and Rescue in a Neo-colonial Sea", *Environment and Planning C: Politics and Space*, 39(5), 2021, 1030–1048.

[13] Though see E. Cusumano, "The Sea as Humanitarian Space: Non-governmental Search and Rescue Dilemmas on the Central Mediterranean Migratory Route", *Mediterranean Politics* 23(3), 2018, 387–394; N. Graffin, M. Howard, & J. Vincett, "Criminalisation and Control: Mediterranean Maritime Search and Rescue Workers' Perceptions of Uses of Law", *Refugee Survey Quarterly*, 44(2), 2025, 228–251.

[14] S.E. Merry, "Legal Pluralism", *Law and Society Review* 22(5), 1988, 869–896; B. de Sousa Santos, *Towards a New Legal Common Sense*, Cambridge University Press, 2002; K. McConnachie, *Governing Refugees: Justice, Order and Legal Pluralism*, Routledge, 2014; C. Menkel-Meadow, "Uses and Abuses of Socio-Legal Studies", in N. Creutzfeldt, M. Mason, & K. McConnachie (eds.), *Routledge Handbook of Socio-Legal Theory and Methods*, Routledge, 2020, 35–57.

[15] Merry, "Legal Pluralism".

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experience law but create law within their exposure to different legal frameworks and based on their own experiences and resources they have at hand.[16]

Similarly, a question can be asked of how the authority or perceived legitimacy of a particular legal order can be sustained. Ideation and normative claims about what law is and does (or ought to be and should do) require the participation and invention of social actors. Where does the sustained power in law, inclusive of the faith and convictions people vest in it, come from? How do beliefs about a singular and internally consistent idea of law as a distinct, dispassionate, morally driven, and power-laden realm persist in light of contests among multiple legal orders, political forces, and convictions about the legitimacy of multiple behaviours? This question is particularly pertinent when there exists a sharp distinction between faith in international legal provisions, as related to unequivocal duties to rescue and fundamental rights, and experiences of continental and domestic law which often directly impede these objectives.

Associated with continental border securitisation policies,[17] with increased militarisation and punitive measures being justified as "anti-smuggler" measures[18] or, equally dubiously, as public health and general safety measures,[19] are national actors acting with hostility and aggression towards SAR NGOs.[20] Beyond this, actual criminalisation of both SAR workers and those being rescued, as smugglers and illegal immigrants, respectively, is ultimately complemented by mechanisms of domestic criminal law that mean, even when individuals are acquitted of charges brought against them, a clear message that "any humanitarian intervention from non-state actors would be at one's own risk".[21] The environment that this creates is one that is so far removed from expectations that individuals may garner from international legal provisions; the matter of how such distinct, conflicting, and recalcitrant scales of legal frameworks are thought about in relation to, and possibly reconciled with, idealised notions of law which are felt to be reflected in international legal provisions, is important to contemplate. Through the interviews conducted as part of this project, involving SAR workers who are, or have recently been, involved with SAR missions (primarily in the Mediterranean Sea), we examine how these volunteers understand, seek to use, comply with, or resist the law, and how the law relates to their operational capacity to undertake their work. Legal consciousness is identified here as a means by which we can see how certain claims about law are reinforced through social actors' interpretation and sense-making of legal concepts in a given context.

3. LEGAL CONSCIOUSNESS

Legal consciousness can be defined to include: identifying the relationship of law and social structures[22]; considering how law's power is sustained in everyday "legalities" beyond those

[16] See M. Davies, *Law Unlimited: Materialism, Pluralism and Legal Theory*, Routledge, 2017; N. Choudhury, "Revisiting *Critical* Legal Pluralism: Normative Contestations in the Afghan Courtroom", *Asian Journal of Law and Society*, 4(1), 2017, 229–255.

[17] E. Cusumano, "Migrant Rescue as Organized Hypocrisy: EU Maritime Missions Offshore Libya between Humanitarianism and Border Control", *Cooperation and Conflict*, 54(1), 2019, 3–24.

[18] M. Stierl, "A Fleet of Mediterranean Border Humanitarians", *Antipode*, 50(3), 2018, 704–724.

[19] See, for example, M. Tazzioli & M. Stierl, ""We Closed the Ports to Protect Refugees." Hygienic borders and Deterrence Humanitarianism during Covid-19", *International Political Sociology*, 15(4), 2021, 539–558; M. Stierl & D. Dadusc, "The "Covid Excuse": EUropean Border Violence in the Mediterranean Sea", *Ethnic and Racial Studies*, 45(8), 2022, 1453–1464; Montanaro, Mathioudaki, and Alagna, "Space of Exception: Health Protocols, Non-Governmental Sea Rescue, and the Border Regime".

[20] P. Cuttitta, "Repoliticization Through Search and Rescue? Humanitarian NGOs and Migration Management in the Central Mediterranean", *Geopolitics*, 23(3), 2018, 632–660.

[21] *Ibid*., 637.

[22] A. Sarat, "'The Law is All Over': Power, Resistance, and Legal Consciousness", *Yale Journal of Law and the Humanities*, 2, 1990, 343–379.

which are limited to formal legal institutions;[23] understanding how, in spite of the gap between law in books and law in action, law retains its institutional power and significance within our lives;[24] and the experiences, understanding, and actions people have undertaken in relation to the law.[25] In examining both how SAR workers placed themselves in relation to their understanding and perceptions of law, our project adopts an interpretive approach to legal consciousness. This approach underscores the importance of our subsidiary reflection on the challenges common perceptions of law might prompt. This is especially important in contexts such as SAR work, where there are various scales and sources of law that interact and confront each other, and where expectations of law may not be materialised in practice, so there is also a law-in-action texture to our approach.[26] This is reflected in giving participants space to articulate how law substantively relates to their operations.

In exploring the processes by which people conceive of law and express their consciousness, Patricia Ewick and Susan Silbey develop a three-part characterisation of people's relationship with law as something either "*before* which they stand, *with* which they engage, and *against* which they struggle".[27] The significance of this is evident in subsequent developments in legal consciousness research. The notion of being *under* the law, for instance, is a legal consciousness characterised by the use of lawbreaking to underscore the perception that "a vitally corrupt social order has produced a vitally corrupt legal system to assist in perpetuating its own power".[28]

Simon Halliday and Bronwen Morgan have built on this to identify the legal consciousness of dissenting collectivism, characterisable by a belief in the illegitimacy of state law alongside an alternative conception of law beyond the state, rooted in morality, and the instrumentalisation of law in order to benefit the dissenting collective.[29] This composite characterisation, in drawing together *under* the law legal consciousness with a *with* the law legal consciousness conforms to the understanding of the porous boundaries between categories of legal consciousness, where individual narrations can indicate a "multifaceted and possibly contradictory consciousness [reflecting that] it is plural and variable across contexts".[30] Such a conception of legal consciousness does not cleanly escape from the notion of law as a constitutive force in our everyday lives. Even when state law is considered illegitimate, for instance, it is rooted in legalistic appeals based on socialisation to particular values and senses of law, whereby "distrust of state law can go hand in hand with a faith in a higher transcendent law which trumps and critiques state law".[31] Like the notion of legal consciousness arising from the dissenting collective, our participants' legal consciousness narratives are rooted in a firm sense of morality.[32] Unlike this notion of legal consciousness of dissenting collectivism, though, our participants demonstrate little disengagement from, or disbelief in, law in their accounts. Nor is there a sense of cynicism in their own instrumentalising of law. Rather, there is a perception of states' gaming of legal imperatives that they privilege. They do not problematise law but, instead, the authorities' attitude towards and use of law

[23] P. Ewick & S. Silbey, *The Common Place of Law: Stories from Everyday Life*, University of Chicago Press, 1998.

[24] Silbey, "After Legal Consciousness".

[25] L. Chua & D. Engel, "Legal Consciousness Reconsidered", *Annual Review of Law and Social Science*, 15, 2019, 335–353.

[26] S. Halliday, "After Hegemony? The Varieties of Legal Consciousness Research", *Social & Legal Studies*, 28(6), 2019, 859–878.

[27] Ewick and Silbey, *The Common Place of Law*, 47.

[28] E. Fritsvold, "Under the Law: Legal Consciousness and Radical Environmental Activism", *Law and Social Inquiry*, 34 (4), 2009, 799–824, 810.

[29] S. Halliday & B. Morgan, "I Fought the Law and the Law Won? Legal Consciousness and the Critical Imagination", *Current Legal Problems*, 66(1), 2013, 1–32.

[30] Ewick and Silbey, *The Common Place of* Law, 50.

[31] Halliday and Morgan, "I Fought the Law and the Law Won", 28.

[32] Halliday and Morgan, "I Fought the Law and the Law Won".

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(or lack of use in some cases, including where they were perceived as not fulfilling their roles in conducting proper SAR). As this article works through participants' accounts, it will become clear that appeals to moral imperatives that participants see encapsulated in, for instance, international maritime obligations are certainly the basis of the critique of state laws and actions. Nevertheless, such participant critique did not prompt resistive gestures or the gaming of law for disruptive purposes, even if they ran counter to the moral claim they invested in international legal obligations.

It is argued here that the resources called upon to emphasise and establish notions of what law is demonstrate a continuing legal consciousness that is partially characterisable as "before the law" because it reinforces the perception of dependability, authority, and propriety of "the law" generally. In this respect, we build from Robyn Emerton's "attached to law" and "protective of law" categorisations.[33] We do so by clarifying that, for SAR volunteers, such attachment to, protectiveness of, and expectations in the law are situationally contingent and purposive. For instance, perceptions of the illegitimacy of certain actions by states and their border authorities are rooted in a perception of the normativity of a transcendent law, underscoring that this protectiveness of law arises out of the purity of expectations of this transcendent law. However, as mentioned earlier, SAR workers find themselves in complex situations conducive to exploring how perceptions of the illegitimacy of state actions reinforce the privileging of an affirmative characterisation of law.

The notion of reluctant conformity can, therefore, be summarised as a matter of two beliefs: first, a belief that their own transgressions of various state legal obligations would limit their capacity to undertake rescue operations. For the most part, this meant that, should SAR organisations not conform with state rules, they feared it would jeopardise their capacity to operate. For example, in Lesvos, SAR vessels had to ask for permission to conduct operations, rather than respond immediately as would be the norm for SAR. It was considered that, without obtaining permission to launch, SAR vessels might come into conflict with state authorities. It was felt that this could jeopardise their future capacity to operate. In this sense, SAR volunteers are reluctantly conforming with state law, and clearly appearing to be, in order to ensure that they can continue to function, even though what they are conforming to conflicts with their aggregated sense, and firm belief, of what "the law" and legitimacy are and should be.

Second, reluctant conformity includes a belief that the law is a protective realm whose support would be available to those who conform to legal imperatives (on the basis of their own lay perception of expectations law would have of them). This works on two levels. With regard to international and maritime law, SAR volunteers consistently mentioned that, as long as they conformed to the law, what they were doing was considered legal by international standards, endowing them with legal protection. With regard to state law, when considered, SAR volunteers deemed it to be in conflict with international standards. For example, one participant discussed the issuance of fines by the state as a form of "legal harassment" for organisations performing humanitarian work (Interview 2). However, this did not manifest in a conscious rejection of the notion that state law was there for their protection; SAR volunteers still believed that state law *should* protect them, and often discussed surprise or dismay when it did not. We consider this their "dashed expectation" – SAR volunteers, for the most part, believed in the protection of law *generally*, and their expectations were dashed when they were not lived up to.

[33] R. Emerton, "'We're Not There Yet' but it's not 'Pie-in-the-Sky': Legal Consciousness, Decertification and the Equality Sector in England and Wales", *Feminist Legal Studies*, 31, 2023, 95–120.

4. METHODOLOGY

The research team undertook and recorded 22 semi-structured interviews, lasting between 45 minutes and 60 minutes in length, with SAR volunteers who worked in different SAR organisations operating in Europe.[34] Participants were from various countries across the continent, and individuals were recruited through snowball sampling techniques. We posted invitations on some organisations' closed social media groups and sent email invitations directly to SAR organisations' general address and individuals within our networks. We sought individuals for interview whose engagement was "relevant to the research questions that [were] being posed".[35] Notwithstanding this, we did not set out for this project to be purposefully representative of a particular population per se. This is primarily because the variety of SAR organisations – in terms of resources, operational capacity, size, and levels of professionalisation – means there is a distinct lack of homogeneity within what might otherwise be considered an internally consistent community. For instance, some organisations are comparatively well-funded, whereas others are in constant need of funding to be able to continue their work. Some organisations have several boats, an aerial team, and a legal team. Other organisations may only have one vessel, and the support of a small executive board. All organisations rely on volunteer assistance, and although some may be engaged on a continuing basis, staffing arrangements can vary considerably over the years. Our research emphasised that the experiences of individuals in different organisations, over time, and in different locations, can be substantially different. With that said, we sought to capture a sense of how people within the overarching group of maritime SAR volunteers thought about the law.[36]

The participants were selected with two core aims. First, the research team wanted to obtain representation from SAR organisations working in different areas in the Mediterranean. We were particularly interested in the largest transit routes between Türkiye and Greece, as well as North Africa and Italy. As the research developed, there was an increase in small boat crossings from France to England. As such, we also interviewed persons with experience of this route. Secondly, we sought to interview individuals from different-sized SAR organisations. Using gatekeepers was an integral part of obtaining consent for interviews. Although the initial uptake in interviews was positive, at times the research team felt that, without gatekeepers, some individuals may have been reticent to speak about the issues contained within this article. This is due to the atmosphere of control and intimidation under which they were being placed by state authorities, including SAR workers being arrested on occasion and having their work criminalised.[37] Nevertheless, during interviews, we found that participants were very open and honest about their experiences.

The interviews offered participants an opportunity to describe experiences they have had in working in SAR NGOs and specific rescue situations, and to reflect on their understanding of the various legal and bureaucratic processes they had encountered. The schedule of interview questions was followed in a flexible manner. For some participants, our prepared questions served as conversational prompts to encourage further elucidation. Other participants felt more comfortable with being asked questions directly and talking in more general terms about their experiences. In each interview, though, questions relating to perceptions

[34] The project was assessed by The Open University Human Research Ethics Committee (HREC), and a favourable ethics opinion was given (HREC/3565).

[35] A. Bryman, *Social Research Methods*, Oxford University Press, 4th edition, 2012, 418.

[36] See, for example, R. Harding, *Regulating Sexuality*, Routledge, 2011.

[37] See, for example, D. Dadusc & P. Mudu, "Care without Control: The Humanitarian Industrial Complex and the Criminalisation of Solidarity", *Geopolitics*, 27(4), 2022, 1205–1230; L. Vives, "Death at Sea: Dismantling the Spanish Search and Rescue System", *Geopolitics*, 28(2), 2023, 641–666.

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and understandings of law, use of law, experiences of criminalisation of SAR work, and organisational approaches to their work were asked.

This is a departure from the "broad methodological trend within legal consciousness work of avoiding direct questioning about law and, instead, observing the characterisations of legality which emerge in the ways in which subjects discussed their lives and actions".[38] This is, not least, because the project also departs from the general focus on the "*everyday* life of ordinary people"[39] and focuses on the discrete, distinctly legally framed, and extraordinary actions of people in the context of numerous and potentially conflicting legal frameworks and obligations. It enables an exploration of what is experienced as law, and how, without a contrived exploration of the very question of whether law featured in explicitly legal working environments. In making this choice, it enabled the focus of the project to be on examining how working environments, experiences, and imperatives of SAR volunteers were incorporated into their narration of the place of (and conceptual choices about) law in their working lives.

Most participants were boatmasters or crew in SAR operations involving rescues and recoveries. A small number of interview participants were land-based spotters but were active participants in the organisations and equally well placed to offer rich accounts. This is because of the unfavourable local environments where they were working, due to media narratives, local perceptions of their work (Interviews 7, 10, 15, 17, 18, and 20), and vigilante attention (Interviews 1, 2, and 12). Participants ranged from those within non-operational organisations, due to either criminalisation or functional reasons due to COVID-19, to those who are continuing to operate. Indeed, many participants reflected on COVID-19, and the way the states used this as a particular rationalisation for clamping down on SAR NGOs' operations. COVID-19 understandably featured given that the interviews were conducted between 2020 and 2022. Reflections on the pandemic came to substantively exemplify some of the thematic consistencies in our participants' narratives: it ranged from being an unwelcome but legitimate obstacle to effective SAR operations, to a "gift" to authorities in terms of rebranding their migration policies, and/or a smokescreen.

As mentioned above, SAR organisations range in size, funding, and degrees of professionalism. Nevertheless, although experiences varied, we recognise that our participants were principally drawn from organisations which were less resourced, smaller, less professionalised (i.e., in terms of organisational structure), and with inherently lower political capital and formal legal capacity. As such, the key themes that emerged from the research were identifiable across the interviewees; reasonably early in the study there was a clear impression that similarities and patterns in accounts, experiences, and reflections were occurring between interviewees. The sample enabled the data set to reach saturation.[40] This instinctive and integrated analysis in the midst of data collection was also supported by ongoing open coding.[41] This means that the focus of this article has ended up expressing the experiences of smaller organisations, which may well find themselves more acutely and intensely affected by fear-inducing environments of criminalisation and control. This explains the unanticipated responses and dispositions exhibited by participants, how they diverge from other patterns of SAR practice within the Mediterranean, and the need to articulate a new legal consciousness narrative that underpins some SAR operations. Greater discussion of this is explored in the results section below.

[38] Halliday and Morgan, "I Fought the Law and the Law Won".

[39] S. Silbey, "Studying Legal Consciousness: Building Institutional Theory from Micro Data", *Droit et Société*, 3, 2018, 685–731, 698 (emphasis added).

[40] B. Glaser & A. Strauss, *The Discovery of Grounded Theory: Strategies for Qualitative Research*, Aldine, 1967.

[41] A. Rubin, *Rocking Qualitative Social Science*, Standford University Press, 2021.

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The initial coding was undertaken by individual investigators to create intercoder reliability. NVivo 10 software was used to support analyses, and all three researchers on the project collectively undertook iterative recoding steps to engage reflexively with how our assumptions and perspectives are implicated in our analysis. We used (reflexive) thematic analysis on the basis that it enables the identification of themes to emerge out of rich and varied accounts of participants' experiences.[42] It also enabled us to consider how participant accounts shifted our assumptions about the theoretical foundations regarding legal consciousness which underpinned our project. For instance, our initial assumptions about participant resistance and non-compliance with the law, and the effect this had on their work, were not borne out. Instead, interviewees' narration of the place of law in relation to their work led us to reconsider how *we* approached our investigation and reflect differently on the work, expectations, and wellbeing of SAR volunteers.

5. NARRATIVES OF RELUCTANT CONFORMITY

The four core themes which emerged from participant interviews are (1) compliance with legal obligations and requests from state actors, (2) a commitment to evidence and documenting operations, (3) an appeal to higher legal and moral imperatives when recounting stories and (4) a generally positive framing of law but a generally negative impression of state actors and public authorities. These four elements are what constitute a legal consciousness narrative shaped by the humanitarian imperative, as the principal moral motivation behind participating in (and iteratively developing) a discrete claim about what law is, what it ought to be, and what it can be expected to be/do, amongst exposure to numerous legal, political, and bureaucratic orders. Beyond this, there were instances of participants articulating frustration at legal processes. However, they tended to resolve this in their narration by volunteering the problem as: the gaming or disregarding of laws and legal processes by *state actors/authorities* (Interview 10); the inability to meet the required evidentiary standard to pursue claims of state abuses (Interview 5); or states not upholding their end of the bargain to investigate when confronted with reports or evidence (Interviews 17 and 20). In this respect, then, participants are implicitly reinforcing claims about the law's fairness and purity, by suggesting these are exploitable qualities by immoral actors or that it is thwarted by their own errors or state deficiencies.

5.1. Compliance with the law

> "I wanted to make sure that the boat was as legal as it could be" (Interview 3)

The most prominent theme arising out of interviews with participants was the importance attributed to compliance with state law and the need to conform to obligations mandated by international law. In their approach to ensuring and demonstrating compliance with legal rules and processes which were instituted by states, participants often reflected on the authoritative and cohering textures of law and their perceptions of state-mandated obligations. 18 of 22 participants spoke explicitly about the importance of complying with the authorities, whether that be as a matter of safety (Interviews 12, 13, and 19), the need to continue having good working relationships with state authorities (Interviews 1, 2, and 22), to prevent the state from being able to criminalise operations (Interviews 5, 7, 20, and 22), or to ensure organisational discipline (Interviews 1, 3, 18, and 20). Participants also discussed the need

[42] V. Braun & V. Clarke, "Using Thematic Analysis in Psychology", *Qualitative Research in Psychology*, 3(2), 2006, 77–101; see also L. Trainor & A. Bundon, "Developing the Craft: Reflexive Accounts of Doing Reflexive Thematic Analysis", *Qualitative Research in Sport, Exercise and Health*, 13(5), 2021, 705–726.

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to be compliant to enable continuation of their operations in some SAR spaces (Interviews 1, 2, 3, 4, 5, 8, 12, and 20).

The types of requirements mandated by the state included: burdensome bureaucratic requirements, incorporating lengthy registration requirements with the state or local council (Interview 4); obtaining licenses and permits (Interview 3); and making daily reports to coastguards (Interview 3). These sound fairly innocuous, but participants reflected on the highly onerous nature of what they were being asked to perform, and that the "goalposts" were always changing (Interview 3). Requirements also included paying fines when they were issued, whether they were issued for SAR-related issues such as navigating without lights (which was disputed by the interviewee) (Interview 2), or those unconnected, such as being fined for *picking up* litter (Interview 3); having to ask permission to launch (e.g. Interviews 1, 2, 3, 6, and 7); or to enter and port and disembark (Interviews 6 and 7); complying with the coastguard's directions to leave an area when boats carrying refugees required rescuing, even when they felt it put lives at risk (Interview 7); having to wait for permission to enter port, including complying with quarantine restrictions, even when refugees on board had no access to water (Interview 6), or were threatening suicide (Interview 8).

Permission to enter territorial waters was also a requirement. For instance, one interviewer discussed the value placed on obtaining permission from states before entering territorial waters, irrespective of the difficulties this would cause in terms of waiting:

> Well, when we get into the territorial waters of any state we just ask for permission, always. We never get into nobody's water without permission. That's it. Even though that, basically since we are in the European Union and we also have one state's flag, […] we shouldn't have to just ask for permission to get into waters as any other ship like a recreation or anything like this does. Just advise when you went into a port that you're getting there. But even though, we always ask for permission and sometimes we get that permission denied. So, we just have to wait, and we wait outside the territorial waters until we sort that out and we get finally permission. The thing is that all the rescues we carry out are in international waters and that's where the international law rules (Interview 15).

Here, we also get an initial sense of the distinction being made between international law obligations, expectations arising out of status, and the inconsistency in the approach being taken by a particular state. This subtheme is demonstrated in the data consistently when participants make appeals to higher legal and moral imperatives in justification of the work they undertake, which are anchored to customary international law to render assistance to persons or vessels at sea, and international legal obligations which underpin this. With that said, the importance of seeking states' permission (and acting upon responses of state authorities) was underscored as an important operational step: "[…] We say we've discovered a boat here. We're about to commence rescue. Can we go ahead? They say 'yes', and then we start (Interview 21)".

Participants discussed a need to ensure compliance even if, operationally speaking, it was frustrating, limiting, or fundamentally counterproductive. One issue which was discussed by several participants was the state coastguard's requirement for SAR organisations to ask for permission to launch their vessels. SAR organisations routinely obeyed this order, even when on occasion it could have jeopardised the operational efficacy of a SAR mission.

> They issued us with policy. So, we would only be allowed one exercise, which is like a routine four-hour exercise at sea, in every 24 hours. We would again have to schedule that 24

> hours in advance, which was very strict. And then if we launched outside of that time, we could only do so strictly with their permission, and it became very apparent that, if we were to break that, we would be facing some fairly heavy fines.
>
> […] So that control, the biggest control measure that they put in, which really impinged on our ability to do some really good work and launch in good time to pre-empt what we knew was going to be or was a developing situation, was they had to give us that permission to launch. Without that, we just stood there and waited and waited and waited. On more occasions than most, we didn't get that permission to launch, but when we did, we were grateful. 'Yes sir, no sir', staying well inside the perimeters of what they allowed us to do.
>
> […] The main rule that we didn't break was them giving us permission to be at sea (Interview 1).

It is evident that participants' compliance with oppressive and obstructive rules – with a view to protecting operations – is done grudgingly. The primary reflection that arose suggested deference to the legal authority participants identified in the state (to permit and to punish), and the need for adaptability to state authority, while *also* making room for identifying the authorities, but not law (especially international legal provisions), as the problem. This oscillation between seemingly contradictory schemas is a necessary and important feature of both critical legal consciousness[43] and a critical legal pluralism. We are accounting for the complex picture of compliance with state obligations that nevertheless challenge what is perceived as good and moral (international) law that one should have faith in, and a general impression that it is not law (conceptualised singularly) that is the problem, but authorities and the perceptions of the way *they* game or contravene law. The faith exhibited in law is primarily characteristic of a before the law legal consciousness, but with attendant contradictions and impurities that are situationally specific.

It may be argued that SAR volunteers were tolerant of states' noncompliance with international law by being compliant with state law. However, SAR volunteers saw their role as an important part of holding the state to account for their breaches of human rights and/or maritime laws. This suggests that they considered themselves custodians of the international legal (but also moral) order. Many SAR volunteers spoke of being observers and documenters of human rights breaches at sea, viewing this to be crucial to the SAR role. This will be discussed in more detail in the section on evidence and documentation below. Here, it underscores that the nature of their compliance is to enable SAR workers to undertake what they see as the upholding of higher legal obligations by being in a position to document the transgressions of state authorities.

That is not to say, however, that compliance was not acknowledged as an impediment to other core SAR functions. The importance of obtaining permission and complying with the rules instituted by the state was reflected in one interview as a problem to which the organisation would have to adapt, however difficult it made their operations:

> Most of the time you have to stick to the rules, then you may try to find some way to adapt yourself to the rules. For example, in 2018 in Lesbos, the President was saying that we were not supposed to be on the water on our own. We had to call every time we had to launch. Even for exercises, we had to call the Hellenic Coast Guards. The difficulty with that is that we knew that refugees were crossing like by the end of the night, beginning of

[43] E. Kirk, "Legal Consciousness and the Sociology of Labour Law", *Industrial Law Journal*, 50(3), 2021, 405–433.

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> the day. So there was a very short window time where we could expect them to cross the border (Interview 12).

An aspect of this disposition is certainly the importance placed on feeling the need to be beyond reproach, or of finding a degree of certainty in functioning in a system which is dysfunctional due to "state entities … denying their responsibilities and acting in an illegal way" (Interview 6). Beyond this, though, an overwhelming importance is placed on correct observation of rules and process, which is evident when we also consider the importance SAR workers and organisations ascribed to evidence collection, documentation, and recording of SAR incidents. Another reason for compliance was simply a fear that if the organisation did not follow rules, they would not be allowed to continue operations. This would impede the important observation function SAR workers mentioned previously; it is *here* that reluctance of conformity is particularly exhibited. Complying with the state was felt necessary by many participants interviewed to ensure that they could continue to save lives, even if operationally they may not have been working as they may have liked. They were, in one sense, disillusioned with state law in that they felt the need to begrudgingly adhere to it, but they still complied with it and "played the game", to avoid giving state authorities cause to create problems for them.

> And then, in that situation, I had to face that crazy situation where the rules are completely […] You cannot accept that rule, but you have to stick to it, otherwise, it's going to be a big, big mess between the authorities and the NGO. Everybody knew that they would fire the NGO […]. That kind of situation, it was, for me, very difficult to accept (Interview 12).

Even if the authorities were acting illegally, themselves, SAR workers were also in fear of being criminalised if they did not comply with the law or were acting in an antagonistic manner towards them. This was evident, for example, in how SAR workers expressed fear of organisational punishment if they documented human rights abuse by the state, or acting in manner contrary to how the state might wish. This led to some organisations not directly reporting human rights abuse but passing information on to third-party organisations. As one individual commented, "your hands were tied behind your back in between going public and then facing what could come of that from the State and the coastguard (Interview 5)". This brings us onto theme two.

5.2. Commitment to evidence and documentation

> […] we wore GoPros,[44] obviously just to ensure that if there were any disputes, that might be presented as evidence. Obviously, there were other scenarios where if we thought there were human rights violations that we could feed them back to the various organisations who might want to pick up on that (Interview 1).

Fourteen of our participants discussed the importance of wearing body cameras, compiling post-operational reports, and/or the documenting SAR operations and incidents. This was done with the view that if they were ever challenged by the authorities, they could demonstrate that they acted within the parameters of the law, again demonstrating some faith in legal processes. This demonstrates the second aspect of reluctant conformity. That is, if SAR volunteers could evidence their compliance, they would be able to avail themselves of legal protection. For example, several participants described how data could be passed through

[44] Wearable action cameras.

the channels of other organisations, as a form of "back door" reporting. They described how evidence could be used to substantiate legal cases being brought in front of, for instance, the European Court of Human Rights. They also discussed passing information on to the media, or issuing communiques themselves (though the latter raised concerns that such reporting could jeopardise their capacity to act). This is particularly interesting if we think of "legality [as] a social structure actively and constantly produced in what people say and in what they do".[45] Absent access to the forms of legal knowledges produced in legal practice, it is public perceptions and social constructions of (il)legality (and how to challenge it) which sustain the power of law and its institutions in public consciousness.

In addition, in some cases, such documentation was done in order to build cases against authorities if they committed human rights abuse. A degree of faith in legal process is implicit in the importance placed on collecting evidence of SAR workers' and authorities' conduct. Such actions also imply an assumption – albeit reasonably grounded – that the state does not obey the law in the same way that it sets out to. Evidence collecting is also a perceived defence mechanism, should organisations ever be threatened with legal action:

> […] There's no trafficking, there's no money coming in, there's no spying, when actually I see you pushing back people on the borders and I record that, do you really want to take me to the court as a spy? Because what's going to come after is that I just show you start doing something illegal (Interview 7).

Participants were confident that state actors would bring problems on themselves if they were to seek to press criminal charges against SAR workers, because evidence of state wrongdoing would then be demonstrated to the court. This again demonstrates both a sense of faith in hypothetical legal proceedings and a degree of confidence in recording protocols of SAR organisations. The link between the importance of evidence and the importance of compliance is also borne out by participants who suggested that operational recording and evidence gathering also underscores the need to be compliant:

> Now, it is quite clear that all the volunteers have a very strong briefing concerning the legal procedures, the fact that everything is recorded on the ship, but also we record everything on scene. We have to strictly follow the rules. Things now are bit locked up concerning these issues if we think about what happened at the beginning of the story.

> I wouldn't say that all the volunteers and myself included have a very strong view of the things, but we are trained to follow the rules. I think this is a way to do with many people coming from different backgrounds, different countries for a short period of time, doing things and then leaving. I think it's a clever way to make sure that people follow the prescriptions (Interview 12).[46]

Several participants demonstrated that the necessity of recording was grounded in the need to document human rights abuses committed by authorities (Interviews 1, 2, 3, 5, 10, 11, 12, and 13), which fed into some participants' perception of their role as monitors of state abuses (Interviews 6, 13, and 22). Importance was ascribed to human rights as the basis on which state conduct was being evaluated, and complaints relating to authorities' actions were being made. This is an example of the manner in which participants employ what they

[45] Ewick and Silbey, *The Common Place of Law*, 223.

[46] This was also clear across other interviews, too, particularly in relation to evidencing compliance with COVID-19 precautions (Interview 19) as this became an apparent basis on which authorities would seek to prevent SAR operations.

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consider higher legal norms to demonstrate state illegality and the fact that authorities are misusing or neglecting their legal responsibilities. Alongside this, it is also evident from our participants that the impression of their legitimacy and the state's illegality is grounded in moral imperatives, too.

5.3. Appeal to higher legal and moral imperatives

> "And I think if you know that you're not breaking international law and that actually you're rescuing people who would otherwise probably die, or are likely to die, then you can justify it" (Interview 19).

Unsurprisingly, given the importance given to humanitarianism[47] participants often accounted for their strong moral imperative to save lives as the basis for their work. That said, only one participant set out the distinction between law and morality in unequivocal terms:

> I'm going on purpose to that SAR zone to rescue people that I know will drown if I'm not here. Whereas here I have totally no law to follow, if I'm totally honest. No, I cannot honestly say it is my obligation to do so, it's my moral obligation but not legal obligation and that's different (Interview 14).

Notwithstanding this, the same participant situates their explicit distancing of themselves from thinking about law in a wider reflection that starts with a very clear account of the "legal frame" that they are complying with, namely, "the obligation of assistance as a seafarer, if someone needs help you have to assist them whoever they are, whatever they do, wherever we are" (Interview 14). This is reflective of many participants' accounts that the international maritime law duty to provide SAR provided them with the power to perform their roles (indeed, the reference to "SAR zone" comes from the SAR convention).

A decoupling is happening here, shared by other participants, between state law and international law, with the latter being drawn into line with a moral and humanitarian stance. The frustration that is articulated within interviews, in one way or another, is that states are "making something that shouldn't be illegal, illegal, and it's *that* that I don't understand how they can't see that this is what they're doing" (Interview 20), but this is identified as states acting contrary to international law, creating conflict with two legal frameworks:

> I guess that's the problem, isn't it? You can make these international laws, but states have autonomy and they can make their own laws, and then it's a fight between those. My understanding is that there's state laws and the local laws, which are applicable when ships are in port or when they're in territorial waters. But then once they're in international waters, it's international maritime law that takes precedence, but I know lots of the criminalisation goes against that (Interview 19).

Notwithstanding the lack of clean distinction here between state law and international law, particularly when it comes to obligations to those in distress, a common refrain in interviews is the reflection that state actions, bureaucratic processes, and legal assertions are problematic and can run counter to participant understandings of the legality of their conduct per international law. For example, one participant expressed that a "grey area" could be created when local requirements – such as obligations to the coastguard in the course of their work

[47] Although Interview 16 made clear the importance of *distancing* themselves from humanitarianism and, by extension, other NGOs operating in the area.

– seemed to contradict international law obligations and SAR volunteers' humanitarian purpose, especially when the latter obligations appeared perfectly clear (Interview 5). It is in such accounts that participants articulate their "'attach[ment] to' and 'protective[ness] of'"[48] international legal standards governing SAR, in the feeling that it is there for them, there to be obeyed, and with transgression from its standards to be judged. At the same time, as noted with respect to the first theme regarding compliance, even when state obligations seemed to contradict international law, these were reluctantly conformed with anyway (even in situations where these obligations were not reinforced by the threat of criminalisation).

The notion of international law being in conformity with the purpose of SAR work was identified as a source of security, as was knowing more about the international obligations which underpinned their values and senses of morality:

> We're doing this because these are our values. This is the reason why we're at sea, however we're also protected by international maritime law, that says this and this and this. The human rights law that says this and this and this. Even if there were just three to five basics that we all knew and we could have, I think that would have been helpful. Now, whether in reality, we will be protected is another thing, but even just knowing that there is a basis for this, legally, I think that would have been good (Interview 21).

The precise point about whether legal education and knowledge of the legitimacy of conduct would *actually* "protect" them raises the distinction between state action and moral standards, conformity with which is considered an expectation. This is considered in further detail when reflecting on the distinction participants draw between law, as conforming with moral standards, and authorities, as ignoring or not meeting those standards. In the meantime, it is apparent that participants do not set morality and legality/legitimacy in opposition to one another. Whenever they identified the humanitarian imperative as a distinct, and oppositional, source of legitimacy in relation to the *actual* work of SAR, it was in hypothetical situations about where participants *would* "cross the line" if they were pushed or if they needed to. Fundamentally, though, SAR work itself was often presented in the language of international legal obligation rather than – or in addition to – the language of moral imperative:

> But, at the end, it's quite simple. There's people in distress and our obligation is just to rescue them and bring them to a safe port. We can get lost on what legislation say and how every different actor interprets it, but at the end the thing is quite simple. The law, basically, we move under the UNCLOS clause, at the SOLAS code (Interview 15).

The prevailing dependence of NGOs on international legal obligations *as underpinning* their actions emphasises that the distinction that is drawn is not between legitimacy and morality, but sharply between legitimacy – morality and state actions.

5.4. Law is good, authorities are bad

> "We're feeling from the beginning that people tried first to block us by political reasoning. They tried to really just make it criminalisation in a political sense" (Interview 8)

> "What's happening is we're being forced to function within a system that is entirely dysfunctional" (Interview 6)

[48] Emerton, "'We're Not There Yet' but it's not 'Pie-in-the-Sky'", 98.

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The dysfunction being spoken of here is state entities not upholding their end of the bargain, by states misusing or subverting the law, or not taking responsibility and, ultimately, creating risky situations (either by action or refusal to act). Nine of our participants explicitly identify state *illegality* as the problem, in the face of the NGOs themselves following the law. For example:

> Most of the time, the regional rules we were trying to follow as an NGO, were not applied. For example, we could have everybody in Greek water, including Turkish Coast Guards, doing pullbacks with the Hellenic Coast Guard and the Frontex people just looking at them and telling us that they couldn't do anything. We were calling on [channel] 16 because this was very risky for the refugees. It was a human rights violation (Interview 12).

Pushbacks and pullbacks were witnessed by many of our participants but, more generally, the sense of a lack of action on the part of various authorities was spoken about. This was spoken about primarily in terms that suggested previously good working relationships between NGOs and state authorities which had, in recent years, turned much sourer. Four of our participants (Interviews 7, 8, 15, and 16) expressly blamed governmental change and the election of populist, right-wing governments in Italy and Greece. Others spoke about the shifting rhetoric seeking to delegitimise SAR workers and media narratives that cultivated a negative perception of SAR workers. Further still, some participants spoke about vigilante and local right-wing upheavals, with state actors implicated: "it is obvious now, that [far right groups] were in cahoots with the coastguard, if not, the coastguards themselves" (Interview 3).

In other words, the environments experienced by SAR workers were identified as being the fault of state actors. An aspect of this was their failure to undertake their obligations, or their active withdrawal in terms of rescue and law enforcement obligations, with 10 of our participants indicating that they have witnessed the state not taking responsibility for actions they are obligated to. The law features as an object that is being abused or ignored; the state withdrawal or gaming of the law is positioned in the context of SAR workers underscoring their compliance with "the only thing [requested being] that state members follow the law, that's it" (Interview 15).

The precise framing of (generally international) law being perceived positively, and (generally state) authorities being thought of negatively, appears in a number of different contexts, but particularly in relation to health and safety – for example, inspections and COVID-19. Participants perceived the instrumentalisation of ship inspections as a matter of subversion of the law: "But we've seen it subverted, whereby the laws that were meant to protect us, protect ships, protect people, to keep people safe at sea, in trying some of those fundamental values, it's been used in a way which is counterproductive (Interview 6)".

They also saw inspections as a way of entangling ships up in bureaucratic and legal processes, with success for the authorities being the extent to which ships can be detained.

> They know full well that they can't detain all these ships from sailing on forever, but if it keeps a ship alongside a port for six months, they've achieved what they wanted to. They'll go through the legal battle to keep a ship there for three or four months … I basically said to them that you will never, ever be able to make a ship un-detainable because they will find a way to detain you, depends on the flavour of the month […] If they don't want you to sail to the SAR region in the Central Med, they will detain you and they will find a way. And they will keep you there for three or four months, they will go through the legal battles until the court rules that yes, you shouldn't be detained (Interview 13).

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Participants demonstrated a firm belief that the law will validate the work of SAR volunteers, with frustration being levelled at political actors who just fail to act as they *should*. Ultimately, participants conceded that certain legislation, state requirements, inspections, and bureaucratic processes were necessary and understandable, but that authorities essentially took and continue to take things too far. This was particularly evident in relation to COVID-19.

As mentioned above, COVID-19 was variously reflected on by participants as an unwelcome but legitimate obstacle to effective SAR operations (which just happened to also align with authorities' desire to create obstacles for NGOs): "COVID, coronavirus, kicked in just after Christmas. And that's given the authorities, quite rightly, a right to lock down the island. But it has also been felt by us that that is a great excuse for them to very easily legally stop NGOs operating there (Interview 2)". Equally, it was reflected on as being used completely as a smokescreen: "My personal belief is the pandemic had an impact on us operationally, I think we could have navigated that if we were able to operate, but we just simply weren't going to be allowed to operate (Interview 13)".

The frustration that states are failing to conform with what is perceived to be the law, which participants construct and act deferentially towards, adds a rung of complexity to their operations which "generates a significant fatigue on the part of the people that are trying to do this type of work" (Interview 6). In other words, the gulf between the expectations participants have of the way law would be accessed and manifested in the context of their work – whether realistic or not[49] – and the contemporaneous experience of the predicted role of the law not being met creates an additional struggle for individuals.[50] Indeed, in relation to law, specifically, Marc Hertogh's example of a bereaved parent's anger at the sentencing of the dangerous driver who had killed his daughter is a stark example of how notional expectations one might have of the law can be dashed in/by concrete experience, as well as the affect this can have.[51] The relationship between such dashed expectations and the general faith in law exhibited by participants that one can characterise as a "before the law" legal consciousness is clear; it is participants' continual valuing of law that prompts upset, stress, or bewilderment at state actors behaving in a way that runs contrary to the humanitarian imperative to rescue lives at sea.

6. DISCUSSION

The research provided rich data, and while not all of these are relevant to a discussion on legal consciousness,[52] the data does indicate how each of the participants demonstrate – and, with a couple of exceptions, structure – the narration of their experiences on the basis of a sense of faith in law, a desire for the law to be followed, and a frustration at authorities who are perceived as negligent or betraying their legal obligations. As evident in the accounts above, this generally stops short of emboldening participants who made such points from taking steps to instrumentalise and game the law. Instead, we have participant accounts

[49] Compare with I. Sendroiu, L. Upenieks, & M. Schafer, "The Divergent Mental Health Effects of Dashed Expectations and Unfulfilled Aspirations: Evidence from American Lawyers' Careers", *Social Psychology Quarterly*, 84(4), 2021, 376–397. Here, the authors suggest there is a difference between unmet aspirations or hopes (less realistic) and unmet expectations (more realistic) in terms of mental health outcomes.

[50] K. Mossakowski, "Unfulfilled Expectations and Symptoms of Depression among Young Adults", *Social Science and Medicine*, 73(5), 2011, 729–736.

[51] M. Hertogh, *Nobody's Law: Legal Consciousness and Legal Alienation in Everyday Life*, Palgrave Macmillan, 2018.

[52] There was, for example, considerable data obtained on the nature of state control, intimidation, human rights abuse, and criminalisation which has formed the basis of other work. See N. Graffin, M. Howard, & J. Vincett, "Criminalisation and Control: Mediterranean Maritime Search and Rescue Workers' Perceptions of Uses of Law", *Refugee Survey Quarterly*, 44(2), 2025, 228–251.

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which express regret at the way *states* seek to play the game with the law (and, by extension, people's lives). Associated with this is the general sense that our participants reflected that they believed conformity with what they express to be their prevailing legal obligations was a means for them to observe more diligently what they identified as the right way of approaching law (procedurally and substantively). Doing so helped give them a sense that they rely upon legal processes to address the way states gamed the law or instrumentalised legal and bureaucratic processes for unlawful purposes. It also demonstrates how, given the privileging of certain conceptions of (and beliefs in) law out of the plurality of legal frameworks and obligations, SAR workers are involved in the production and maintenance of an expectation of law as universally applicable, dispassionate, and even-handed, thus concealing how law is a medium for the operation of power.[53]

This aligns with a variety of recent legal consciousness research that has underscored the importance of exploring the social and cultural foundations for how we think about and position law.[54] For instance, the interdependence of the production of both legal consciousness and identity demonstrates that narrations about the law are not clean and enduring.[55] Equally, the idea of relational legal consciousness emphasises that the notion of legal consciousness is "a set of social processes that comprise a person's attitudes, perceptions, feelings, and beliefs about law, legal actors, and legal structures".[56] For instance, Leisy Abrego emphasises that substantive senses of citizenship, and consciousness of one's legal status, depend on "both the power of laws and the complexities of social life that together inform people's interpretation of their juridical status".[57] In other words, it is reliant on social context and ostensibly non-legal dynamics such as familial relationships, rhetoric and stigma, and backgrounds and identity characteristics. This emerges from our participant interviews, when they narrate how their understandings of law are shaped by the life experiences that they bring into their work. Notwithstanding this, one of the most interesting patterns emerging out of the interviews conducted is that the variation in volunteer life experiences did not play out in significant variations in their expectations of, or attitudes towards, the law.

Despite varieties of experiences and the existence of contests between multiple legal orders and obligations, an enduring belief in the law is reproduced in the specific circumstances participants find themselves in as SAR volunteers. It is here, then, that it is particularly important for us to reflect on the fact that these accounts of SAR volunteers seem to diverge from other patterns of practice among SAR volunteers which have also been evident in recent times. A prominent example of this comes from Captain Carola Rackete's open defiance of laws that introduced heavy restrictions and punishments on SAR NGOs entering Italian waters without authorisation, as part of a suite of anti-asylum-seeker rules. Subsequent to that event, there was a proliferation of hostility, targeted abusive and threatening discourse, and an emboldening of right-wing populist and nationalist rhetoric and practice.[58] Such processes did not "only" target the perceived transgression of Captain

[53] Ewick and Silbey, *The Common Place of Law*.

[54] Silbey, "After Legal Consciousness".

[55] See, for example, Chua and Engel, "Legal Consciousness Reconsidered".

[56] K. Young & H. Chimowitz. "How Parole Boards Judge Remorse: Relational Legal Consciousness and the Reproduction of Carceral Logic", *Law and Society Review*, 56(2), 2022, 237–260, 241; see also, K. Young, "Everyone Knows the Game: Legal Consciousness in the Hawaiian Cockfight", *Law and Society Review*, 48(3), 2014, 499–530; L. Abrego, "Relational Legal Consciousness of US Citizenship: Privilege, Responsibility, Guilt, and Love in Latino Mixed-Status Families", *Law and Society Review*, 53(3), 2019, 641–670.

[57] Abrego, "Relational Legal Consciousness of US Citizenship", 645.

[58] See, for example, E. Esposito & A. Zottola, "Intersecting Hostilities around the European Migration Crisis: The Case of Carola Rackete and the Sea-Watch 3", *Critical Discourse Studies*, 21(5), 2024, 522–537; E. De Blasio, M. Palillo & D. Selva, "Objectivisation and Genderisation in News Frames about Immigration: The Carola Rackete Case", *Identities*, 31(3), 2024, 296–312.

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Rackete in respect of Italian law on the basis of accusations of criminality, but they became an effective vehicle for far-right and enhanced border-securitisation rhetoric, as well as the further dehumanisation of asylum seekers themselves. Against this backdrop, the shared institutional experiences of our participants (of volunteering in small, less-professionally organised, and comparatively less politically, financially, and legally resourced as other organisations) may well be understandably more instructive than personal experiences when it comes to explaining the disposition they adopt towards thinking about law.

With this in mind, we have considered how our participants' legal consciousness emerges out of and is sustained in the confines of their work and *specific* working contexts and profiles, as introduced in the methodology section. The matter of the vulnerability of humanitarianism in times of emergency to criminalisation, to being discredited, and to the increasingly unfavourable environment for humanitarian actors across the globe[59] needs to be accounted for when exploring the interpretative experiences of those who are operating in such conditions within smaller and, as such, relatively less well supported, organisations. Populist rhetoric about SAR volunteers tends to position them as contributing to the threat to the border and population integrity of the nation, and this is actualised in greater border securitisation practices which SAR workers are inevitably bound up in.[60] How is the tension between this and the relevant international legal frameworks SAR volunteers rely upon thought through by them?

The question of how this tension is contemplated is the most important one for us to reflect on. This is why it was important to explore the textures of legal *consciousness* (revolving around the four themes introduced above), rather than understanding and actualisation. Indeed, within our analysis, we did not give weight to, or make judgments on, participants' lack of understanding about the law. Participant understanding of international legal obligations tended to be a matter of acquisition while undertaking SAR work or acquired through self-education. Having an "intuition for the basics" (Interview 4), or a clear sense of the conduct (either from themselves or the state) which could be considered illegal, featured in participant reflections on their legal understanding, as did a reflection on the importance of having (access to) legal knowledge in relation to SAR work.

Most important to the research was the degree of confidence participants had, their perceptions of law as they understood it, what they identified as law and legitimacy, and why; it is this that is particularly important in relation to understanding how participants narrate the place of law in relation to their SAR work and engagement with numerous legal and bureaucratic instruments and expectations. Given the volunteer experience of our participants, the contexts in which they are operating, and the fact that they offered a disposition to law and compliance that initially seemed quite unexpected, exploring this necessarily comes before a consideration of how such actors *may* then mobilise the law in the pursuit of political change,[61] and within explicit judicial domains as part of broader resistance and counter-repression strategies.[62]

Notwithstanding this, the continuing value placed on law is evident both in the prominence of participants' calls for the support of legal education and in respect of their belief that compliance was important as a pre-emptive measure, so they could *potentially* be in a

[59] E. Ferris, *The Politics of Protection: The Limits of Humanitarian Action*, Brookings Institution Press, 2011.

[60] See Graffin, Howard, and Vincett, "Criminalisation and Control: Mediterranean Maritime Search and Rescue Workers' Perceptions of Uses of Law"; Montanaro, Mathioudaki, and Alagna, "Space of Exception: Health Protocols, Non-Governmental Sea Rescue, and the Border Regime".

[61] See, for example, F.K. Zehmans, "Legal Mobilization: The Neglected Role of the Law in the Political System", *The American Political Science Review*, 77(3), 1983, 690–703.

[62] F. Alagna & E. Cusumano, "Against the Tide: The Counter-Repression Strategies of Sea Rescue Organizations in the Mediterranean", *The Annals of the American Academy*, 709(1), 2023, 105–123.

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better position were it to come to raising legal issues. In respect of legal education, participants regularly spoke of the *purpose* of legal education rather than the *substance*. Participants certainly did talk about the need to understand various "legal dos and don'ts" of specific jurisdictions (Interview 5) or the importance of understanding how maritime law, refugee law, and various other international conventions fit together and frame their work (Interviews 9, 11, and 13). However, more prominent were insistences that legal education resources would be protective. For example, one participant suggested that a course in "what you can say if someone tries to detain you? If they try to call this human trafficking, how do you defend yourself in that situation" (Interview 17). This example establishes the value of legal education as a defence for SAR volunteers.

On the face of it, this corresponds favourably with Federico Alagna and Eugenio Cusumano's taxonomies of legal mobilisation,[63] particularly in respect of passive and reactive mobilisation. In respect of the perceived pre-emptive need for compliance, however, it is also important to note that the concerns raised by participants when contemplating the value of legal education are indicative of a nascency in respect of legal mobilisation that also requires exploration and explanation in the realm of legal consciousness and perception rather than expressly in respect of mobilisation. This is because participants are articulating a disposition towards law and its potentiality rather than its use "in an explicit, self-conscious way through the invocation of a formal institutional mechanism".[64]

For example, participants expressed confidence that they could place in legal documentation that would:

> straight away [set out] the legal justification for search and rescue, a *bullet proof document* that can basically be used as this authority by NGOs and by people involved in SAR and those contexts. To say what we're doing is right, whether you agree with it or not. We are legally allowed to be here because of this, this, this and this (Interview 13; emphasis added)

– conveys both the expectation that authorities would act in a nefarious manner *and* that the law will provide a significant degree of security and standing in such circumstances. It is anticipatory, and aligns with the characterisations of state actors and legal frameworks inherent in the legal consciousness schema set out in this article. Indeed, the prevailing sentiment is to make sure volunteers are protected in foreseen situations. It is the tying together of "areas where you could find protection, or areas where you're covered" and "what different aspects you can draw upon to be able to make decisions" (Interview 19), demonstrating that the value instilled in legal education for operational need cannot be disconnected from the way in which law is, generally, favourably characterised. Ultimately, a focus on how law, and participant relationship thereto, is conceptualised invites consideration of the impact such a disposition can have on the operational capacity and wellbeing of SAR volunteers. This complements the research undertaken on how law is used strategically, and associations for invitations for future work in *that* field.[65] Both are essential in plotting the experiences of SAR volunteers working in hostile political climates.

[63] F. Alagna & E. Cusumano, "Navigating the Law: Undocumented Migration to the European Union, Sea Rescue Organisations and Legal Mobilisation", *The International Spectator*, 61(2), 2026, 101–121, especially at 106–113.

[64] E. Lehoucq and W.K. Taylor, "Conceptualizing Legal Mobilization: How Should We Understand the Development of Legal Strategies?", *Law & Social Inquiry*, 45(1), 2020, 166–193, 168.

[65] See, for example, F. Alagna, "Pro-migrant Civil Society Organisations and the Law: Patterns of Legal Mobilisation at EU Borders", *International Migration Review*, 0(0), 1–18.

7. CONCLUSION AND IMPLICATIONS

The reluctant conformity to the law, narrated by SAR volunteers and rooted in the specific situations they find themselves in, is related to a characterisation of law as distinct, dispassionate, and purified. On this basis, law (particularly international law) is thought of as being aligned with the humanitarian imperative and, therefore, to be relied upon by those in need; this alignment underpins a general sense of faith in law. Our initial expectation was that participants would either adopt a much more cynical attitude to law in its totality or at least demonstrate an inclination to resistive and defiant behaviours in respect of state law in order to undertake their work. This was supplanted, broadly, by compliance. This conformity with uncomfortable and conflicting obligations was reluctant because it was felt necessary within an environment marked by state control of their work; it was felt that it gave them *some*, if not stable, access to the legal frameworks they deemed to align more closely with the moral imperative underpinning their work.

Whereas we had anticipated documenting an exploration of strategies that SAR volunteers and organisations employed in the adverse legal and bureaucratic environments they were working in, and an indication of the difficulties they were confronted with in doing so, our participants and data instead gave a markedly different picture of the challenges they faced. In addition to the emotional toll of the work they undertake, SAR volunteers also had to contend with dashed expectations of what the law is, how it works, and through whom it operates. Practically, this stemmed from the way in which states were considered to have failed to meet their legal obligations, with the stark differentiation being made between the ostensible goodness of law and the badness of state authorities tasked with conforming to it. Much of this can be attributed to the circumstances SAR volunteers find themselves in. For some, this evidently had an impact on their experiences and contributed, alongside acute shock at the sea rescue context in the Mediterranean, to an increased mental toll and burnout.

We appreciate that law is entangled in the process of creating these situations, but are also aware of the need to account for the faith that communities such as SAR workers place in a particular perception of what the law is and what the law does. A situational legal consciousness which is characterisable by an anchoring of behavioural expectations to a particular impression of the law which are not being met by state and European authorities in a time of crisis is a challenge that needs working through. On this basis, while legal education is not a panacea to social and political injustices faced by refugees and SAR workers, the role it may potentially play in supporting the continuing operations of SAR organisations cannot be ignored. That said, the confidence expressed by research participants in the value and benefits of legal education appears to conform to the narration of a legal consciousness that privileges (faith in) the law. Such resources should be mindful of this determined and situationally contingent legal consciousness narrative, and seek to emphasise to SAR workers the lack of dependability in a singular ideation of "the law" as a source of hope, in the face of multiple overlapping, competing, and fluctuating legal frameworks, thus contributing to closing the potentially harmful gap between expectations and experience.

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