

Human Rights at Sea

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- Why is it important to talk about human rights at sea?
- Do human rights at sea really exist?
- Case Studies: what is the impact of naval operations on human rights?
- What can we do to protect human rights at sea?

There are at least three developments that changed our understanding of maritime security and human rights at sea.

- 9/11 Attacks: arrests, prosecution, abandonment of seafarers
- Somali Piracy: the arrest, transfer, detention, and prosecution of pirates became one of the most challenging human rights issues of the 21st century.
- The Refugee Crisis in the Mediterranean Sea: the heart-breaking pictures of helpless people on board unseaworthy vessels and people drowning in the sea was a wake-up call for the international community.

Legal Challenges

- 1982 United Nations Convention on the Law of the Sea (UNCLOS): ‘the Constitution of the Oceans’
 - no reference to human rights
 - zonal approach/jurisdiction: Territorial Sea, Contiguous Zone, Exclusive Economic Zone, High Seas.
- International Human Rights Law:
 - states have to protect human rights within their jurisdiction, but states have no jurisdiction beyond the 24nm of their territorial sea and contiguous zone
 - emerging case-law that state agents operating at sea are still bound by the states’ international human rights obligations
- A need for an inter-regime approach

Practical Challenges

- Illegal activities on the high seas: human trafficking, smuggling of weapons and drugs, dumping of toxic waste, illegal, unreported and unregulated fishing (IUU), piracy
- Need for maritime enforcement on the high seas: jurisdiction problems
- Lack of monitoring and reporting
- Adverse weather conditions and unfriendly waters

Case Study 1: Migration at Sea

- The legal distinction between a ‘refugee’ and a ‘migrant’
- Maritime migration is not a new problem: European Jews, Vietnamese Boat People, Haitians
- More recent examples: the ‘*Tampa affair*’, the crisis in the Mediterranean Sea



The Response of States – Naval Operations

- Patrols
- Push-back operations
- Interdictions
- Rescue operations
- Detention on board vessels outside their territorial waters



The Impact of Naval Operations on Human Rights

- Patrols: right to life
- Push-back operations: right to life
- Interdictions: freedom from torture, right to a fair trial
- Rescue operations: death by rescue
- Detention: right to liberty, freedom from ill-treatment



Case Study 2: Piracy and Human Rights

- Piracy is as old as seamanship and navigation, and it takes place in the Gulf of Aden, West Africa, South China Sea and the Caribbean Sea.
- Models of Piracy: kidnap for ransom, petro-piracy, 'ghost ships'
- Modern pirates: more violent with military skills and heavy ammunition



The Response of States – Naval Operations

- Patrols
- Catch and Release
- Rescue operations
- Arrest and transfer to judicial authorities
- Pre-trial detention, trial and imprisonment

The Response of the Shipping Industry

- Private Armed Security Guards (PASGs)



The Impact of the Naval Operations on the Human Rights of Pirates

- Patrols - rescue operations: right to life
- Catch and release: right to life
- Arrest and transfer: right to liberty
- Pre-trial detention: right to liberty
- Trial: right to a fair trial
- Imprisonment: freedom from ill-treatment



The Impact of Piracy on the Human Rights of Seafarers

- Hostages suffer physical and psychological abuses including being punched, pushed, slapped, burned by cigarettes, tied up in the sun for hours, locked in freezers, and having fingernails pulled out with pliers. Other reported abuses included systematic isolation, deprivation of privacy, malnutrition and lack of drinkable water.
- Hostages have been in captivity for up to five years.

www.youtube.com/watch?v=QcNZsI6-J1I

www.youtube.com/watch?v=IJMDdT24_98



Case Study 2: Piracy and Human Rights

The Impact of the Naval Operations on the Human Rights of Seafarers:

- Rescue missions: right to life, ill-treatment

The Impact of the use of PASGs

- Exchange of fire: right to life
- Confrontation and abuse on board the vessels



What can we do to protect HR at sea?

- Naval Operations:

Assist people in distress, plan an operation accurately, use of force as a last resort, take all precautions to minimise loss of life, the primary aim of an operation should be the protection of human lives, medical assistance should be readily available

- PASGs:

Training, vetting, a clear legal framework

- In all cases, we need clear channels of communication, better monitoring and reporting mechanisms and more awareness.



What can we do to protect HR at sea?

- Human Rights at Sea <https://www.humanrightsatsea.org/>
 - UNODC Maritime Crime Programme
https://www.unodc.org/unodc/en/piracy/index_new.html
 - International Maritime Organisation
<http://www.imo.org/en/Pages/Default.aspx>
 - Human Rights Watch: <https://www.hrw.org/report/2018/01/23/hidden-chains/rights-abuses-and-forced-labor-thailands-fishing-industry>
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Thank you!
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