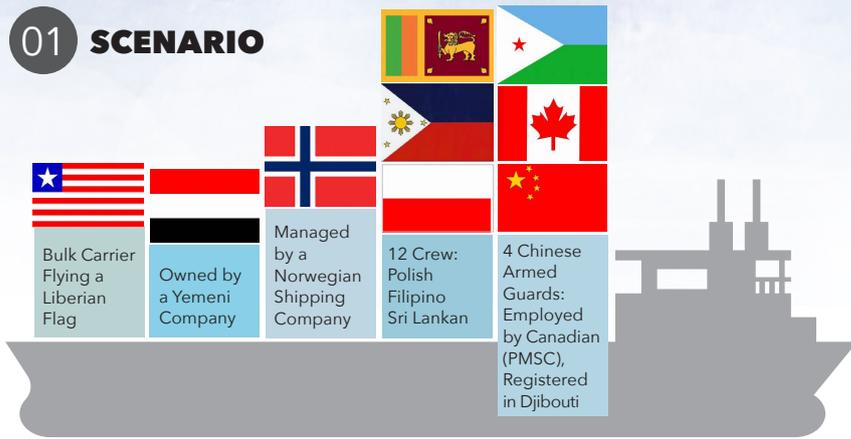


FLAG/COASTAL/PORT STATE JURISDICTION AND THE INTERPLAY WITH HUMAN RIGHTS

01 SCENARIO



03 VESSEL ROUTE MAP - PORTS



02 12 CREW

Polish | Filipino | Sri Lankan

4 ARMED GUARDS

Chinese Guards | Canadian Employers | Djibouti Registered

VESSEL PASSAGE ROUTE

SHANGHAI

SINGAPORE

BEIRUT

PIRAEUS

ROTTERDAM

04 PIRACY

Due to a spike in piracy and criminal activities in **South East Asia** & off the **Somali Coast**, the owners employ armed guards on the vessel.

05 FINANCIAL CHALLENGES

During the voyage the Yemeni Company faces financial difficulties which results in failing to pay the crew's salaries.

06 CREW TRY TO DISEMBARK

Two **Polish** & two **Filipino** members of the crew announce decision to disembark at the next port of call, **Singapore**, in search of alternative employment.

07 ARMED GUARDS

The Master unlawfully orders the armed guards to dissuade the crew from leaving.

08 ARMED GUARDS

A heated confrontation between the armed guards & the four crew members occurs. The armed guards threaten and physically assault the four crew.

09 ARMED GUARDS

The armed guards lock the four crew in a two-berth cabin without toilet facilities or proper ventilation & **temporarily deprive them of their liberty**.

10 SINGAPORE

The crew cannot disembark & sign off in **Singapore**. They remain on board.

11 FEARFUL CREW

In fear for their safety and losing their jobs, the remaining crew hide the incident, or their actions as instructed by the Master, to their **Canadian** employers.

The Master does not inform the owner or the ship-manager of the incidents.

The **Chinese** guards fail to report the incident, or their actions as instructed by the Master, to their **Canadian** employers.

12 FORCED WORK

For the rest of the voyage, the four crew are forced by the armed guards to undertake excessive work, while subject to beatings, as well as being locked in the two-berth cabin when not at work.

13 LACK OF WELFARE

The remainder of the crew provide fresh food, changes of clothing, reading materials, and tries to alert welfare organisations in respect of the four crew who have had their liberty temporarily deprived. Contact with welfare organisations are unsuccessful.

14 COMMUNICATION DENIED

Internet and satellite connections are deliberately restricted, otherwise closely monitored and vetted by the armed guards. Crew personal laptops and phones are confiscated on the orders of the Master.

15 VESSEL DETAINED

The **Indian Coastguard** with express **Liberian Flag** permission in the Indian Contiguous Zone (24 Nautical Miles off the coast) and due to unverified intelligence that the vessel may carry unregistered weapons to **Lebanon** - stops, searches and **temporarily detains the vessel at sea**.

16 WEAPON DATA

Personal Weapons of the Chinese armed guards:

- a) lawfully purchased in **Canada**;
- b) shipped and registered to **Djibouti** before transfer to the **Shanghai** office.

17 LICENSES WITHHELD

All relevant end-user licenses and certifications are lawfully held by the **Chinese** security contractors.

18 ABUSED CREW DISCOVERED

Abused crew are located and identified on board during the search by the Indian Coastguard, but no action is taken.

19 VESSEL RELEASED

The vessel is released as no unregistered weapons, ammunition, other illegal materials are found during the search.

20 GREEK PORT INSPECTION

At Piraeus Port during the vessel inspection, **Greek port authorities**:

- a) become indirectly aware of the crew's suffering;
- b) decide not to investigate further as the vessel was otherwise in compliance with the requisite safety, security and environmental standards;
- c) note that the weapons are lawfully held in the vessel's armory.

21 SUPPRESSION

The crew's health, state of well-being & the deprivation of liberty conditions on-board remains suppressed.

22 CREW MEMBER KILLED

A **Polish crew member** is killed by a **Chinese guard** with a weapon removed from the ship's armory after the eruption of violence on board, before the vessel's arrival at **Rotterdam** in the **English Channel**.

23 INCIDENT REPORTED

The incident is reported to the **Dutch Port** and **Polish State authorities**.

24 CRIMINAL CASE OPENS

Dutch port and **Polish State authorities** respectively open criminal investigations to which the **Liberian Flag** initially objects over jurisdiction.

WEAPON DATA

Personal Weapons of the Chinese Security Contractors.



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25 JURISDICTIONAL CONSIDERATIONS

This **hypothetical scenario** illustrates the complex jurisdictional framework upon which the regulation of activities at sea is based and the queries raised in the circumstances presented. More importantly, it gives an example of the potential for violations of human rights that could take place at sea away from immediate constabulary intervention, and raises the challenging question of which State can exercise jurisdiction over a vessel for the purposes of effectively protecting the human rights of persons on board vessels.

26 STATES AND TERRITORIAL WATERS INVOLVED



27 ISSUES RAISED

A

What are the obligations of all 198 flag States when human rights violations take place on board vessels flying their flags?

B

What are the obligations of coastal States / archipelagic states in relation to persons subjected to human rights violations on board vessels navigating or operating within their territorial seas or contiguous zones?

C

Can a flag State exercise prescriptive and /or enforcement jurisdiction on board these vessels?

D

Do the obligations differ when vessels carrying persons whose human rights are being violated enter a port in distress? Can port States exercise jurisdiction over vessels that carry, or employ persons who are, or have been subjected to human rights violations?

E

What are the obligations of port States in relation to persons subjected to human rights violations on board vessels that voluntarily enter their ports?



HUMAN RIGHTS AT SEA

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