SCENARIO

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

At Piraeus Port and during the inspection of the vessel the Greek port authorities
a) became aware of the crew’s suffering
b) decided not to investigate further, as the vessel was in compliance with the requisite safety, security and environmental standards
c) the weapons are lawfully held on the vessel in a locked armoury

CREW TRY TO DISEMBARK

2 Polish & 2 Filipino members of the crew announce their decision to disembark at the next port of call, Singapore in search of alternative employment.

COMMUNICATION DENIED

However, internet and satellite connections are deliberately restricted closely monitored and vetted by armed guards. Personal laptops and phones are confiscated on the orders of the Master.

CREW SUPPRESSION

Crew’s state and conditions on-board remain suppressed.

WEAPON DATA


a) originally purchased in Canada
b) shipped and registered to Djibouti before their transfer to Shanghai office

Chinese contractors hold all relevant end-user licences and certification.

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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 raising 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?