



Maritime Law in Times of War: Between the Rules of Navigation and the Requirements of Armed Conflict

The sea and the oceans constitute one of the principal areas where economic, political and security interests of States intersect. Seas are no longer merely geographical spaces separating States; they have become vital areas for international trade, energy transportation, fishing, maritime tourism, exploitation of natural resources, as well as strategic spaces for military and security operations.

This reality makes it necessary to distinguish between two closely related but legally different concepts: the Law of the Sea and Maritime Law.

The Law of the Sea may broadly be defined as the body of positive legal rules and international customs governing seas and oceans as an economic, political and military space between States. It therefore regulates the relationship of States with maritime spaces, determines maritime zones and the rights and obligations of States, and addresses international navigation, resource exploitation, protection of the marine environment, and security and military issues relating to the sea.

Maritime Law, on the other hand, essentially refers to the body of positive legal rules governing human activities at sea, including maritime transport and trade, fishing, pleasure boating, operation of ships, carrier liability, marine insurance, and the legal relationships between the various actors involved in maritime activities.

This distinction gives particular importance to the study of Maritime Law in times of war, because civilian maritime activity does not necessarily cease when an armed conflict begins. It continues under exceptional circumstances that create new restrictions, risks and legal obligations.

The fundamental question is therefore: how do the rules of Maritime Law apply to civilian maritime activities when the sea becomes a theatre of armed conflict, and to what extent can freedom of navigation be reconciled with military requirements?

I. The Sea as a Civilian Space and a Theatre of Military Operations

The maritime environment has a particular characteristic: civilian and military activities may coexist in the same geographical area. Commercial vessels, fishing vessels, pleasure craft and warships may operate within the same maritime space.

Under normal circumstances, civilian maritime activities are governed by the legal rules applicable to maritime transport, trade, fishing, maritime tourism and other activities. The outbreak of war, however, radically changes the legal and security environment in which these activities take place. Commercial shipping routes may become exposed to attacks; vessels may be intercepted or searched; exclusion or prohibited zones may be established; and ports and maritime installations may become subject to military operations. This is where Maritime Law, the Law of the Sea and International Humanitarian Law intersect.



Maritime Law does not disappear during wartime. It continues to regulate civilian maritime relations and activities, while those activities are simultaneously subject to the restrictions imposed by the law governing armed conflict.

II. Commercial Ships in Times of War

Commercial vessels occupy a central position in the international maritime system because they constitute one of the principal instruments of global trade.

The outbreak of war does not, by itself, transform every commercial vessel into a legitimate military target. As a general principle of International Humanitarian Law, civilian objects are protected from attack unless and for such time as they qualify as military objectives under the applicable legal rules.

The legal status of a commercial vessel during an armed conflict must therefore be assessed by examining its actual use and activities.

A vessel transporting ordinary civilian goods is legally different from a vessel used to transport troops, weapons or military equipment, or to provide direct support to military operations.

This distinction is fundamental. The mere fact that a vessel flies the flag of a State involved in an armed conflict does not, in itself, automatically make that vessel a lawful military target.

III. Naval Blockade and Freedom of Navigation

A naval blockade represents one of the most sensitive instruments of naval warfare.

A belligerent State may seek to prevent vessels from entering or leaving a particular port or maritime area controlled by the opposing side in order to achieve a specific military objective.

However, the imposition of a blockade does not give the blockading State unlimited authority over the sea. Its implementation remains subject to the rules governing naval warfare, including the principles of distinction, proportionality and precautions in attack. The situation becomes particularly complex where a blockade affects commercial vessels belonging to neutral States or prevents the delivery of essential goods to civilian populations.

This illustrates the tension between the military interests of a belligerent State and the need to preserve international navigation and protect civilians.

IV. Interception and Inspection of Ships

Wartime conditions may require commercial vessels to undergo procedures aimed at verifying their identity, cargo and destination.

Such measures may be intended to determine whether a vessel is transporting weapons or military equipment to a party to the conflict, or to verify compliance with a naval blockade. However, the exercise of visit, interception and inspection powers must remain within the limits imposed by international law. They cannot simply be transformed into arbitrary



mechanisms for disrupting commercial navigation or interfering with the rights of neutral States.

This issue becomes particularly important in international maritime corridors, where vessels flying different flags and serving different commercial interests operate alongside one another.

V. The Strait of Hormuz: A Contemporary Case Study

The Strait of Hormuz provides a particularly important example of the legal complexity surrounding maritime navigation during armed conflict.

The Strait is not merely a geographical maritime passage. It is a vital artery for international trade and energy transportation. Any serious disruption to navigation through the Strait may therefore have consequences extending far beyond the States of the region and affecting the global economy.

From a legal perspective, military operations or threats in and around the Strait raise several questions concerning freedom of navigation, the status of commercial vessels, the rights of coastal States, the rights of neutral States, and the legality of intercepting, inspecting or preventing vessels from passing through the Strait.

The existence of an armed conflict does not automatically eliminate all legal rules governing international navigation. The legality of any measure directed against a commercial vessel must be assessed by examining the nature of the conflict, the status of the vessel, the nature of its activities, the purpose of the measure and its compatibility with the applicable rules of International Humanitarian Law and the Law of the Sea.

The Strait of Hormuz therefore illustrates a fundamental reality: maritime security has become inseparable from international economic and political security.

Any serious threat to navigation through this corridor may lead to increased marine insurance costs, changes in shipping routes, higher transportation and energy costs, and disruption of global supply chains.

A conflict geographically limited to a particular maritime region can therefore produce legal, economic and strategic consequences on a global scale.

VI. Protection of Persons and Civilian Navigation

Protection during armed conflict does not concern vessels alone. It also extends to persons on board.

The wounded, shipwrecked and persons hors de combat are protected under International Humanitarian Law, while hospital ships enjoy a specific legal status when the applicable conditions are fulfilled.

The protection of civilian seafarers is particularly important because they perform professional activities that do not necessarily involve participation in hostilities.

Consequently, the mere existence of a state of war cannot, by itself, justify attacks against civilian vessels or persons. Each situation must be assessed according to the applicable



rules governing the conduct of hostilities.

Conclusion

The study of Maritime Law in times of war reveals the particular nature of the maritime environment, where civilian and economic interests coexist with political, military and security considerations.

In peacetime, the sea is a space for transport, trade, fishing, recreation and resource exploitation. During armed conflict, however, it may become a theatre of military operations without necessarily losing its civilian and economic functions.

This makes the distinction between the Law of the Sea, understood as the body of positive legal rules and international customs governing seas and oceans as an economic, political and military space between States, and Maritime Law, understood as the body of positive legal rules governing human activities at sea, particularly important.

During wartime, these two legal fields interact with International Humanitarian Law.

Commercial navigation may therefore be subject to exceptional restrictions without this meaning that the legal protection afforded to civilian vessels and persons is automatically abolished.

The fundamental challenge remains to maintain a balance between the necessities of military operations on the one hand, and the continuity of maritime navigation, the protection of civilian activities and the safety of persons on the other.

The Strait of Hormuz is one of the clearest contemporary examples of this challenge. It demonstrates that the security of maritime routes cannot be separated from international law or from the functioning of the global economy.

Ultimately, respect for the legal rules governing the sea, particularly during armed conflicts, is not merely a legal obligation imposed upon belligerent States. It is also an essential condition for maintaining maritime security, protecting international trade and preserving the rule of law at sea.

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