

Is the duty to render assistance at sea
absolute?

A shipmaster's perspective

Malta Maritime Law Association Seminar:
Irregular Migration and its impact on
International Shipping



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Introduction: The Duty to Render Assistance at Sea

- The duty to render assistance at sea is one of the most long established international maritime rules.
- The duty has its origins in the moral obligation to protect and save life at sea.
- Mass illegal migration by sea has caused a major humanitarian problem and has placed considerable pressures on those who have to render assistance at sea.



Two basic questions

- 1) Who is the subject of this duty?
- 2) Is this duty absolute?



The Duty to Render Assistance at Sea under the 1982 United Nation Convention on the Law of Sea

Article 98

Duty to render assistance

1. Every State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers:

(a) to render assistance to any person found at sea in danger of being lost;

(b) to proceed with all possible speed to the rescue of persons in distress, if informed of their need of assistance, in so far as such action may reasonably be expected of him;

(c) after a collision, to render assistance to the other ship, its crew and its passengers and, where possible, to inform the other ship of the name of his own ship, its port of registry and the nearest port at which it will call.

2. Every coastal State shall promote the establishment, operation and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and, where circumstances so require, by way of mutual regional arrangements cooperate with neighbouring States for this purpose.



Contemporary Challenges and Difficulties for the Shipmaster when Rendering Assistance at Sea





Case Study: The *MV Tampa* incident

The *Zeran* Footage



Challenges and Difficulties for the Shipmaster when rendering assistance at sea

1. The magnitude of the problem of mass illegal migration by sea.



2. Reluctance of coastal States to take in rescued persons



3. Safety and security concerns relating to:

- The crew and passengers
- The rescued migrants themselves
- The vessel and its cargo



4. Commercial considerations underlying a migrant rescue operation



5. Humanitarian and Human Rights ramifications



The Shipmaster



Captain Joshua Peris Bhatt



Migrants brought onboard the CS Caprice

Thank you for your attention!

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