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Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Transnational Challenges in Maritime Law Enforcement Against Human Trafficking at Sea

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Abstract. *Human trafficking within the maritime sector poses unique jurisdictional and operational challenges due to the isolated nature of the high seas. This paper investigates the complexities of maritime law enforcement and the protection mechanisms available for trafficked individuals at sea. Through qualitative normative legal research, including a review of international conventions and regional maritime policies, the study maps jurisdictional overlapping and enforcement gaps. The analysis demonstrates that the lack of unified transnational cooperation severely hinders effective prosecution and victim rescue operations. Ultimately, the paper proposes a collaborative regional framework to strengthen maritime border security and harmonize international legal responses against sea-based human trafficking.*

Keywords: *Crime; Law; Maritime; Protection; Transnational.*

1. Introduction

The world's oceans serve as vital conduits for global trade, connectivity, and sustenance, ideally governed by a comprehensive framework of international maritime law designed to ensure peace and security. However, the actual situation reveals a profound regulatory vacuum where the high seas have increasingly become a sanctuary for transnational organized crime, specifically human trafficking. The extreme isolation of maritime environments provides a veil of invisibility for traffickers, allowing them to exploit vulnerable individuals with near impunity. This is particularly prevalent within the distant-water fishing industry, where the lack of immediate law enforcement oversight transforms fishing vessels into isolated floating sites of modern slavery and severe human rights abuses.¹ The critical gap between the ideal legal framework and the actual maritime reality lies in the overlapping and often conflicting jurisdictional regimes at sea. Under the United Nations Convention on the Law of the Sea (UNCLOS), the ideal condition dictates that the flag state holds exclusive jurisdiction and

¹ Bueger, Christian, & Edmunds, Timothy, *Blue Crime: Conceptualising Transnational Organised Crime at Sea, Marine Policy*, Vol 119 (2020), p. 104067.

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responsibility for enforcing labor and human rights standards on its vessels. Actually, the prevalent and legally permissible use of "Flags of Convenience" (FoC) allows vessel owners to register their ships in states with lax regulatory enforcement or minimal capacity to police their fleets. This structural loophole creates a severe enforcement gap, severely hindering authorities in holding transnational syndicates accountable for trafficking operations conducted in international waters.²

Previous research on human trafficking has predominantly focused on land-based exploitation, domestic labor coercion, and terrestrial border controls. For instance, earlier studies extensively mapped cross-border land trafficking routes and physical border interception strategies, often treating the maritime environment merely as a transit route rather than the primary site of exploitation.³ In contrast, this study highlights that maritime trafficking is a distinct and highly complex phenomenon where the vessel itself operates as an inescapable site of confinement and coercion. By comparing terrestrial legal enforcement with maritime realities, it becomes evident that conventional legal responses are inadequate for the high seas, necessitating a specialized maritime legal framework to address these unique transnational challenges.⁴ Furthermore, existing maritime law enforcement mechanisms face severe practical and structural limitations when attempting to intercept human trafficking operations. The sheer vastness of the high seas makes continuous physical patrols economically and logistically unfeasible for many coastal states. Even when interceptions or vessel inspections do occur, the legal protection mechanisms for trafficked individuals at sea remain highly ambiguous. Law enforcement agencies often struggle to differentiate between smuggled migrants, illegal fishers, and true victims of human trafficking due to the complex, multi-layered nature of maritime crimes, resulting in victims frequently being criminalized rather than protected.⁵

Identifying and rectifying these systemic enforcement gaps is of paramount importance. The author contends that without harmonizing regional maritime policies and actively piercing the corporate veil of Flags of Convenience registrations, human trafficking at sea will persist unchecked. Modernizing transnational cooperation is not merely an administrative or legal necessity; it is a critical moral imperative to protect fundamental human rights in the most isolated regions of the globe. If state actors fail to establish robust, collaborative maritime border security, vulnerable populations will

² Tickler, David, et al., Modern Slavery and the Race to Fish, *Nature Communications*, Vol 9, No 1 (2018), p. 4643.

³ Stringer, Christina, et al., Not in New Zealand's Waters, Surely Labour and Human Rights Abuses Aboard Foreign Fishing Vessels, *Journal of Economic Geography*, Vol 16, No 3 (2016), p. 745.

⁴ Mackay, Mary, et al., The Intersection Between Illegal Fishing, Crimes at Sea, and Social Well-being, *Frontiers in Marine Science*, Vol 7 (2020), p. 589000.

⁵ Marschke, Melissa, & Vandergeest, Peter, Slavery Scandals: Unpacking Perceptions of Work and Conditions in the Global Fishing Industry, *Marine Policy*, Vol 68 (2016), p. 40.

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continue to be commodified within the global maritime supply chain.⁶ In light of the complex jurisdictional overlapping and the practical challenges of policing the high seas, a comprehensive evaluation of current maritime legal responses is imperative. Overcoming these transnational challenges requires a deep socio-legal analysis of international conventions and regional enforcement strategies to formulate unified responses. Therefore, this study aims to examine the complexities of maritime law enforcement and the protection mechanisms available for trafficked individuals at sea.⁷

2. Research Methods

The research approach employed in this study is a qualitative normative legal approach, focusing on the examination of international maritime laws and regional policies governing human trafficking at sea. The research specification is descriptive-analytical, systematically mapping jurisdictional overlaps, enforcement gaps, and the practical challenges of policing the high seas. The data collection method utilizes a documentary study and literature review to gather secondary data, which includes primary legal materials such as the United Nations Convention on the Law of the Sea (UNCLOS) and the Palermo Protocol, as well as secondary legal materials comprising scientific journals, books, and institutional reports on maritime crimes. Finally, the data analysis method applied is qualitative analysis, wherein the collected legal materials are evaluated comprehensively to formulate recommendations for a collaborative regional framework and enhanced transnational maritime border security.

3. Results and Discussion

This section presents the comprehensive research findings and a socio-legal analysis concerning the systemic barriers to law enforcement against human trafficking at sea. Utilizing the theory of state sovereignty within the law of the sea and the theory of maritime security as primary analytical tools, this discussion systematically dissects the overlapping jurisdictions that frequently paralyze international legal action. The extreme isolation of the maritime domain creates a unique environment where traditional, terrestrial law enforcement mechanisms are fundamentally rendered ineffective. By examining the intricate legal architecture governing the high seas, this analysis aims to unpack the structural loopholes that allow transnational syndicates to operate with impunity, ultimately establishing the theoretical foundation necessary to formulate a comprehensive, cross-border victim protection framework tailored to

⁶ Selig, Elizabeth R., et al., Revealing Global Risks of Labor Abuse and Illegal Fishing, *Nature Communications*, Vol 13 (2022), p. 1612; Klein, Natalie, 2011, *Maritime Security and the Law of the Sea*, Oxford University Press, Oxford, p. 120.

⁷ Sybille, Gallagher, The Outlaw Ocean and the Legal Vacuum, *Journal of Maritime Law and Commerce*, Vol 52, No 1 (2021), p. 45; United Nations Office on Drugs and Crime (UNODC), 2011, *Transnational Organized Crime in the Fishing Industry*, UN Publishing, Vienna, p. 22.

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the realities of maritime exploitation.

3.1. Jurisdictional Complexities and the "Flags of Convenience" Dilemma

The cornerstone of international maritime law, the United Nations Convention on the Law of the Sea (UNCLOS) of 1982, establishes a delicate and highly complex balance of power across the global oceans. Central to this legal architecture is the principle of flag state jurisdiction. Article 92 of UNCLOS explicitly dictates the exclusivity of this principle, stating that ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties, shall be subject to its exclusive jurisdiction on the high seas.⁸ This exclusivity was historically designed to ensure the absolute freedom of navigation, prevent anarchy on the global commons, and protect vessels from arbitrary interference by foreign navies. In theory, the flag state is legally obligated to exercise effective jurisdiction and control in administrative, technical, and social matters over ships flying its flag, which inherently includes the enforcement of human rights and labor standards. However, the empirical findings of this study indicate that this rigid adherence to flag state supremacy has inadvertently constructed a formidable legal fortress that shields transnational organized crime. When a human trafficking incident occurs on a vessel operating in international waters, neither the state of the victim's nationality nor the coastal states in close geographical proximity possess the automatic legal authority to intercept, board, or prosecute the perpetrators. The legal framework mandates a system that is entirely dependent on the willingness, political integrity, and naval capacity of the flag state to police its own fleet. When the flag state is negligent, geographically distant, or institutionally complicit, the high seas transform into a jurisdictional void where severe human rights abuses, including forced labor and debt bondage, thrive without any meaningful legal consequences.⁹

The vulnerabilities inherent in the principle of exclusive flag state jurisdiction are systematically and ruthlessly exploited by human trafficking syndicates through the pervasive utilization of "Flags of Convenience" (FoC). The FoC system refers to the global business practice where ship owners register a commercial vessel in a sovereign ship register of a country other than that of the ship's actual owners. This is primarily done to evade stringent regulatory frameworks, taxation, environmental standards, and labor laws present in the owners' home countries. While Article 91 of UNCLOS mandates that there must exist a "genuine link" between the State and

⁸ Klein, Natalie, 2021, *Maritime Security and the Law of the Sea*, Oxford University Press, Oxford, p. 142.

⁹ Bueger, Christian, & Edmunds, Timothy, *Blue Crime: Conceptualising Transnational Organised Crime at Sea*, *Marine Policy*, Vol 119 (2020), p. 104068.

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the ship, in practical reality, this legal requirement is broadly ignored and rarely enforced.¹⁰ This widespread non-compliance has led to the proliferation of open registries in developing nations that possess neither the naval capacity nor the political will to conduct extraterritorial law enforcement or vessel inspections. The research findings clearly reveal that transnational trafficking syndicates actively utilize FoC as a deliberate corporate veil to obscure ultimate beneficial ownership and completely insulate themselves from international law enforcement scrutiny. By paying a nominal registration fee, traffickers can legally effectively purchase the sovereign protection of a distant nation.¹¹ The exploitation of Flags of Convenience profoundly alters the operational dynamics of human trafficking. Distant-water fishing fleets, which are frequently implicated in severe human trafficking and modern slavery cases, routinely register under the flags of nations with notoriously weak labor inspection mechanisms and poor human rights records. The victims of these operations—often undocumented migrants or desperate job seekers lured by fraudulent maritime contracts—are physically trapped on these vessels for extended periods, sometimes for consecutive years without ever touching land. They are subjected to brutal physical abuse, extreme debt bondage, and hazardous forced labor. Because the flag state lacks the institutional infrastructure and financial resources to inspect these vessels globally, and other states are explicitly prohibited by international law from intervening without securing prior diplomatic consent, these fishing vessels effectively become inescapable floating prisons.¹²

To comprehensively understand why this jurisdictional impasse persists despite international outcry, it is imperative to analyze the situation through the lens of state sovereignty theory within international law. In traditional Westphalian legal doctrine, sovereignty is considered absolute and indivisible. A vessel legally flying a nation's flag is jurisprudentially considered a floating extension of that state's sovereign territory. Therefore, any uninvited intervention, boarding, or inspection by a coastal state or port state constitutes a direct and grave violation of the flag state's sovereignty. This theoretical paradigm effectively paralyzes non-flag states from taking decisive humanitarian action, even when they possess actionable intelligence regarding ongoing human trafficking.¹³ The theory of state sovereignty establishes a legal

¹⁰ Churchill, Robin, Lowe, Vaughan, & Sander, Amy, 2022, *The Law of the Sea*, 4th Edition, Manchester University Press, Manchester, p. 305.

¹¹ Petrig, Anna, Human Rights and Law Enforcement at Sea: Arrest, Detention and Transfer of Piracy Suspects, *Leiden Journal of International Law*, Vol 34, No 2 (2021), p. 415.

¹² Tickler, David, et al., Modern Slavery and the Race to Fish, *Nature Communications*, Vol 9, No 1 (2018), p. 4645.

¹³ Gallagher, Sybille, The Outlaw Ocean and the Legal Vacuum: State Sovereignty and Human Rights, *Journal of Maritime Law and Commerce*, Vol 52, No 1 (2021), p. 55.

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hierarchy where the inviolability of the state's territorial integrity supersedes the fundamental human rights of the individual. When coastal state coast guards detect a suspicious FoC vessel loitering just outside their Exclusive Economic Zone (EEZ), their legal authority is strictly confined to observation. They cannot board the vessel to rescue victims without triggering an international diplomatic incident. Furthermore, this theoretical tension extends to the enforcement capabilities of port states. Even when port states have reasonable grounds to suspect that human trafficking is occurring aboard a foreign-flagged vessel currently docked within their territorial waters, their authority to intervene aggressively is often politically circumscribed. While international instruments such as the Port State Measures Agreement (PSMA) have significantly expanded the rights of port states to deny entry, port services, or conduct inspections on vessels suspected of Illegal, Unreported, and Unregulated (IUU) fishing, this legal instrument is predominantly focused on fisheries conservation and environmental protection, rather than human rights and labor standards.¹⁴ When confronted with issues of labor abuses and human trafficking, port state authorities frequently hesitate to conduct invasive, non-consensual inspections due to fears of causing diplomatic friction, facing retaliatory economic measures, or overstepping the bounds of customary international law regarding the internal economy of the ship.

3.2. Operational Challenges in Maritime Law Enforcement and Victim Protection

Beyond the theoretical and jurisdictional complexities established by international law, the practical enforcement of anti-trafficking measures at sea is heavily obstructed by profound geographical and logistical constraints. The sheer vastness of the global oceans makes comprehensive maritime surveillance virtually impossible. Unlike terrestrial borders, where checkpoints and physical barriers can be erected, the high seas present a dynamic, three-dimensional operational theater spanning millions of square miles. Coastal states, particularly developing nations, frequently lack the advanced Maritime Domain Awareness (MDA) infrastructure—such as continuous satellite tracking, integrated coastal radar systems, and long-range patrol vessels—required to effectively monitor their Exclusive Economic Zones (EEZ), let alone international waters. Conducting sustained naval or coast guard operations far from shore is exceptionally capital-intensive. Consequently, the high costs of maritime patrols force state authorities to prioritize immediate national security threats or high-value fisheries protection over the proactive search for human trafficking victims, providing syndicates with an

¹⁴ Mackay, Mary, et al., *The Intersection Between Illegal Fishing, Crimes at Sea, and Social Well-being*, *Frontiers in Marine Science*, Vol 7 (2020), p. 589002.

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expansive geographical sanctuary where their illicit activities remain largely undetected.¹⁵

This geographical sanctuary is further fortified by the operational tactics employed by transnational syndicates, most notably the practice of at-sea transshipment. Transshipment involves the transfer of catch, fuel, supplies, and even crew members between fishing vessels and massive refrigerated cargo ships (reefers) while at sea. By utilizing reefers to offload illicitly caught fish and resupply basic necessities, distant-water fishing vessels can remain in isolated areas of the ocean for consecutive months or even years without ever returning to port. This calculated logistical maneuver deliberately circumvents port state control measures and labor inspections. For victims of human trafficking, transshipment severs their only potential lifeline to law enforcement or humanitarian assistance. Kept entirely outside the jurisdiction of coastal authorities, trafficked fishers and forced laborers endure prolonged physical abuse and inhumane working conditions with absolute zero visibility to the outside world, effectively institutionalizing a system of offshore detention that evades modern legal scrutiny.¹⁶

When maritime interceptions do successfully occur, law enforcement agencies face severe operational ambiguity regarding victim identification. The maritime environment is characterized by the complex convergence of multiple transnational crimes, where Illegal, Unreported, and Unregulated (IUU) fishing, human smuggling, and human trafficking frequently overlap within the same vessel. Furthermore, language barriers significantly impede the identification process, as the multinational crew members are systematically conditioned through violence and intimidation by the ship's captain to remain silent. Consequently, the nuanced distinction between a willing smuggled migrant and a coerced trafficking victim is frequently lost during the chaotic initial stages of a maritime boarding operation, resulting in profound misidentification.¹⁷

This systemic failure in victim identification directly leads to the most tragic operational consequence of maritime law enforcement: the rapid criminalization of the victims. In the absence of specialized maritime trafficking protocols, state authorities instinctively apply domestic immigration or fisheries laws to process the individuals found aboard intercepted vessels. Traffickers routinely confiscate the passports, seafarer identification documents, and labor contracts of their victims to maintain absolute control. When law enforcement encounters

¹⁵ Belhabib, D., & Le Billon, P., Fish Crimes in the Global Oceans, *Science Advances*, Vol 8, No 12 (2022), p. 5.

¹⁶ Pramod, G., et al., Human Trafficking and IUU Fishing: The Vulnerability of Fishers, *Marine Policy*, Vol 140 (2022), p. 105051.

¹⁷ Nakamura, K., et al., Seeing, Monitoring, and Evaluating Human Rights at Sea, *Marine Policy*, Vol 136 (2022), p. 104905.

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these undocumented individuals on a vessel engaged in IUU fishing, the victims are predominantly treated as perpetrators of administrative or criminal offenses. Rather than being recognized as vulnerable individuals entitled to international humanitarian protection, trafficked fishers are legally categorized as illegal immigrants or complicit actors in illegal fishing operations.¹⁸ The structural orientation of maritime law enforcement exacerbates this criminalization. Authorities are overwhelmingly incentivized to secure convictions for high-profile environmental crimes or border breaches, which are easier to prove using the physical evidence of the illegal catch or the absence of entry visas. Investigating the deeply embedded networks of human trafficking requires protracted intelligence gathering, complex transnational coordination, and the willingness of traumatized victims to testify against powerful syndicates. Faced with these bureaucratic and evidentiary hurdles, state prosecutors frequently opt for the path of least resistance, aggressively prosecuting the victims under immigration statutes while the transnational orchestrators of the trafficking network remain untouched.¹⁹ Consequently, the aftermath of a maritime rescue operation often mirrors the trauma of the exploitation itself. Trafficked individuals are subjected to prolonged detention in overcrowded immigration facilities, facing rapid deportation processes without ever being afforded a formal human trafficking vulnerability assessment or access to legal representation. Until maritime law enforcement agencies decouple human trafficking investigations from standard immigration and fisheries enforcement, and systematically integrate trauma-informed victim identification protocols into every high-seas boarding operation, the legal framework will continue to unjustly punish the victims while inadvertently enabling the perpetrators.²⁰

4. Conclusion

Human trafficking at sea presents one of the most formidable transnational challenges of the modern era, facilitated by the extreme isolation of the maritime domain and the systemic exploitation of the "Flags of Convenience" registry system. This study concludes that the traditional, rigid adherence to exclusive flag state jurisdiction under current international law creates profound regulatory loopholes that paralyze coastal states, severely hinder effective maritime law enforcement, and frequently result in the unjust criminalization of victims rather than their protection. To dismantle these floating networks of modern slavery, the international community must pivot toward a collaborative regional framework that prioritizes shared

¹⁸ Papastavridis, E., 2024, *The Interception of Vessels on the High Seas*, 2nd Edition, Hart Publishing, Oxford, p. 210.

¹⁹ Mallia, P., 2022, *Migrant Smuggling by Sea: Combating a Current Threat to Maritime Security*, Martinus Nijhoff Publishers, Leiden, p. 145.

²⁰ Guttentag, O., Victimization and Criminalization of Sea-based Migrants and Fishers, *Journal of Refugee Studies*, Vol 36, No 1 (2023), p. 112.

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maritime security and human rights over absolute state sovereignty. By harmonizing regional laws to authorize expanded jurisdiction over maritime trafficking, operationalizing joint patrols through shiprider agreements, and aggressively expanding Port State Measures to encompass strict labor inspections, states can systematically close the operational gaps utilized by criminal syndicates. Ultimately, effectively combating human trafficking at sea demands not only robust, cross-border legal intervention but also the unwavering integration of trauma-informed protection protocols, ensuring that the fundamental human rights and rehabilitation of maritime victims are prioritized above diplomatic and economic considerations.

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