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**ILO STANDARDS VERSUS THE LAW OF ARMED CONFLICT: IDENTIFYING
THE AREAS THAT HAMPER THE MARITIME LABOUR RIGHTS DURING
WARTIME AT THE STRAIT OF HORMUZ.**

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ABSTRACT

The 2026 Persian Gulf War, involving the most powerful nations on earth, has led to a grave threat to world peace in general and, in particular, a threat to the thousands of seafarers who are stuck in the Strait of Hormuz. This scholarly work focuses on the provisions and implementation challenges of the Maritime Labour Convention and UNCLOS, which bestows upon the mariners their right to refuse employment and safe return to their home during wartime. However, many nations failed to perform their international obligations towards the rescue of victims during the 2026 war. This brief study shows a gap between exercising the seafarers' rights and the non-implementation of international standards by the nations. This study focuses more on the principle of distinction, the principle of due regard, and timely rescue operations at sea. Thus, the protection of global oil trade and its workers can only be realised if the State parties acknowledge the seafarer's rights under the lens of human rights rather than State-centric privileged legal obligation.

Keywords: Persian Gulf War; Maritime Labour Convention; UNCLOS; seafarer's rights.

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INTRODUCTION

Due to the US-Israel-Iran war which began on 28 February 2026 hesitate to embrace peace and continues to date severely impaired the maritime life. The US, Israel, and Iran nations are considered to be belligerents in this 2026 war. It became a threat to world peace and also seems to pave the way to World War III if the nations are constantly lacking tolerance and acceptance. To briefly explain about the origin of this war, it is a combined military attack by the USA and Israel against Iran in particular on Tehran and other vital zones. Iran, in return, started attacking the oil and other economic infrastructures and US military bases situated in the nearby gulf countries and also made a rhythmic missile and drone attack on the cities of Israel. Resultantly, Iran closed the Strait of Hormuz, a seawater route known for its 1/3rd of the crude oil and liquified natural gas (LNG) meeting the global supply chain.² The implications of the closure of Hormuz Strait directly hit the livelihood of more than 1.2 million seafarers who occupy

this sea route. The geopolitical situations not only impair their labour rights but also their physical safety. In this 2026 war situation, the seafarers' rights are governed by the law of naval warfare and the Maritime Labour Convention-2006, especially the oil transportation personnel face the highest risks.³ The subject matter of this legal article is the sufferings of the seafarers during emergencies, which hampers their legal protection available under the MLC and the UNCLOS.

MARITIME WORKERS: RIGHTS ARE AT STAKE

The MLC is the consolidation of many smaller international agreements into a single and effective treaty. It is codified to protect the rights of ships and of the seafarers.⁴ But the present US-Israel-Iran 2026 conflict has placed significant stress on this treaty framework, revealing gaps of how difficult it is to enforce and protect the labour standards during warfare.⁵ The major issue faced by the seafarers is their safe return to their homes. Under

² Susan M. Akram, Charles W. Dunne, et.al., "The US-Israel War on Iran: Analyses and Perspectives", *Arab Center Washington DC*, Mar. 2, 2026, available at: <https://arabcenterdc.org/resource/the-us-israel-war-on-iran-analyses-and-perspectives/> (last visited on March 30, 2026).

³ International Labour Organization, *Final report: Fifth meeting of the Special Tripartite Committee established under Article XIII of the Maritime*

Labour Convention, 2006, as amended, STCMLC/2025 (May 2025), p.no.7.

⁴ The Maritime Labour Convention, 2006, Preamble, p.no.1.

⁵ Asghar Khan and Nouman Ali, "Seafarer Rights in International Maritime Law: Enforcement Gaps and Comparative Institutional Effectiveness" *09 International Journal of Social Science and Human Research* 1634 (2026), p.no.1635.

Regulation 2.5 of the MLC, the seafarers are entitled to be sent back to their respective homes safely at the cost of their employers, who are currently stuck in the Persian Gulf and its vicinity.⁶ Generally, the seafarers have the right to refuse work when their employment contracts expire, and they can also refuse to work on a ship voyaging to a war zone, as stipulated by the MLC.⁷ Theoretically speaking, it will stop the workers from forcibly involving themselves in the heated zone of the Strait of Hormuz. In reality, the closure of many international borders and *sine die* cancellation of international flights make the seafarers shipwrecked and also unable to exercise their right to leave their vessels when their service is in no demand.

The Standard A4.3 of the MLC speaks about the health and safety of the seafarers shall be prioritised.⁸ Nevertheless, the unique risks of the contemporary naval war including the application of AI-controlled ballistics and other cyber activities, undermine this duty even more. All seamen have the inherent human right to live in a

safe, secure, and healthy working environment.⁹ However, the current threat to the ship crew members who are operating in the Gulf region is missile and drone attacks specifically underwater mine bombs at the Strait of Hormuz. It is noted that the 2025 changes of the MLC have enhanced the requirements on eradicating onboard violence and harassment.¹⁰ Also, the shipowners are required to strictly execute the MLC 2025 amendments in order to protect the safety of the seafarers from bullying and sexual assault. But the high-stress 2026 war situation impairs the internal discipline of the onboard seafarers and makes the workplace a danger zone.

Another progressive step in protecting the rights of the seafarers through the 2025 MLC amendment is to designate these workers as “key workers”.¹¹ The intent behind addressing them as “key workers” is to facilitate for them to have safe travel and a secured employment setting both on and offshore even during emergencies related to health and security. It covers their leave, repatriation rights and medical care in the

⁶ The Maritime Labour Convention, 2006, Conditions of Employment, p.no.35.

⁷ International Transport Workers’ Federation, “A Short Guide to Your Rights Under the Maritime Labour Convention, 2006 (MLC)” (2020), p.no.2.

⁸ The Maritime Labour Convention, 2006, Health Protection and Medical Care, p.no.60.

⁹ International Transport Workers’ Federation, “A Short Guide to Your Rights Under the Maritime Labour Convention, 2006 (MLC)” (2020), p.no.6.

¹⁰ International Labour Organization, *Final report: Fifth meeting of the Special Tripartite Committee established under Article XIII of the Maritime Labour Convention, 2006, as amended*, STCMLC/2025 (May 2025), p.no.13.

¹¹ Id. at, p.no.100.

mainland.¹² In the vein of the continuous 2026 US-Israel-Iran war, the designation as “key workers” is necessary to keep the significant oil supply chain alive without compromising the workers’ rights and dignity. However, the effectiveness of the seafarers’ right to dignified treatment solely depends on the capacity of flag States. Because the flag States especially the States using the flags of convenience are being subjective in implementing these international standards against shipowners.¹³ Thus, the geopolitical indolence of the States in effective implementation of the international standards impair the seafarers’ legal rights.

DUTY OF THE NATIONS: ENSURE THE OPERATIONAL SAFETY TO THE SAILORS

In the law of naval warfare, the physical safety of the sailors and oilers is a key concern. In the context of the 2026 war scene, the principle of distinction under the law of naval warfare is important to consider, as it is directly related to the

physical safety of oil and shipping workers.¹⁴ Now, it is the duty of the US, Israel, and Iran nations involved in the war to distinguish between military objectives and civilian objects. Generally, merchant vessels such as oil tankers and cargo ships are considered to be civilian objects and are exempted from military attack. However, there is an exemption to this protection.¹⁵ That is, if any vessel makes an effective contribution to the military action then it will lose its protection under international law. In the ongoing confrontation oil tankers can be considered military objectives if they are used for harbouring or transporting troops, refuelling warships, or supplying intelligence to any of the States involved in the war. A significant legal debate arises regarding “war-sustaining” and “war-fighting” efforts. War-sustaining efforts means the generation of revenue to fund a prolonged military campaign. War-fighting efforts means direct and immediate contribution to any military operation.¹⁶ In the present war-situation, some nations, specifically the USA views that certain vessels carrying tactical products like crude

¹² Id. at, p.no.66.

¹³ Asghar Khan and Nouman Ali, “Seafarer Rights in International Maritime Law: Enforcement Gaps and Comparative Institutional Effectiveness” 09 *International Journal of Social Science and Human Research* 1634 (2026), p.no.1634.

¹⁴ James Kraska, David Letts, et.al., “Newport Manual on the Law of Naval Warfare” 101 *International Law Studies* 1 (2023), p.no.91.

¹⁵ International Institute of Humanitarian Law, *San Remo Manual on International Law Applicable to Armed Conflicts at Sea* (June 12, 1994), p.no.5.

¹⁶ James Kraska, David Letts, et.al., “Newport Manual on the Law of Naval Warfare” 101 *International Law Studies* 1 (2023), p.no.138.

oil and LNG are deemed to be military objectives since the resulting profit immediately backs Iran to pursue the war.

The legal obligation to rescue survivors is of the highest priority when the commercial vessels are struck by missiles and drones, as has been the case in this 2026 war. As per Article 98 of the UNCLOS, which is a customary international law, it mandates every mariner to lend aid to persons who are in distress at sea. Both the hostile and neutral warships have to abide by this obligation as long as they can help without prejudicing their own ship and crew in “serious danger”. During or after the battle, it is the duty of the warring parties to search for and rescue the damaged ship and injured seamen irrespective of their nationality. Also, as per the ICRC commentary on the Second Geneva Convention, it highlights that providing assistance is not a discretionary function and in cases like submarines the rescue operations is very limited.¹⁷

ON THE HORNS OF A DILEMMA: *lex lata* vs. *lex ferenda*

The 2026 US, Israel, Iran War has clearly demonstrated the complexities of business operations within the Exclusive Economic Zone (EEZ) of neutral coastal States. Generally, hostile acts are forbidden in the neutral territorial waters. However, the belligerent States can engage in war within the neutral coastal States’ EEZ. Apart from UNCLOS, there are two other non-binding guidelines to regulate the using of neutral States’ EEZ by belligerents during wartime. They are the San Remo Manual 1994 (SRM) and the Newport Manual 2023 (NM). Comparatively, the SRM is slightly better than the NM from the human rights perspective, as it puts more emphasis on the *Principle of Due Regard*.¹⁸ This principle primarily focuses on the extent of the UNCLOS, a peacetime maritime law that continues to apply to belligerent States restricting military operations on the EEZs, continental shelf, and high seas of neutral States. It mainly aims to respect the sovereignty of the neutral coastal States. For instance, if a belligerent State wants to lay mines in the EEZ of a neutral State, then it must give proper notification to the concerned neutral State regarding its military action. Hence, under the customary maritime law a belligerent State must pay

¹⁷ Irini Papanicolopulu, “The duty to rescue at sea, in peacetime and in war: A general overview” 491 *International Review of the Red Cross* 2 (2016), p.no.494.

¹⁸ Makoto Seta, “UNCLOS during Armed Conflict: Due Regard in the Exclusive Economic Zones of Neutral Coastal States” 74 *International and Comparative Law Quarterly* 103 (2025), p.no.108.

due regard to the rights of the neutral State in terms of the right to explore, exploit, and preserve the marine environment.

Part I Section IV Paragraph 12 of the San Remo Manual provides that the belligerent nations must exercise utmost respect for their lawful rights and duties of neutral States where such States possess their sovereign authorities over their EEZ and high seas. Also, Part II Section IV Paragraph 36 broadens the scope of the *Principle of Due Regard*, which includes unfriendly acts such as war and armed conflict on the high seas, especially when the neutral States use their rights to research and use natural deposits available on the ocean floor, seabed, and subsoil. It is to note that the San Remo Manual is in alignment with the language of UNCLOS (peacetime maritime law). It is evident under Article 58 para 3 of the UNCLOS. Whereas it is contrary to the Newport Manual 2023.¹⁹ It primarily focuses on the war and gives less or no significance to the *Principle of Due Regard*. Hence, preventing neutral States from enforcing their rights. It argues that the law of naval warfare has to be viewed

as *lex specialis*, and any action contrary to the special law will make it supersede the peacetime law (UNCLOS). Thus, the conflict between ‘is’ and ‘ought’ in this war context is very clear.²⁰ The ‘*lex lata*’ acts as ‘is’ and ‘*lex ferrenda*’ acts as ‘ought’, which means the Newport Manual acts as ‘*lex lata*’ outrightly rejects the customary international law, progressive development of naval warfare, and rights of the neutral States, and focuses only on War at the cost of human and eco lives.²¹

CONCLUSION

The seafarers who are the backbone of the global economy are at greater risk of losing their lives, liberties, and dignity as a result of the 2026 US-Israel-Iran war. The MLC lays down strong protection for the rights of the maritime workers. Yet the reality is different. War situations as well as the inherent risks of the sea make it difficult to implement these protections in practice. Although the 2025 MLC amendments provide a more worker-centric document upholding their rights and ensuring their safety on board. However, the attitude of the international community towards the

¹⁹ Refer: International Institute of Humanitarian Law, *San Remo Manual on International Law Applicable to Armed Conflicts at Sea* (June 12, 1994)

²⁰ For a basic and foundational understanding of similarities and dissimilarities between the concepts

of “is” and “ought” in legal jurisprudence. Refer Studies in Jurisprudence and Legal theory, N.V.Paranjape.

²¹ James Kraska, David Letts, et.al., “Newport Manual on the Law of Naval Warfare” 101 *International Law Studies* 1 (2023), p.no.9.

wellbeing of the seafarers is bothersome. They treat labour rights as discretionary privileges rather than a binding obligation.

The rulers of the States are suffering with their prejudiced mindset in turn it affects the proper implementation of the principle of distinction to the subjects during wartimes and rescue operations. In order to protect the interest of thousands of workers who are stuck in the 2026 Persian Gulf War, the nations must take a stand in strengthening their municipal law by imbibing the acknowledged international standards. Also, the nations must ensure autonomous port State inspections to check and seize for any substandard ships and to uphold and recognise the universal character of SOS, the duty to save their lives at sea during emergencies.²² Finally, it is to note that the safeguarding of seafarers' rights and the safety of vessels during peace and wartime are intertwined with the systematic implementation of international law by the respected nations, international organisations, and the citizens of Mother Earth.

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²² Asghar Khan and Nouman Ali, "Seafarer Rights in International Maritime Law: Enforcement Gaps and Comparative Institutional Effectiveness"

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