

The Impact of Civil Society on the Ongoing Development of Human Rights Protections at Sea

EUROPEAN AND INTERNATIONAL HUMAN RIGHTS AT SEA (EHRAS) COURSE
UNIVERSITY OF MILANO-BICOCCA EU ERASMUS+ JEAN MONNET SCHEME

DAVID HAMMOND ESQ.

EXECUTIVE DIRECTOR HUMAN RIGHTS AT SEA INTERNATIONAL

FOUNDER HUMAN RIGHTS AT SEA (2013-2023)

13 MARCH 2024

MILAN



Core Principle:
Human rights apply at sea, as
they do on land.

What is Civil Society?

‘A dense network of groups, communities, networks, and ties that stand between the individual and the modern state.’

- An intellectual Western liberal doctrine supporting social order and political obligation – the ruler and the ruled.
- Roman author Cicero, *societas civilis* - a political community governed by the rule of law and typified by a degree of urbanity.
- Underpins democratic values, rule of law, sense of community, accountability and degrees of transparency.

Intersection of Civil Society and Academia

Civil Society Role

- **Evidence.** To provide sources of credible evidence supporting legal and policy change.
- **Integration.** To intersect work with current theory and theoretical development.
- **Challenge.** To provide objective and positive challenge to current thinking.
- **Independence.** To collaborate whilst maintaining strict independence.
- **Overwatch.** To provide a balanced watchdog role within society.
- **Ethics.** To act with transparency, clarity and accountability.

Humanity

Fundamental Rights

Transparency

Accountability

Legislation

Deterrence

Remediation

Justice



HUMAN RIGHTS AT SEA
2013-2023



hras
international
www.hrasi.org



We work to end the abuse of human rights at sea.

INTRODUCTORY VIDEO

30 Million people are at sea, right now

45% of women working at sea reported sexual harassment

32-100k fishes lose their life at work, every year



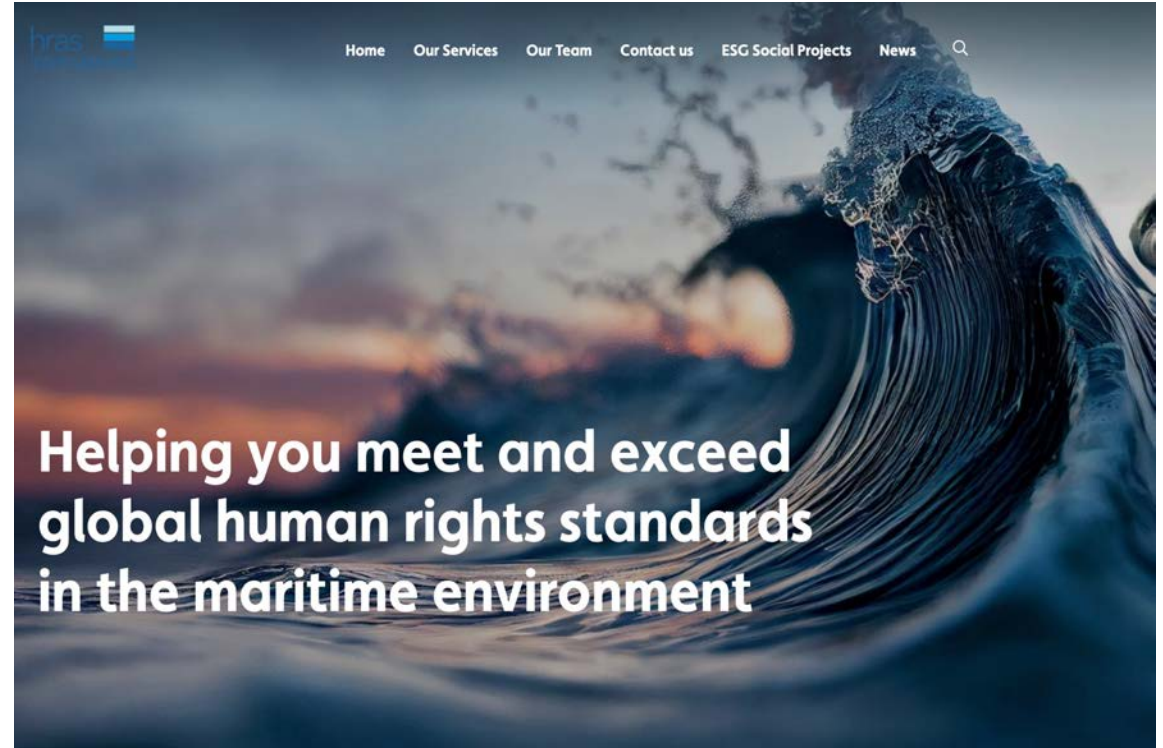
We work to end the abuse of human rights at sea.

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hras international

Home Our Services Our Team Contact us ESG Social Projects News

Helping you meet and exceed global human rights standards in the maritime environment



Starting Mission (2014)

To **explicitly raise** awareness, implementation and accountability of human rights provisions throughout the maritime environment, especially where they are currently absent, ignored or being abused



Vision

To end human rights abuse at sea

Aspiration

Global development and adoption of the
'human rights at sea' concept and narrative

A lex specialis

&

The application of international human rights law at sea

Standing: UN Accreditation Economic and Social Council



Human Rights at Sea is proud to announce that the United Nations Economic and Social Council (UN ECOSOC) has formally recognised the organisation and granted it "Special Consultative Status".

<https://www.humanrightsatsea.org/news/un-ecosoc-special-consultative-status-awarded-human-rights-sea>

Work Areas: Some Considerations

Access to Justice

- Human Rights at Sea Arbitration
- Fisheries Observer Justice
- Ukraine: Seafarers caught in Conflict

Law Reform and Policy

- The Geneva Declaration on Human Rights at Sea
- Maritime Levy Campaign
- HRAS Arbitration Initiative

Slavery at Sea

Children at Sea

Equality at Sea

Wide-ranging Research, Advocacy & Investigations

Human Rights at Sea
Independent Briefing Note on UAE Government Legal & Policy Position Supporting Maritime Protections for Seafarers

www.humanrightsatsea.org

Human Rights at Sea
Briefing Note
FISHING
UK Share Fishermen: A Practical Guide & Review of Status

www.humanrightsatsea.org

HRAS
BRIEFING NOTE
Legal and Policy Matters Arising from the Increased Criminalisation of Civil Society Search and Rescue Activities in the Mediterranean

www.humanrightsatsea.org

HRAS
Case Study
Seafarers' Abandonment in the UAE
A Practice of Human Rights Abuse: More than Thirty Seafarers of Three Vessels Stranded in the UAE for Two Years, Pending Sign Off

www.humanrightsatsea.org

Human Rights at Sea
Case Study
In Their Own Words
Gender Equality at Sea - Amreen Bano

www.humanrightsatsea.org

HRAS
Abandonment Case Study
A Family Update for Captain Ayyappan SWAMINATHAN
Abandonment. A Pattern of Human Rights Abuse.

www.humanrightsatsea.org

Human Rights at Sea
UN GLOBAL COMPACT
COMMUNICATION ON ENGAGEMENT
MARCH 2019

www.humanrightsatsea.org

HRAS
REVIEW
Human Rights and International Rule of Law Ramifications of the De-Flagging of M/V Aquarius Dignitus

www.humanrightsatsea.org

giving nature a home
rspb
Fishermen's Welfare & Human Rights: Ascension Island EEZ
A Comparative Independent Assessment of the Potential Risks to the Welfare and Human Rights of Fishermen Operating within the Ascension Island Exclusive Economic Zone (EEZ) onboard Foreign Flagged Tuna Longline Vessels

hras international
with funding from
John Ellerman Foundation

HRAS
Case Study
Seafarers' Abandonment on Kish Island, Iran
A Practice of Human Rights Abuses

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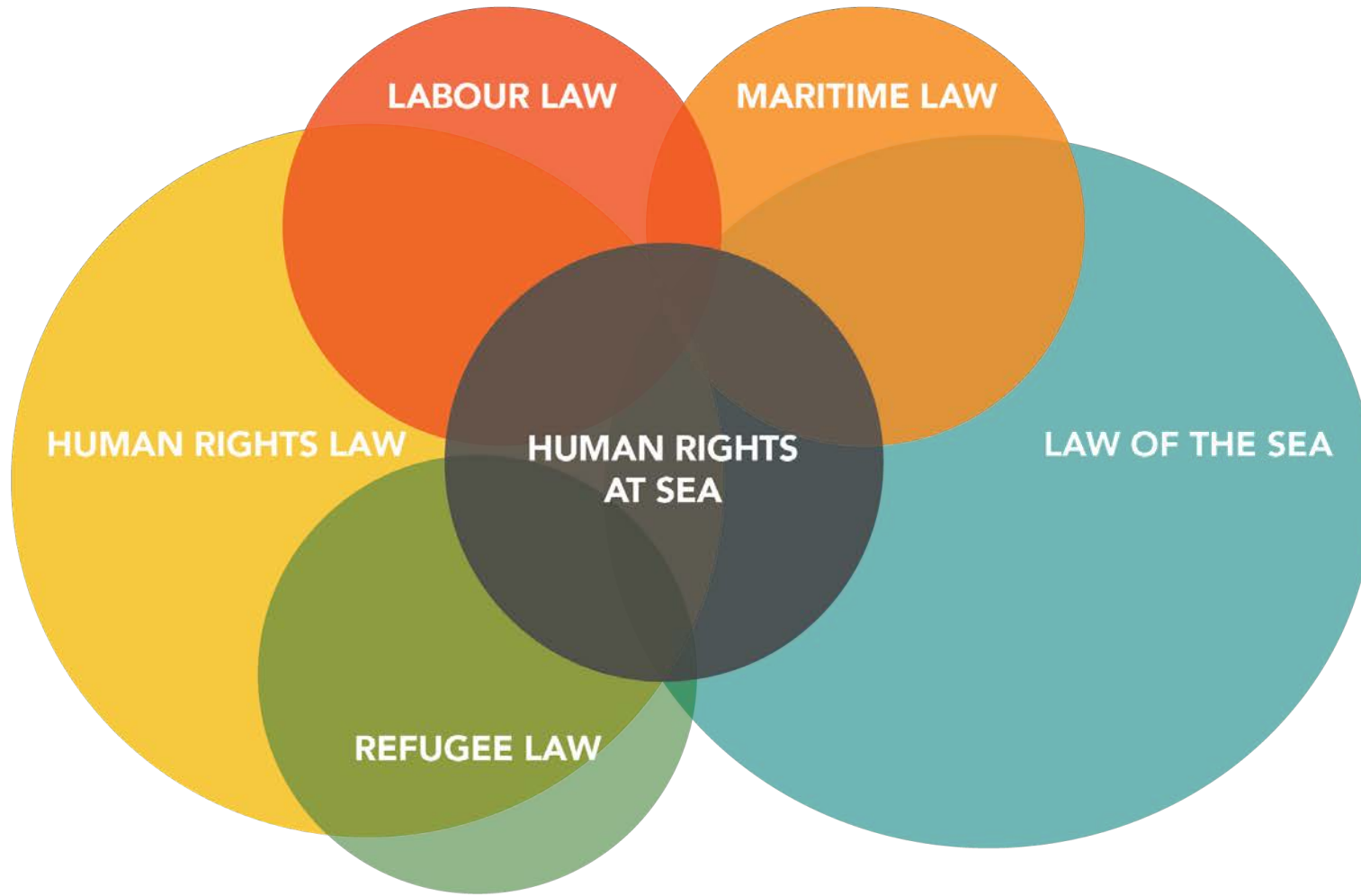
HRAS
Case Study
Seafarers' Abandonment on Kish Island, Part 2
A Practice of Human Rights Abuses: Some Positive Actions

www.humanrightsatsea.org

Human Rights at Sea
Abandonment Case Study
Indian Family Stories of the Consequences of Seafarer Abandonment: AB Mayur Gawade Family, Pune, India
Abandonment. A Pattern of Human Rights Abuse.

www.humanrightsatsea.org

Where does Human Rights at Sea fit?



SECTION 2. COMPULSORY PROCEDURES ENTAILING BINDING DECISIONS

Article 293 Applicable law

1. A court or tribunal having jurisdiction under this section shall apply this Convention and other rules of international law not incompatible with this Convention.
2. Paragraph 1 does not prejudice the power of the court or tribunal having jurisdiction under this section to decide a case ex aequo et bono, if the parties so agree. ["according to the right and good" or "from equity and conscience"]

Link: https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

GENERAL PROVISIONS

Article 311 Relation to other conventions and international agreements

1. This Convention shall prevail, as between States Parties, over the Geneva Conventions on the Law of the Sea of 29 April 1958.

2. This Convention shall not alter the rights and obligations of States Parties which arise from other agreements compatible with this Convention and which do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Convention.

Civil Society Impact

Geneva Declaration on Human Rights at Sea



"As a city very connected to human rights, Geneva is proud to support the Geneva Declaration on Human Rights at Sea. This international declaration is important for the protection of people in international waters. I am happy to witness the realisation of a concept born in Geneva three years ago and to have been the first to receive this document"

Mayor of Geneva Frédérique Perler
1 March 2022

ABOUT THE PROJECT

The Geneva Declaration on Human Rights at Sea confirms that human rights apply at sea as they do on land.



www.gdhras.com

Geneva Declaration on Human Rights at Sea

“Culture of compliance”

The aim of the Geneva Declaration on Human Rights at Sea is to recall existing legal obligations, to raise global awareness of human rights abuses at sea, to generate a concerted international response to them and to ensure an effective remedy for those who are abused.

Overall, the Declaration aims to promote a culture of compliance with human rights at sea.

Applicable International & Regional Instruments

- **Universal Declaration of Human Rights (UDHR)** (UNGA Res 217, adopted 10 Dec 1948)
- **International Covenant on Civil and Political Rights (ICCPR)** (adopted 16 Dec 1966, entered into force 23 Mar 1976) UN Treaty Series Vol.999
- **International Covenant on Economic, Social and Cultural Rights (ICESCR)** (adopted 16 Dec 1966, entered into force 3 Jan 1976) UN Treaty Series Vol.993
- **Convention on the Rights of the Child (CRC)** (adopted 20 Nov 1989, entered into force 2 Sep 1990) UN Treaty Series Vol.1577
- **Convention Relating to the Status of Refugees (Refugee Convention)** (adopted 28 Jul 1951, entered into force 22 Apr 1954) UN Treaty Series Vol.189

- European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)
- American Convention on Human Rights (San Jose Pact)
- Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (San Salvador Protocol)
- African Charter on Human and Peoples' Rights (Banjul Charter)
- Arab Charter on Human Rights (ACHR)
- Association of Southeast Asian Nations Human Rights Declaration (ASEAN Declaration)

21 Applicable Human Rights

- Right to life (Art.3 UDHR; Article 6, ICCPR)
- Right not to be tortured (Art.5 UDHR; Art.7, ICCPR; Article 6, CRC)
- Right to non-refoulement (Art.33 Refugee Convention)
- Right not to be enslaved (Art.4 UDHR; Art.8 ICCPR)
- Right to an effective remedy (Art.8 UDHR; Art.2 ICCPR)
- Right to liberty (Art.3 UDHR; Art.9 ICCPR)
- Right not to be arbitrarily arrested and detained (Art.9 UDHR; Art.9 ICCPR)
- Right to privacy (Art.12 UDHR; Art 17 ICCPR; Art.16 CRC)
- Right to freedom of expression (Art.19 UDHR: Art.19 ICCPR; Art.13 CRC)
- Right to freedom of religion (Art.18 UDHR; Art.18 ICCPR; Art.14 CRC)
- Right to seek asylum (Art.14 UDHR)
- Right to freedom of association (Art.20 UDHR; Art.22 ICCPR; Art.15 CRC)
- Right to form and join a trade union (Art.23 UDHR; Art.22 ICCPR; Art.8 ICESCR)
- Right to family life (Art.16 UDHR; Art.23 ICCPR; Art.10 ICESCR)
- Rights of the child (Art.24 ICCPR; CRC)
- Right to fair remuneration and equal pay (Art.23 UDHR; Art.7 ICESCR)
- Right to safe and healthy working conditions (Art.23 UDHR; Art.7 ICESCR; Art.32 CRC)
- Right to rest, leisure and paid holiday (Art.24 UDHR; Art.7 ICESCR; Art.31 CRC)
- Right to social security (Art.22 UDHR; Art.9 ICESCR, Art.26 CRC)
- Right to education (Art.26 UDHR; Art.13 ICESCR; Art.28 CRC)
- Right to property (Art.17 UDHR)



Geneva Declaration on Human Rights at Sea Receives Ukrainian Engagement

22 Jun 23

[Access to Justice](#)

[Law Reform and Policy](#)

Primary Legislation Development in New Zealand



1 July 2021

“insert: (c) the facilitation of, or support for, seafarer welfare services.”

The Regulatory Systems (Transport) Amendment Act 2021 (30 March 2021) comes into force with the key amendment to Section 191 amended (Maritime levies) which crucially states “After section 191(2)(b), **insert: (c) the facilitation of, or support for, seafarer welfare services.**” This updates Part 14 General provisions relating to shipping.

Primary Legislation Development in New Zealand



RECOMMENDATIONS

1. Review shore-based seafarers' welfare funding mechanism
2. Draft proposed amendments to national legislation – Maritime Transport Act 1994
3. Introduce an updated compulsory port levy system
4. In alternative, ring-fence and allocate part of the current maritime levy
5. New Zealand Welfare Board raise a formal complaint with the ILO for non-compliance with the MLC should the NZ Government fail to act.





Opinion

4 May 2022

The incoming Australian Government's opportunity to assure long-term seafarer welfare funding and sustainability with minimal legislative amendment must not be derailed, side-stepped, nor the proverbial can kicked-down-the-road through paralysis of internal decision-making.

First UK Parliament debate 22 June 2021



House of Lords

Tuesday 22 June 2021 Meeting started at 12.05pm

LIVE

AGENDA

INDEX



12:28:12



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INFO

AUDIO ONLY

Note: Latency in the video stream means index items will appear first.

Back to live

12:28:15 Baroness Vere of Norbiton, Parliamentary Under-Secretary (Department for Transport) (Conservative)

12:28:09 Oral question 3: Protecting human rights at sea

12:27:32 Lord Wolfson of Tredegar, The Parliamentary Under-Secretary of State for Justice (Conservative)

12:26:54 Lord Hastings of Scarisbrick (Crossbench)

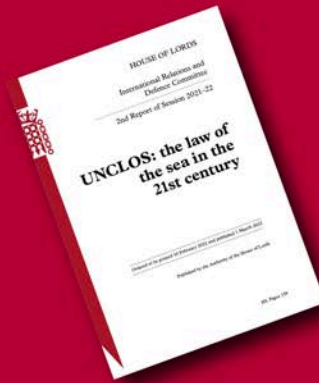
12:26:32 Lord Wolfson of Tredegar, The Parliamentary Under-Secretary of State for Justice (Conservative)

12:26:07 Lord Falconer of Thoroton (Labour)

UK House of Lords: UNCLOS 1982 Inquiry

International Relations and Defence Committee

“If provisions of UNCLOS are not supplemented, or further developed it would no longer be fit for purpose in the 21st century.”

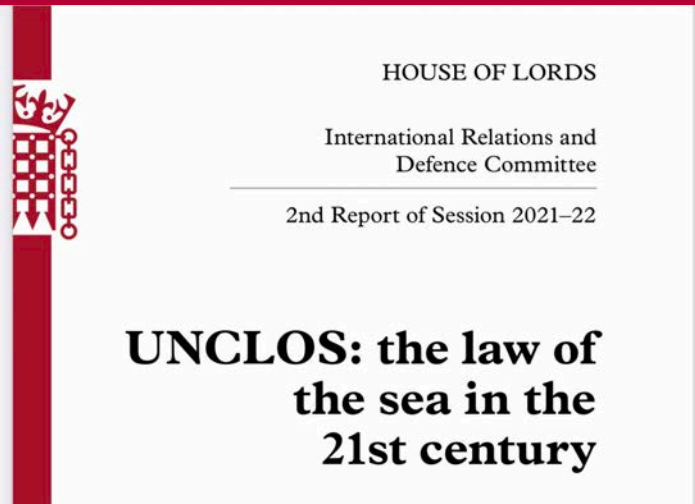


Inquiry finds international sea law ‘unfit for purpose’ without reform

House of Lords committee flags issues ranging from human rights and fishing to regulation of armed guards, but stopped short of calling for a major overhaul

04 Mar 2022 | NEWS

60 references to ‘human rights at sea’ and the NGO ‘Human Rights at Sea’



International Relations and Defence Committee UNCLOS: the law of the sea in the 21st century

2nd Report of Session 2021-22 - published 1 March 2022 - HL Paper 159

Chapter 5: Human rights and labour protections at sea

The application of international human rights law at sea

Specific challenges in the 21st century

Migration by sea

Forced labour and excessive work conditions

Physical and sexual crimes at sea

Possible solutions

UK House of Lords: UNCLOS 1982 Inquiry

192. We urge the Government to acknowledge that human rights at sea include a wide range of rights, and not just those pertaining to labour conditions, important though these are. In its response to us, we ask that the Government sets out **what it considers its obligations to be concerning human rights at sea, including with reference to human trafficking and modern slavery.**

228. In 2019, Human Rights at Sea itself developed a soft-law instrument, the **Geneva Declaration on Human Rights at Sea**, which recalls existing legal obligations and provides guidance for coastal, flag and other states on how to **protect, respect and ensure human rights at sea**” and “can supplement UNCLOS and fill in the human rights at sea gap, without opening the Convention to re-negotiation.” They urged the UK Government to endorse the framework and become a “global leader” in championing it.

REPORT LINK: <https://committees.parliament.uk/publications/9005/documents/159002/default/>

UK Foreign Office and Academic Engagement



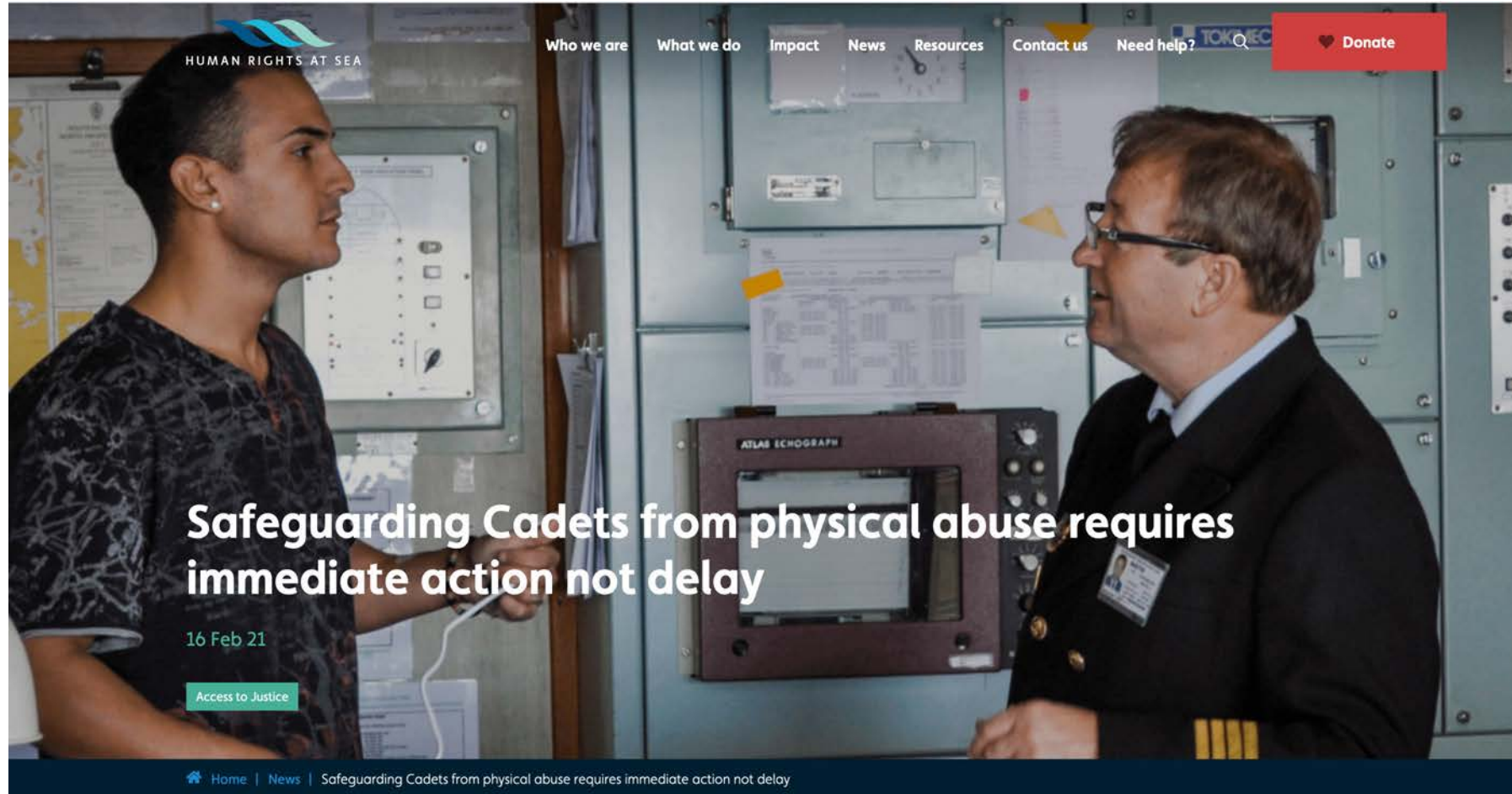
<https://www.humanrightsatsea.org/news/wilton-park-conference-report-human-rights-law-sea-published>



The NATO Centre of Excellence for Operations in Confined and Shallow Waters (COE CSW) has issued two new podcasts covering an introduction to the work of Human Rights at Sea.

<https://www.humanrightsatsea.org/news/nato-issues-two-new-podcasts-human-rights-sea>

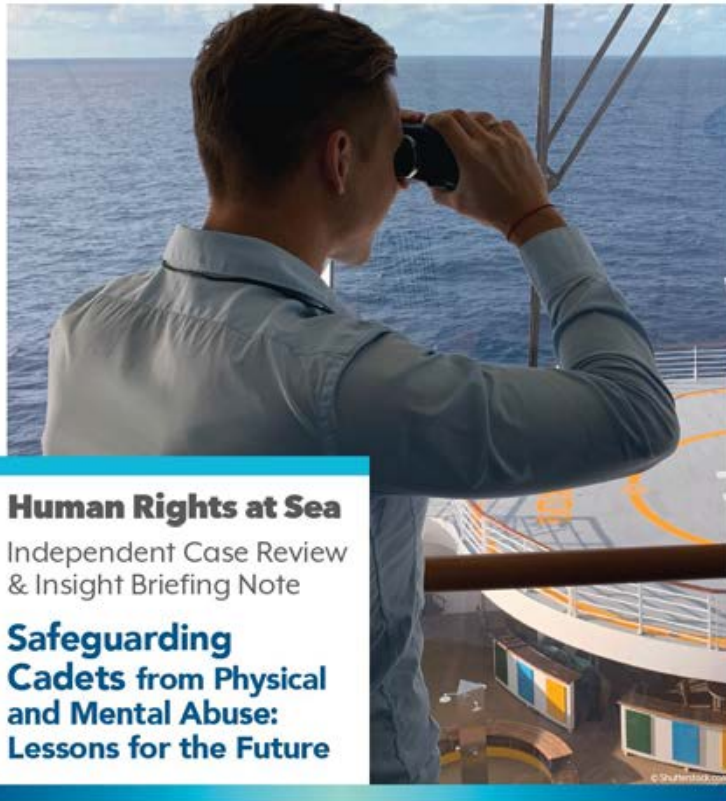
Addressing cadet abuse at sea



<https://www.humanrightsatsea.org/news/safeguarding-cadets-physical-abuse-requires-immediate-action-not-delay>

Cadet Abuse at Sea

HUMAN RIGHTS AT SEA



Human Rights at Sea

Independent Case Review
& Insight Briefing Note

**Safeguarding
Cadets from Physical
and Mental Abuse:
Lessons for the Future**

Supported by:
Peter Döhle Schiffahrts-KG



www.humanrightsatsea.org
www.humanrightsatsea.org/case-studies/

**Human rights apply at sea,
as they do on land.**

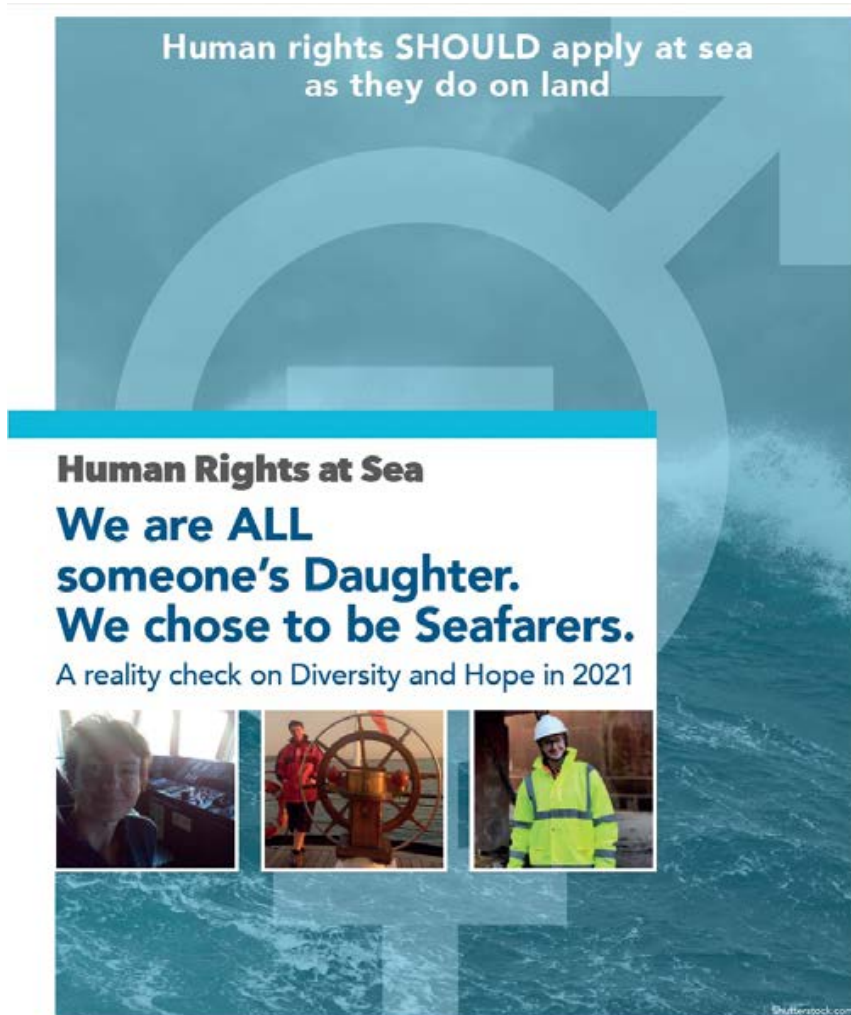
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HRAS: *The days of 'out of sight and out of mind', of 'what happens at sea, stays at sea', of 'this is how it was done in my day' are gone. There must be a zero tolerance of physical and mental abuse towards cadets, while perpetrators must be held to account without the incidents being hidden behind corporate veils for fear of reputation and brand damage.*



The Company have stated at all times during their ongoing engagement with HRAS that they do not tolerate such behaviour, that they wish to be transparent on the case in point, and that they are addressing the matter internally and according to company protocol - recognising that the protocol designed to manage such instances is itself now subject to review.

Gender Equality and Sexual Abuse at Sea



“Even more crushing is that, often, these instances go unreported as the women fear having their training and/or their careers cut short, or worse, not being believed. This can lead to a real decline in performance on board, including an individual’s safety and a long-term impact on their well-being.”

“Fear was the main reason the bullying was not reported in numerous instances – fear of not being believed, fear of accusation of overreacting or lying which could mean reluctance to rehire or loss of sea-time opportunity as a cadet.”



Culture of fear at Merchant Marine Academy silences students who say they were sexually harassed and assaulted



By **Blake Ellis** and **Melanie Hicken**, CNN

Updated 1146 GMT (1946 HKT) February 16, 2022

Ukraine War Crimes & Human Rights – March 2022



Ukraine: IMO Resolution MSC.495(105)



The IMO Maritime Safety Committee (MSC 105), adopted Resolution MSC.495(105): Actions to facilitate the urgent evacuation of seafarers from the war zone area in and around the Black Sea and the Sea of Azov as a result of the Russian Federation aggression against Ukraine.

2. underscored the paramount importance of preserving the safety and welfare of seafarers and urged Member States and observer organizations to provide maximum assistance to seafarers caught up in the conflict,

7. condemned any form of harassment of seafarers due to their nationality and underlined that seafarers affected by the conflict should be allowed free access to communications with their families,

Link: <https://www.imo.org/en/MediaCentre/PressBriefings/pages/MSCResolutionActionsForSeafarerEvacuation-.aspx>

Seafarer Well-being issues: Inter-related & wide-ranging

Human rights SHOULD apply at sea as they do on land

Human Rights at Sea
We are ALL someone's Daughter. We chose to be Seafarers.
 A reality check on Diversity and Hope in 2021

www.humanrightsatsea.org
www.humanrightsatsea.org/case-studies/
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HUMAN RIGHTS AT SEA

Human rights apply at sea, as they do on land

Human Rights at Sea
 Insight Briefing Note

Stowaways: Background, Drivers & Human Consequences

Partnered with:

www.humanrightsatsea.org

HUMAN RIGHTS AT SEA

HRAS PUBLICATION

ABANDONMENT OF SEAFARERS: BACKGROUND, LEGAL STATUS, REMEDIES & PRACTICAL ADVICE

APRIL 2021

Human rights apply at sea, as they do on land

HUMAN RIGHTS AT SEA in Partnership with **ReedSmith**

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HUMAN RIGHTS AT SEA

Human Rights at Sea
 Independent Case Review & Insight Briefing Note

Safeguarding Cadets from Physical and Mental Abuse: Lessons for the Future

Supported by: Peter Döhle Schiffahrts-KG

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Human rights apply at sea, as they do on land.

MARITIME HUMAN RIGHTS RISKS AND THE COVID-19 CREW CHANGE CRISIS A TOOL TO SUPPORT HUMAN RIGHTS DUE DILIGENCE



Business and Human Rights

- A positive step for maritime business
- Highlights our business and human rights early development work
- Basic & workable steps
- Has UN attention
- Is voluntary
- BUT – enforcement and effective remedy?
- **Ignored by those who do not care and those who are not held to account**
- Mandatory Human Rights and Environmental Due Diligence legislation (EU)

[Home](#) > [Business, Economy, Euro](#) > [Doing business in the EU](#) > [Corporate sustainability due diligence](#)

Corporate sustainability due diligence

Fostering sustainability in corporate governance and management systems.



GettyImages/DigitalVision/We Are Stone/Ed Freeman Westend61

On 23 February 2022, the Commission adopted a proposal for a Directive on corporate sustainability due diligence. The aim of this Directive is to foster sustainable and responsible corporate behaviour and to anchor human rights and environmental considerations in companies' operations and corporate governance. The new rules will ensure that businesses address adverse impacts of their actions, including in their value chains inside and outside Europe.



TEXTS ADOPTED

Provisional edition

P9_TA-PROV(2021)0073

Corporate due diligence and corporate accountability

European Parliament resolution of 10 March 2021 with recommendations to the Commission on corporate due diligence and corporate accountability (2020/2129(INL))

“Existing international due diligence instruments have failed to provide victims of human rights and environmental adverse impacts with access to justice and remedies because of their non-judicial and voluntary nature.”

“This Directive aims to prevent and mitigate potential or actual adverse impacts on human rights, the environment and good governance in the value chain, as well as at ensuring that undertakings can be held accountable for such impacts, and that anyone who has suffered harm in this regard can effectively exercise the right to a fair trial before a court and the right to obtain remedies in accordance with national law.”

Enforcement

Once implemented, the CSDDD's due diligence obligations will be enforceable in two ways.

First, victims can claim reparations from a company in a European court if they can show that the damage they suffered through a violation of human rights or environmental standards was caused by the company's failure to follow proper due diligence procedures.

Second, national supervisory bodies will be able to sanction companies if they find that the companies do not properly implement their due diligence procedures. The sanctions can go as high as 5% of a company's global turnover, which can be especially painful for large global companies.

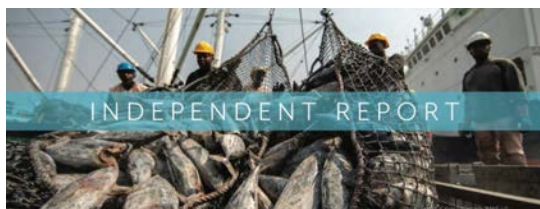
Fisheries

Fishing Industry



**Fisheries
observers are
guardians of
the ocean**

Fisheries Issues: Pacific Region



FISHERIES OBSERVER DEATHS AT SEA, HUMAN RIGHTS & THE ROLE & RESPONSIBILITIES OF FISHERIES ORGANISATIONS

1st JULY 2020



Instructed through Human Rights at Sea International Ltd the subsidiary non-profit trading company of Human Rights at Sea



DEVELOPING RECOMMENDATIONS & POLICY IN SUPPORT OF FISHERIES OBSERVERS' SAFETY, SECURITY & WELL-BEING

A follow-up to the Human Rights at Sea Report: **FISHERIES OBSERVER DEATHS AT SEA, HUMAN RIGHTS & THE ROLE & RESPONSIBILITIES OF FISHERIES ORGANISATIONS**
Dated 1st July 2020

11th NOVEMBER 2020



Human rights apply at sea, as they do on land



UNDERSTANDING THE WORKING CONDITIONS OF WESTERN & CENTRAL PACIFIC OCEAN FISHERIES OBSERVERS: A BASELINE SURVEY

A follow-up to the Human Rights at Sea Report: **FISHERIES OBSERVER DEATHS AT SEA, HUMAN RIGHTS & THE ROLE & RESPONSIBILITIES OF FISHERIES ORGANISATIONS**
Dated 1st July 2020

11th NOVEMBER 2020



Western & Central Pacific Fisheries Commission

SEARCH

About WCPFC | Key Documents | MCS and Compliance | Vessels | Scientific Data | Meetings

Home | Meetings | Regular Sessions of the Commission | 17th Regular Session of the Commission

Meetings

- Regular Sessions of the Commission
- 17th Regular Session of the Commission
- Special Sessions and Special Online Heads of Delegation Meetings
- Scientific Committee
- Ad Hoc Task Group
- Informal Consultations
- IWG ROP
- Northern Committee
- Technical and Compliance Committee
- WCPFC-IATTC
- Workshops and Meetings of Intersectoral Working Groups

Virtual IWG

- IWG to review implementation CMM (2019) VMS-SWG 2020
- ERandEM-IWG
- other virtual-iwg pages

Draft Proposal for Model WCPFC Conservation and Management Measure on Human Rights and Labour Rights Protections for Fisheries Observers' Safety, Security and Well-Being

Authors:
Human Rights at Sea

Symbol:
WCPFC17-2020-OP06

Date of Issue:
Thursday, November 19, 2020

Download
(3.32 MB)

1 of 15 | Automatic Zoom

Western and Central Pacific Fisheries Commission
COMMISSION SEVENTEENTH REGULAR SESSION
Electronic Meeting
8 - 13 December 2020

DRAFT PROPOSAL FOR MODEL WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION (WCPFC) CONSERVATION AND MANAGEMENT MEASURE ON HUMAN RIGHTS AND LABOUR RIGHTS PROTECTIONS FOR FISHERIES OBSERVERS' SAFETY, SECURITY AND WELL-BEING

WCPFC17-2020-OP06
19 November 2020

Submitted by Human Rights at Sea

Fishers and observers are both a critical vulnerability & a business enabler

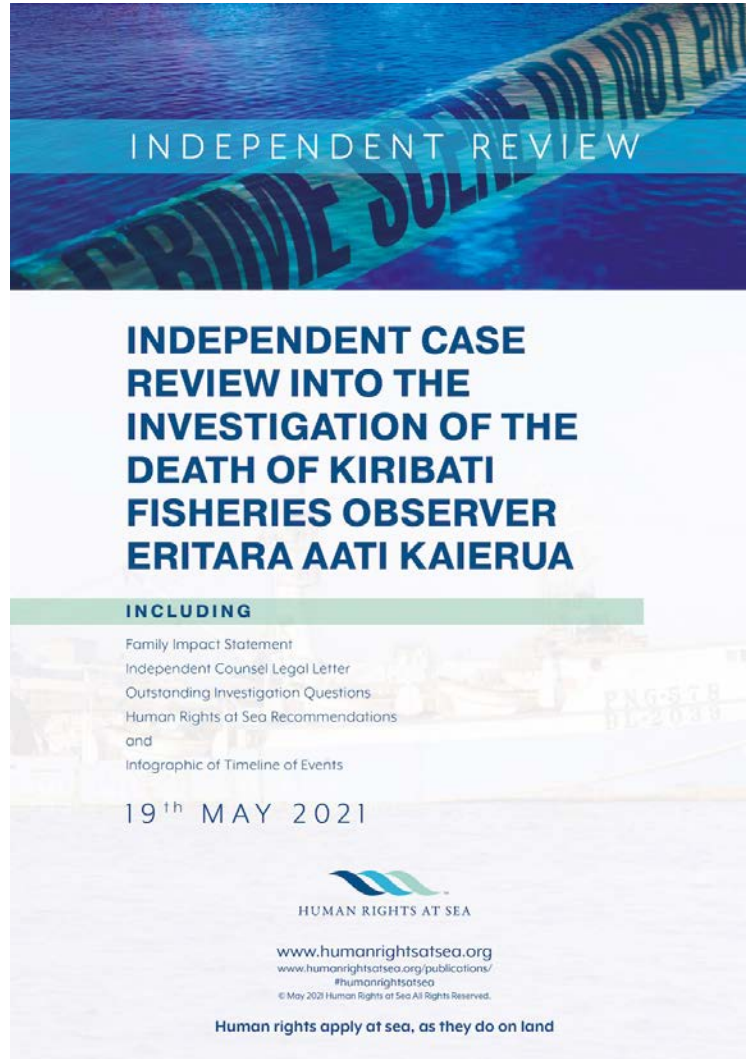
State Accountability: Kiribati - Some Realities



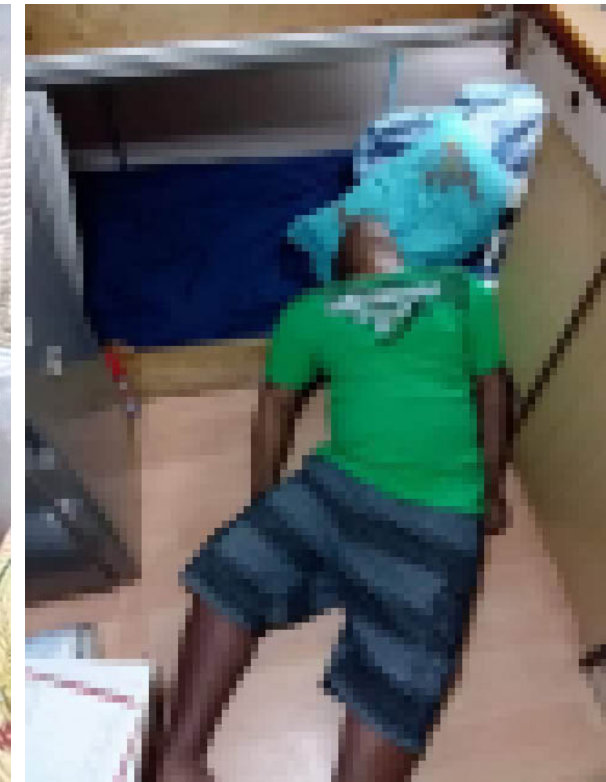
Link: https://www.humanrightsatsea.org/sites/default/files/media-files/2021-12/HRAS_Eritara_Aati_Kaierua_Kiribati_Independent_Case_Review_19_May_21_SP%20%281%29_0.pdf

TRIGGER WARNING

Accountability: Some Realities



- Lack of transparency and disclosure
- **Impunity, lack of accountability** and **lack of enforcement**



European Engagement - Brussels



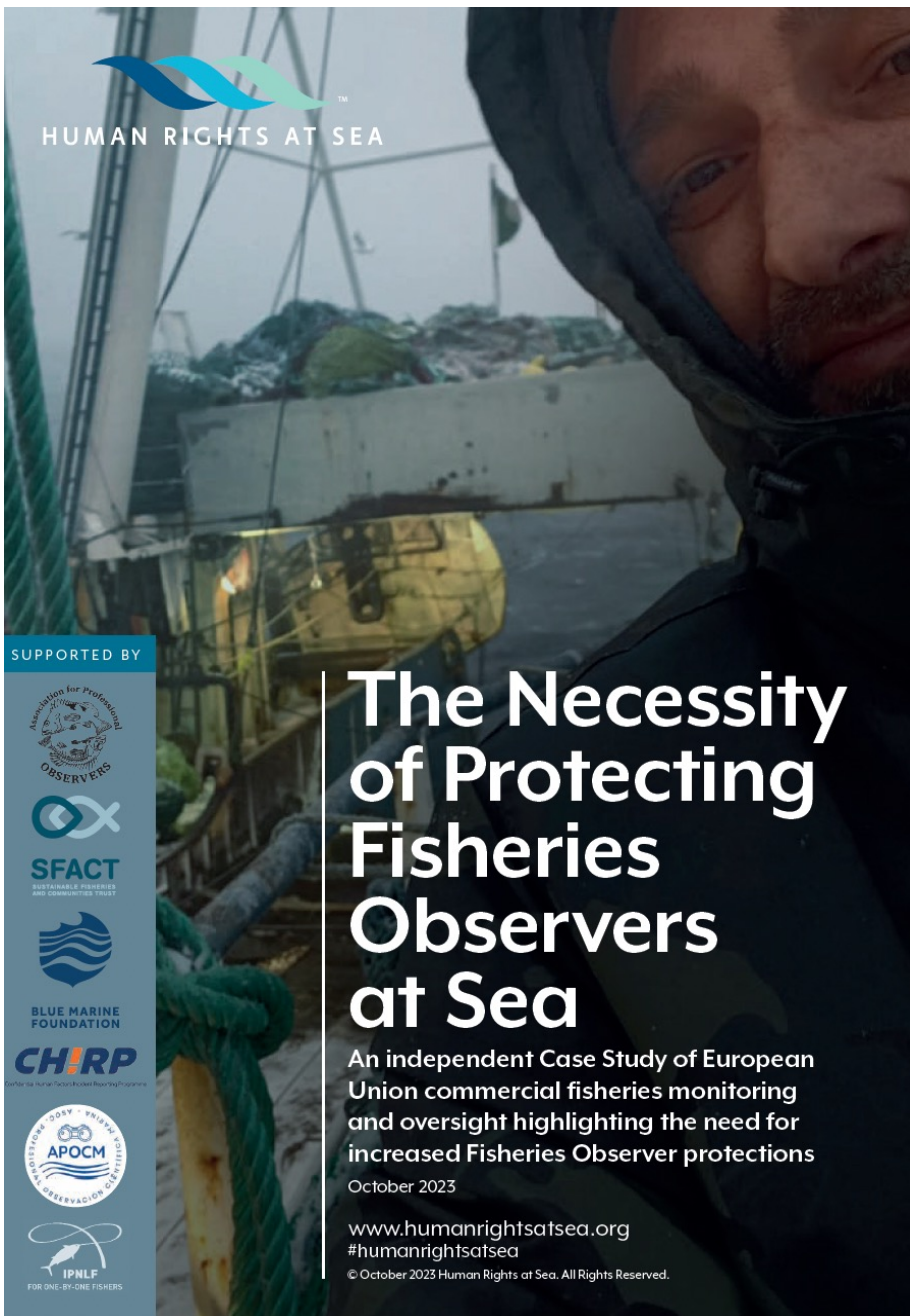
EU Reporting

Reference:

[October 2023 Report](#)

- Evidence-based approach
- **Combined** civil society investigations and reporting
- EU focused for NW Atlantic fishing grounds
- Ongoing observer safety, security and wellbeing concerns
- European Commission DG MARE engagement throughout
- Limited Flag state engagement
- Industry representative resistance – reputation concerns

- **10 years on – safety issues raised are still not being comprehensively addressed**



HUMAN RIGHTS AT SEA

SUPPORTED BY

- Association for Professional Observers
- SFACT Sustainable Fisheries and Communities Trust
- Blue Marine Foundation
- CHIRP
- APOCM
- IPNLF For One-By-One Fishers

The Necessity of Protecting Fisheries Observers at Sea

An independent Case Study of European Union commercial fisheries monitoring and oversight highlighting the need for increased Fisheries Observer protections

October 2023

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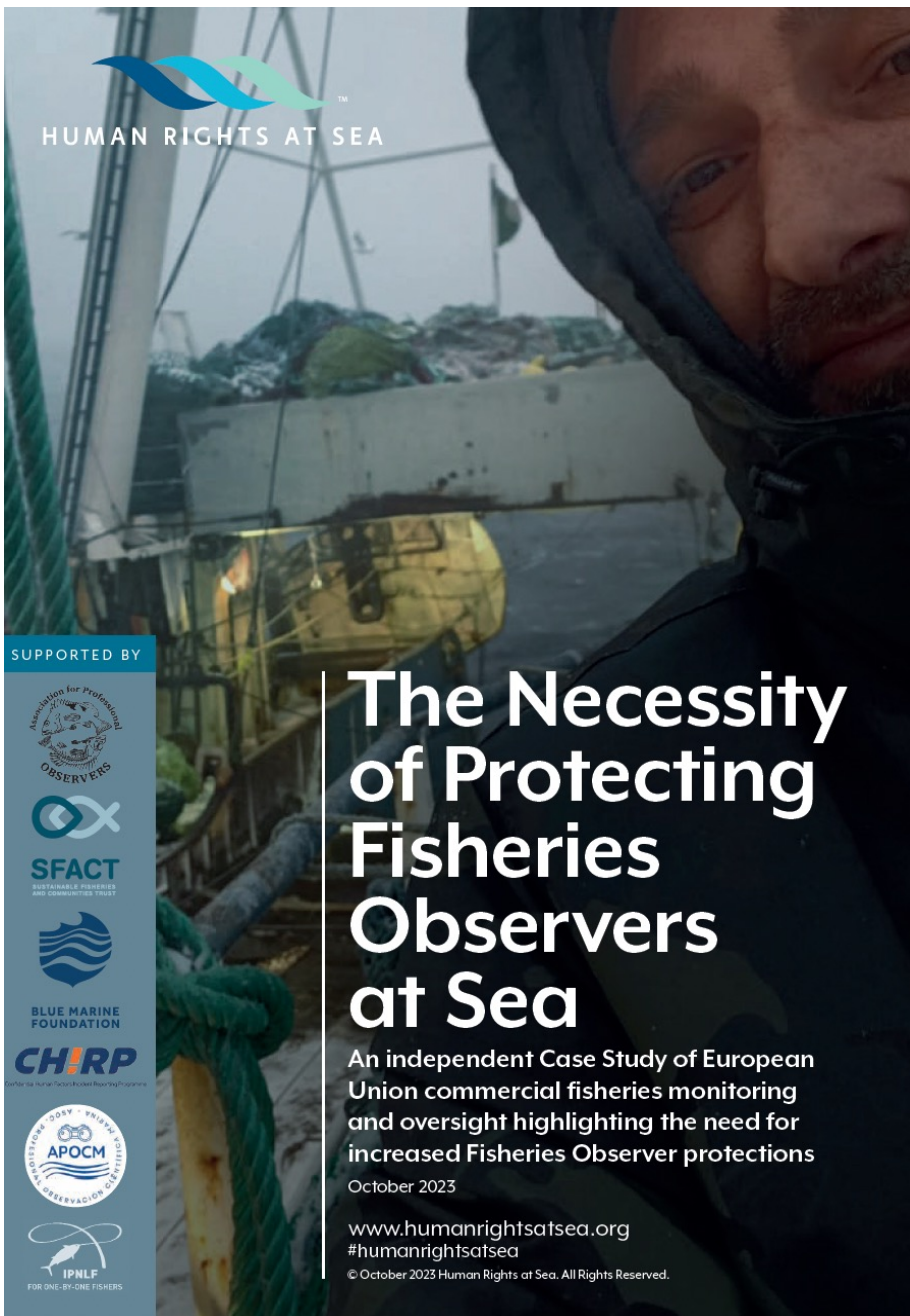
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Headlines

- An estimated 24,000 people die on commercial fishing vessels and 24 million are injured each year

EU DG MARE (p17-18)

- *“Protocols for the observer to safely and directly contact the flag State authorities to report safety concerns will become mandatory.”*
- *“We will continue to aim at **building a close cooperation and trust** between observers, observer providers and control authorities and to support observers, including through NAFO processes.”*



HUMAN RIGHTS AT SEA

SUPPORTED BY

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- SFACT SUSTAINABLE FISHERIES AND COMMUNITIES TRUST
- BLUE MARINE FOUNDATION
- CHIRP
- APOCM
- IPNLF FOR ONE-BY-ONE FISHERS

The Necessity of Protecting Fisheries Observers at Sea

An independent Case Study of European Union commercial fisheries monitoring and oversight highlighting the need for increased Fisheries Observer protections

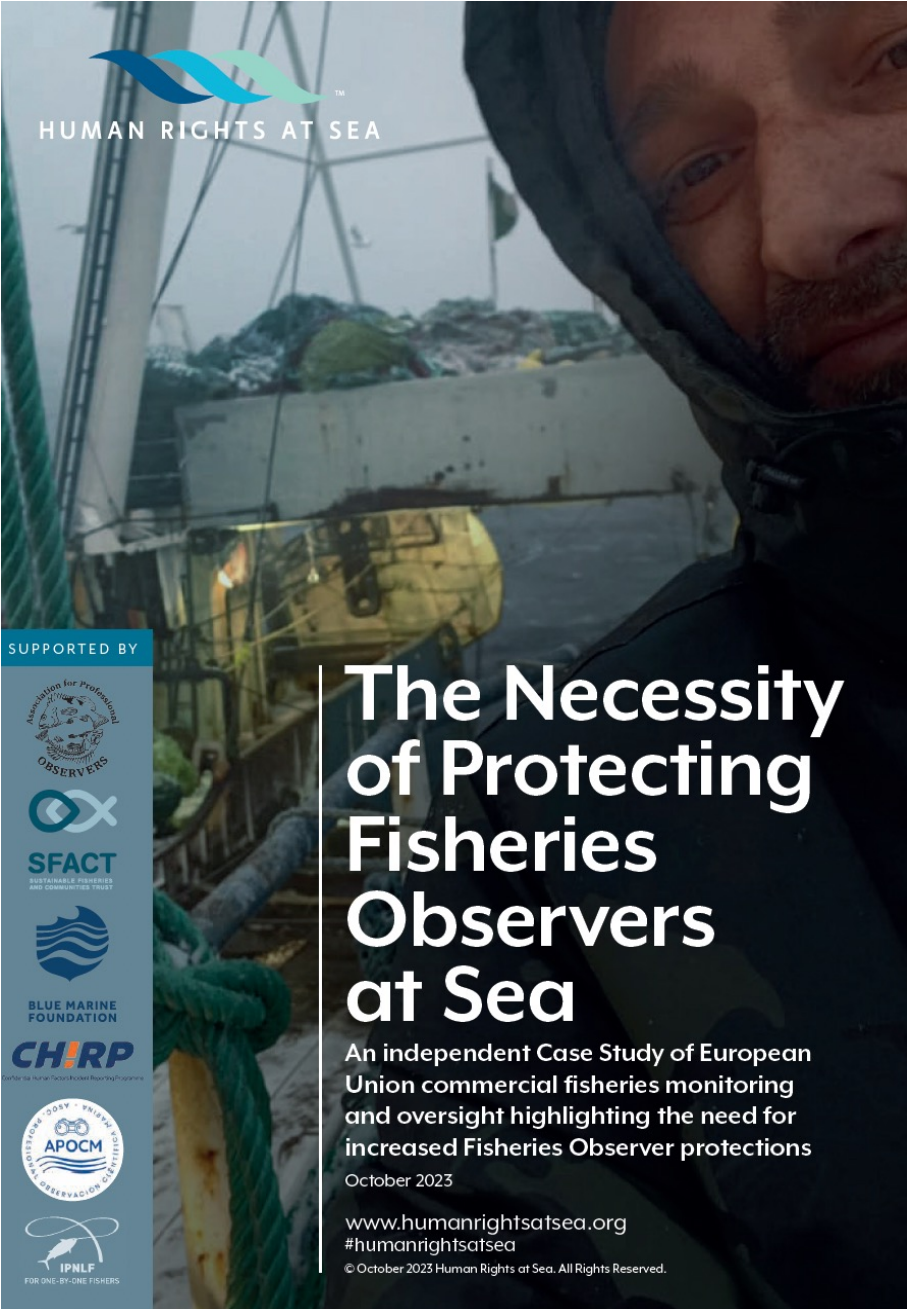
October 2023

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Issues of Concern

1. Physical and sexual assault of observers and other forms of harassment
2. Retaliatory lawsuits against observers
3. Threats to dependents and livelihoods
4. Lack of transparency around observer deaths and disappearances
5. Lack of consequences for threats to observers
6. Lack of independent means of communication
7. Lack of recognition as a maritime professional
8. Lack of public access to observer data, including observer harassment data
9. Lack of agency response to the needs of grieving dependents of deceased observers
10. Impact on fisheries observers' safety, health and welfare



HUMAN RIGHTS AT SEA

SUPPORTED BY

- Association for Professional OBSERVERS
- SFACT SUSTAINABLE FISHERIES AND COMMUNITIES TRUST
- BLUE MARINE FOUNDATION
- CHIRP
- APOCM
- IPNLF FOR ONE-BY-ONE FISHERS

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Report Recommendations

1. Transparent public reporting
2. Two-way communication devices
3. Professionalisation
4. Regional Fisheries Management Organisation Contracts
5. Litigation indemnity
6. Guaranteed confidentiality
7. Assured agency transparency with dependents of Observers

The current state of affairs is dangerous to both observer safety and the sustainable management of fisheries.

Something needs to change.

- The global fishing industry *must* be a catalyst for change.



Fisheries Observers Protections



The protection of fisheries observers is a critical requirement for assuring sustainable fisheries around the world on a scientific basis

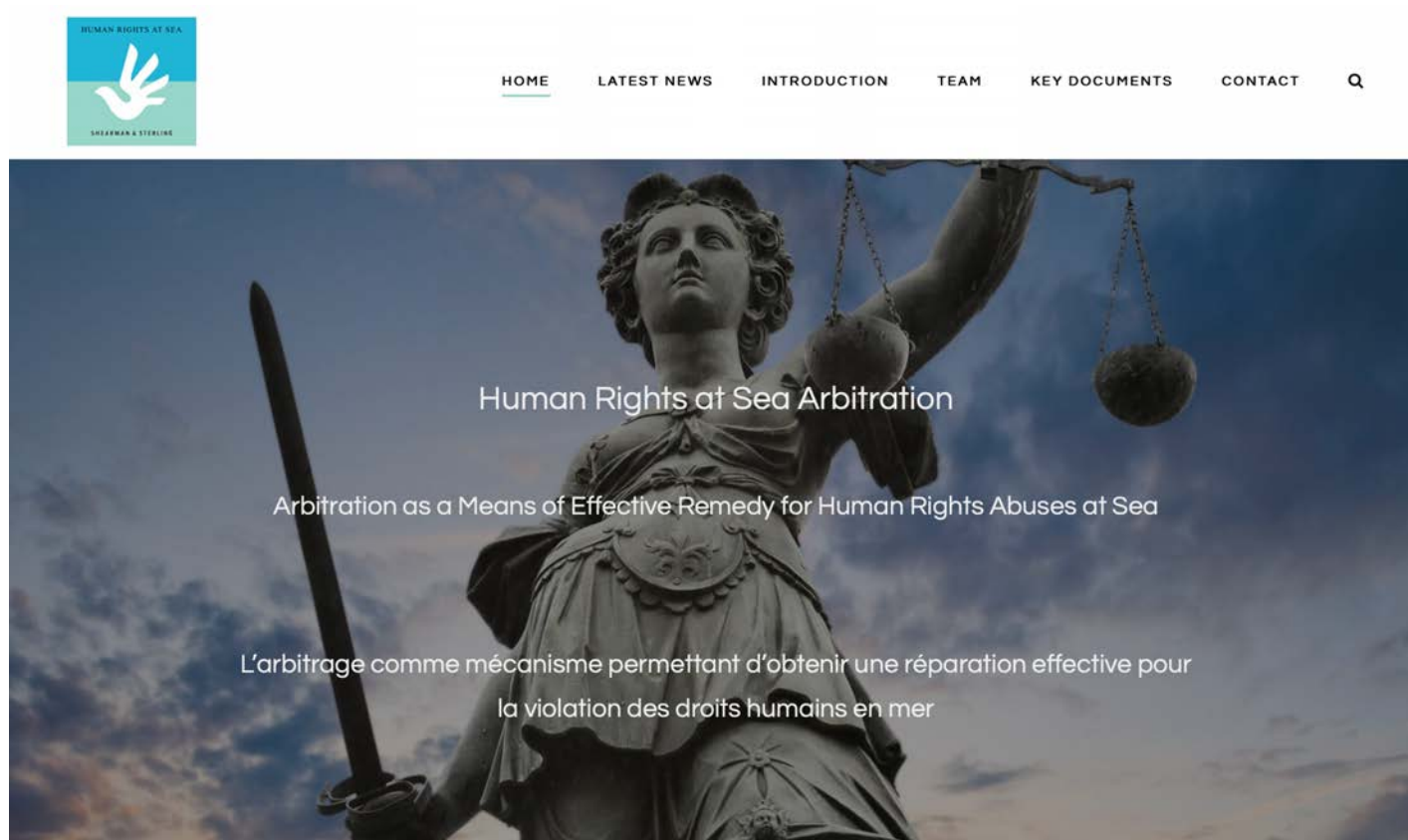
Death at Sea Film



<https://vimeo.com/864440501>

Arbitration Victim-led Remedy

Victim-led Remedy: Alternative enforcement mechanisms



www.hrasarb.com

Q. Can arbitration be a human rights remedy and is there a need?

- Early-stage project for an ad-hoc HRAS Arbitration Tribunal
- A blueprint for global application?
- **Must be victim-centered & victim-led**

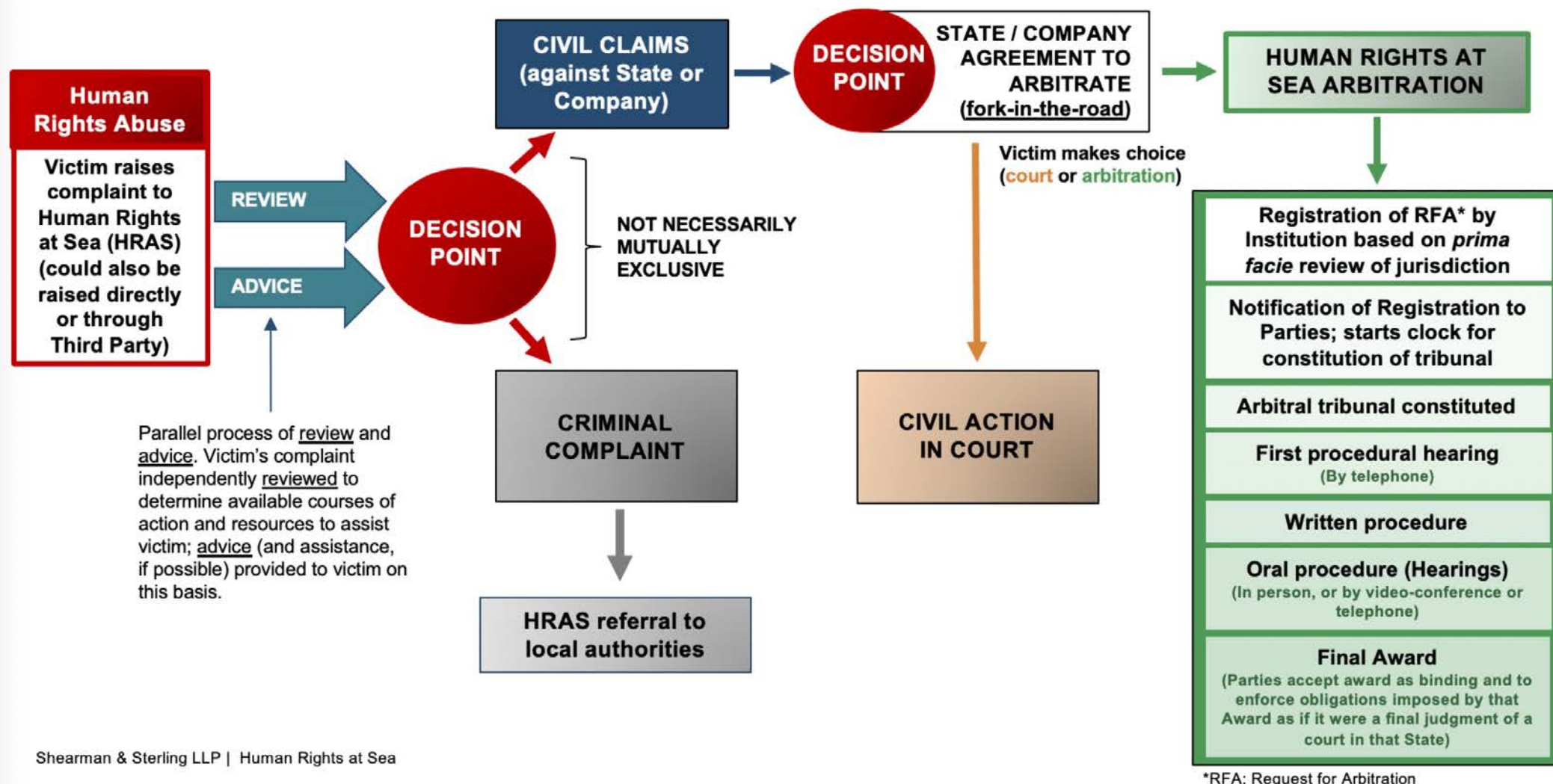
Q. What substantive protections would the tribunal have jurisdiction over?

Q. Are arbitration agreements in contracts of employment binding?

Q. What extent can third-parties prosecute claims on behalf of victims?

Q. Shortcomings in existing business and human rights arbitration frameworks?

Victim-Oriented Process for Addressing Human Rights Abuses at Sea



Shearman & Sterling LLP | Human Rights at Sea

Victim-led Remedy: State options in-force

UNCLOS 1982 SECTION 2.

COMPULSORY PROCEDURES ENTAILING BINDING DECISIONS

Article 287 Choice of procedure

1. When signing, ratifying or acceding to this Convention or at any time thereafter, a State shall be free to choose, by means of a written declaration, one or more of the following means for the settlement of disputes concerning the interpretation or application of this Convention:

- (a) the International Tribunal for the Law of the Sea established in accordance with Annex VI;
- (b) The International Court of Justice;
- (c) an arbitral tribunal constituted in accordance with Annex VII;
- (d) a special arbitral tribunal constituted in accordance with Annex VIII for one or more of the categories of disputes specified therein.

Improving human rights at sea ?

What do we need?

Long-term ownership - funding of the work - accurate narrative building

Fact checking

Transparency

Accountability

Effective global enforcement & effective remedies

Objective challenges to existing legal instruments & policies

- But -

A comprehensive deterrent effect is lacking for preventing abuses at sea

Impunity from scrutiny and absence of prosecutions is rampant

CSR & ESG 'gloss' is abundant

Poor corporate knowledge = recycling of known issues

'Kicking-the-can' actively used as an avoidance mechanism





David Hammond Esq.

Executive Director

E: david.hammond@hrasi.org