



HUMAN RIGHTS AT SEA

# **GENEVA DECLARATION ON HUMAN RIGHTS AT SEA**

VERSION 1

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## Geneva Declaration on Human Rights at Sea: Version 1 5 April 2019

### Preamble

Activity at sea, both legitimate and unlawful, is increasing year-on-year. This is leading to an increase in the global maritime population, currently estimated to be around 40-50 million people: men, women and children.

The majority of these are fishers, approximately 30 million, an estimated 20,000 of whom are children working at sea and in coastal fishing industries. Others are at sea in the shipping industry, in offshore oil and gas industries, engaging in tourism and a range of other activities. Importantly, there are also increasing numbers using the seas and oceans as a means of migration, including in unregulated and trafficked circumstances.

The presence, in increasing numbers of people on the seas and oceans, generates a growing need for their protection against threats to their basic human rights. Human rights apply to the same extent at sea as they do on land, in theory, nobody is in a human rights vacuum.

Sadly, however, it is a harsh fact that not all those at sea find themselves under the effective jurisdiction of States capable of protecting their human rights. The result is, that a great many who are vulnerable end up being abused, with those doing the abusing escaping the consequences of their actions.

There is significant and growing evidence of the systematic abuse of human rights at sea. As examples, those abused include the following (for more examples and detailed evidence see Annex A):

- Fishers held in slavery on fishing grounds thousands of miles away from where they were 'recruited'.
- Those being trafficked into sexual slavery, thousands attempting to transit oceans to escape conflict and discrimination, or simply in search of better lives for themselves and their families, but paying unscrupulous traffickers in the process.
- Seafarers abandoned by shipping interests no longer having a reason to employ them, and leaving them without pay or compensation on a foreign shore.
- Those working legitimately within the shipping industry, but experiencing deprivation of their human and basic employment rights.
- Victims of sexual assault on board passenger carrying vessels, including very large cruise ships carrying thousands of passengers, and operating under the flags of states having no means of monitoring or ensuring compliance with human rights standards.

People are disappearing at sea, they are dying at sea, they are being assaulted and abused. If this were occurring ashore, within the territory of a State, it would be well publicised but, because it is happening at sea, on the oceans and out of sight of land, those who could act to stop it are often oblivious to the problem.

Unfortunately, even if known about, serious human rights abuses are not easily policed at sea. There is a serious lack of forces capable of enforcing the law at sea, even within coastal regions. On the high seas, where no State exercises territorial jurisdiction, it is frequently almost impossible to identify which States bear principal responsibility for human rights violations. It is worrying that States that could act, far too frequently seem to use this as an excuse to turn a blind eye.

### Aim

The principal aim of this Declaration is to raise global awareness of the abuse of human rights at sea and to mobilise a concerted international effort to put an end to it.

# GENEVA DECLARATION ON HUMAN RIGHTS AT SEA

## Assumptions

This declaration recognises that people at sea are full beneficiaries of human rights, the fact that they may be at sea beyond the limits of territorial jurisdiction does not affect their rights.

There is a profound need for the concept of 'Human Rights at Sea' to be accepted globally.

It is primarily States that have responsibility for enforcing human rights standards at sea.

Other actors, international organisations, non-governmental organisations, private companies, masters of vessels, security personnel on board vessels, and civil society bodies also need to recognise and accept their own roles in the protection of human rights at sea.

Enforcing human rights standards at sea is problematic, with the territorial jurisdiction of States only extending to 12 nautical miles from the shore. Well over 60% of the Earth's surface is, therefore, beyond the limits of States' territory. If human rights at sea are to be respected, complied with, and enforced, all States need to accept their extraterritorial responsibilities on the oceans.

There can be no safe and secure legal order for the seas and oceans, if human rights are not enjoyed by all people at sea, and there can be no enjoyment if violations are not effectively addressed, and those affected are not provided with an effective remedy.

## Human Rights at Sea

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

Human rights belong to all individuals, regardless of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, occupation or other status.

Human rights at sea are reflected in the 2011 UN Guiding Principles on Business and Human Rights, and are supported in the UN Sustainable Development Goals.

The seas and oceans are a public space, which is crossed by vessels and people from all States, and different States exercise their jurisdiction thereon.

The public order of the oceans, including the protection of human rights for all people, is a collective responsibility of the international community.

The 'international community' consists of individual States, none of which should abdicate their share of the international community's collective responsibility for human rights standards at sea. States also need to act individually, as well as collectively, when necessary.

In particular, flag States, coastal States and port States need to act to ensure that all people at sea effectively enjoy their human rights, including the availability of an effective remedy if their rights are breached or abused.

The notion that human rights apply at sea is not a new one, but the seas and oceans have not been the focus of human rights processes to the same extent as States ashore. The concept of Human Rights at Sea here articulated, is a new way of articulating human rights issues at sea, of raising global awareness of the problem, and of highlighting the need for concerted international action. Human rights at sea have not been adequately recognised in the past; they must be in the future.

This Declaration reflects existing and established international law and principles. No new law is necessary to establish the fundamental principles of human rights at sea. Those fundamental principles already exist, but it is manifestly the case that they are not universally respected, they are not universally complied with, nor are they adequately enforced.

# GENEVA DECLARATION ON HUMAN RIGHTS AT SEA

## Human Rights at Sea cont/d

While the seas are a challenging environment and have unique characteristics that demand unique responses, this emphatically does not mean that human rights standards can be compromised in any way.

While effective remedy is difficult to achieve in relation to human rights at sea, the ultimate aim of this Declaration is to ensure that it will be achieved.

The seas are free for all legitimate use; this is an established principle of customary international law and it has been enshrined in the 1982 UN Convention on the Law of the Sea.

The stress is on legitimate use. The abuse of human rights at sea is not a legitimate use of the seas in any circumstance. Safe, secure and well-ordered oceans are essential for the international community to enjoy the use and resources of the oceans in a responsible and sustainable manner.

The protection of human rights and their enforcement at sea does not threaten or undermine the free use of the oceans. On the contrary, it is an essential means of ensuring that free use is maintained effectively whilst human rights standards and protections are upheld.

## Fundamental Principles

The concept of human rights at sea rests on the following **four fundamental principles**:

- A. **Human rights apply at sea to exactly the same degree and extent that they do on land.**
- B. **All persons at sea, without any distinction, enjoy human rights at sea.**
- C. **There are no maritime specific rules allowing derogation from human rights standards.**
- D. **All human rights established under treaty and customary international law must be respected at sea.**

## Annexes\*

- A. Contemporary Evidence of Human Rights Abuses at Sea
- B. List of Applicable Fundamental Human Rights at Sea
- C. Commentary
- D. Operationalising Human Rights at Sea

\*Annexes to be completed at second drafting session in Geneva May 2019

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VERSION 1

Human Rights at Sea is a Registered Charity in England and Wales No. 1161673. The organisation has been independently developed for the benefit of the international community for matters and issues concerning human rights in the maritime environment. Its aim is 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.



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