INTRODUCTION AND LEGAL BASIS OF THE SAR MISSION

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According to customary international law, the states, through the ships flying their flag, are obliged to help rescue people in danger of their lives at sea.

This obligation falls upon states regardless whether they are party or not to specific international treaties or conventions.

It has been incorporated in international treaties and forms the content of a norm of customary international law.

The duty to rescue is one of the best-established principles of the international law of the sea, maritime law and international humanitarian law.
International Convention on Maritime Search and Rescue, (SAR Convention) 1979, as amended
International Convention for the Safety of Life at Sea, 1974, (SOLAS) as amended, Chapter V, regulation 33
Convention on International Civil Aviation, 1944 (Chicago Convention)
International Convention on Salvage, 1989
Convention on Facilitation of International Maritime Traffic, 1965
International Maritime Organization (IMO) Global SAR Plan
Other Resolutions on Enhancement of Safety of Life at Sea, Guidelines on Stowaway, Combating Unsafe Practices associated with the Trafficking or Transport of migrants by sea
International Aeronautical and Maritime Safety Search and Rescue Manual (IAMSAR)
The duty to rescue persons in distress at sea is a fundamental rule of international law.

**What is 'distress'?**

- We are obliged to rescue “persons in distress” if we can - but what does ‘distress’ amount to?
- The international maritime agreements let us down a little
- ‘Distress’ is not defined in them.
- Instead, the ‘distress phase of emergency’ is defined: “a situation wherein there is reasonable certainty that a person, a vessel or other craft is threatened by grave and imminent danger and requires immediate assistance”, according to the Maritime SAR Convention.
  - “The existence of very exceptional circumstances of extreme urgency involving medical or other considerations of an elementary nature” International arbitration, Rainbow Warrior (1990)
  - “[the facts would] produce, in the mind of a skillful mariner, a well-grounded apprehension of the loss of the vessel and cargo, or of the lives of the crew” US Supreme Court, The New Yorker case (1818)
SELECTED REFERENCES TO “DISTRESS”

- **UNCLOS** Articles 18, 39, 98, 109 (and incorporated by reference in Articles 45, 54)
- **SOLAS**, Ch. III, Reg. 3; Ch. IV, Reg. 2(2), 4; and Ch. V, Regs. 7, 8, 29, 33, 35
- **SAR Convention** (Annex and IAMSAR Manual)
- **Chicago Convention on Civil Aviation**, Art. 25
- **Cargo Liability Conventions** (generally excluding liability for cargo damage resulting from “saving or attempting to save life or property at sea.”)
International maritime law and the law of the sea impose clear duties on flag States, coastal States, and shipmasters with regard to assisting persons in distress at sea.

The UNCLOS 1982, in Article 98, stipulates that states have to carry out 2 obligations, namely:

- To require the captains of the ships flying their flag to help the rescue
- To establish an effective search and rescue mechanism for that purpose

These duties, which reflect a longstanding maritime tradition, are set out in a number of key international treaties, complemented by guidelines developed by the International Maritime Organization ("IMO").
The duty to save life at sea is spelled out in Article 98 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which provides as follows:

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.

- This provision contains two separate obligations, addressed to two groups of States:
  - the duty of flag States to oblige masters of vessels flying their flag to rescue people at risk of being lost at sea
  - the duty of coastal States to establish and maintain search and rescue services
The duty to rescue is further clarified in a number of international maritime law treaties, including the Convention for the Safety of Life at Sea (SOLAS Convention), the International Convention on Maritime Search and Rescue (SAR Convention) and the International Convention on Salvage (Chapter V) of SOLAS.

Regulation 7 search and rescue services (Chapter V) of SOLAS

Each Contracting Government undertakes to ensure that necessary arrangements are made for distress communication and co-ordination in their area of responsibility and for the rescue of persons in distress at sea around its coasts.
One of the main issues that arises with respect to the duty to provide search and rescue services concerns the identification of which State, among a number of neighbouring States, should provide such assistance in a given case.

In more than one instance, States have disagreed on this point, thus causing unnecessary, and in some cases fatal, delays to rescue operations.

Chapter 3 - Co-operation between States of 1979 International Convention on Maritime Search and Rescue (SAR)

Requires Parties to co-ordinate search and rescue organizations, and, where necessary, search and rescue operations with those of neighboring States.

Article 8.1.6 - FAO Code of Conduct for Responsible Fisheries

"States should make arrangements individually, together with other States or with the appropriate international organization to integrate fishing operations into maritime search and rescue systems."
Clarification of the duty to coordinate with neighbouring States was therefore one of the main tasks of the negotiators of the SAR Convention.

Under this treaty, States are requested to agree on SAR regions in order to provide “adequate shore-based communication infrastructure, efficient distress alert routeing, and proper operational co-ordination to effectively support search and rescue services”.

Furthermore, “Parties having accepted responsibility to provide search and rescue services for a specified area shall use search and rescue units and other available facilities for providing assistance to a person who is, or appears to be, in distress at sea”.

IMO search and rescue areas

Following the adoption of the 1979 SAR Convention, IMO’s Maritime Safety Committee divided the world’s oceans into 13 search and rescue areas, in each of which the countries concerned have delimited search and rescue regions for which they are responsible.
FAL Convention Annex (as amended in 2005):
- Section 2, ¶ H: Special measures of facilitation for ships calling at ports in order to put ashore ... persons rescued at sea
- Section 7, ¶ C: Emergency Assistance
- See also FAL.3/Circ.194 (Jan. 22, 2009) Principles relating to administrative procedures for disembarking persons rescued at sea.
RELEVANT SEARCH AND RESCUE REGULATIONS AND GUIDELINES

- The International Aeronautical and Maritime Search and Rescue Manual, hereafter the IAMSAR Manual, published by the International Maritime Organization (IMO) and the International Civil Aviation Organization (ICAO) is for:
  - Maritime SAR based on the Hamburg Convention
  - Aviation on the Chicago Convention

- The IAMSAR Manual contains practical guidelines for the:
  - Organization of maritime and aeronautical SAR
  - Mission coordination
  - Operations of search and rescue units (SRUs)
  - Provision of SAR-related training

- The manual is not binding but provides a good foundation for the appropriate provision of maritime and aeronautical SAR services
Volume III, Mobile Facilities

- is intended to be carried aboard rescue units, aircraft and vessels to help with performance of a search, rescue or on-scene coordinator function, and with aspects of SAR that pertain to their own emergencies.
ADEQUACY OF PROCEDURES AND GUIDELINES FOR MERCHANT VESSELS

- Res. MSC.167(78): Guidelines on treatment of persons rescued at sea
- IAMSAR Manual Volume III
- ICS: Large Scale Rescue Operations at Sea (2015)
Safe and secure waters

People in maritime distress are assisted

SAR systems is prepared to respond

Maritime SAR cases are resolved

National & regional SAR plans

Trained SAR personnel

After action reports

Tasking SAR response

Plannig

Training

Exercises

Response coordination

Inputs

X Service Cost (operating)

X Number of FTEs

X Number of vessels and dedicated SAR vessels

Outputs

Activities

Intermediate/long-term Outcome

Intermediate Outcomes

Strategic Outcome
Obligations relating to rescue at sea fall on ship masters but also and mainly on the three types of States involved, whether they are Coastal States, States responsible for a SAR area, Flag States.

- Obligation to plan search and rescue centers at sea
- Obligation to rescue persons in distress
- Obligation to proceed to their disembarkation in a place of safety

Assisting people distress at sea - a maritime tradition

- Customary International Law
- Codified into Treaty Laws

Fundamental principle of international law
THANK YOU FOR YOUR ATTENTION

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