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# IMO's Role in Maritime Rescue: A Study on Disembarkation of Distressed Persons Rescued by Commercial Vessels

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## ABSTRACT

*Every year, thousands of migrants and asylum seekers undertake perilous sea journeys in search of safety, refuge from persecution, or better economic opportunities. Under international maritime law, vessel masters are obligated to render assistance to those in distress at sea. However, the disembarkation of rescued persons presents numerous logistical and political challenges for masters, shipowners, and charterers, often delaying or preventing timely disembarkation to a place of safety. Recognizing this dilemma, the International Maritime Organization (IMO) has recently adopted amendments to two key maritime conventions. Additionally, governments are encouraged to take all possible measures to prevent the use of unsafe boats for migrant transportation, as such voyages endanger both human lives and the safety of ships and cargo. As a specialized agency of the United Nations (UN), the IMO plays a crucial role in regulating shipping and ensuring maritime safety. This paper examines the IMO's obligations concerning rescue operations at sea and explores how the organization should address the disembarkation of distressed persons rescued by commercial vessels.*

**Keywords:** IMO, Rescue, Distress, Disembarkation, Commercial Vessel.

## I. INTRODUCTION

The International Maritime Organization (IMO), a specialized agency of UN responsible for regulating shipping and ensuring safety and security of shipping and prevention of maritime ships.<sup>3</sup> According to the Article 1(a) of the Convention, IMO is to provide machinery for cooperation among Governments in the field of governmental regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade; to encourage and facilitate the general adoption of the highest practicable standards in matters concerning maritime safety, efficiency of navigation and prevention and control of marine pollution from ships. It's also empowered to deal with administrative and legal matters related to these

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<sup>3</sup> The IMO Convention entered into force in 1958, which was concluded at Geneva in 1948, and Assembly was convened in 1959.

purposes,<sup>4</sup> and for providing technical assistance in maritime matters to developing countries. Furthermore, responsibility endorsed for convening international conferences on shipping matters and for drafting international conventions or agreements on this subject where the current emphasis is on ensuring relevant conventions and treaties are properly implemented by the countries that have accepted them.

## II. IMO AS A SPECIALIZED AGENCY OF UN

The International Maritime Organization (IMO),<sup>5</sup> until 1982 IMO was known as the Inter-Governmental Maritime Consultative Organization (IMCO). Thereafter, IMO recognized as a specialized agency of United Nations.<sup>6</sup> Specialized agencies are those organizations, which work closely with the UN through special agreements, but are considered to have their own separate legal personality.<sup>7</sup> Specialized agencies of the United Nations (UN) are international organizations established by intergovernmental treaties and brought into a relationship with the UN under Article 57 and Article 63 of the UN Charter.<sup>8</sup> Only intergovernmental organizations qualify as specialized agencies, as they operate within a decentralized framework under the UN system. These agencies are entrusted with global functions, including supervision, coordination, and technical cooperation, to enhance collaboration among member states in their respective fields. Despite their decentralized nature, the membership of specialized agencies generally aligns closely with that of the UN, ensuring broad representation and coherence with the UN's objectives and principles.<sup>9</sup>

The UN is an intergovernmental organization, and IMO exemplifies this structure within the specialized agencies of the UN. As member states, all sovereign entities committed to regulating and promoting safe, secure, and environmentally sustainable international shipping. Article 57 of the UN Charter mandates that specialized agencies must function as organizations in the true sense, going beyond mere international treaties that establish substantive rights and duties with periodic conferences.<sup>10</sup> This requirement necessitates an independent entity with a distinct

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<sup>4</sup> Convention on The International Maritime Organization art. 1, Mar. 6, 1948, 289 U.N.T.S. 3.

<sup>5</sup> Currently having 172 members. May enter into agreements of cooperation with other intergovernmental organizations on matters of common interest with a view to ensuring maximum coordination in respect of such matters. To date there are 65 intergovernmental organizations which have signed agreements of cooperation with IMO.

<sup>6</sup> Specialized agency established under Article 57 and recommended by ECOSOC under Article 63 and approved by General Assembly of UN.

<sup>7</sup> LEROY BENNETT, *INTERNATIONAL ORGANIZATIONS - PRINCIPLES AND ISSUES* 134 (4th ed. 1988).

<sup>8</sup> KULJIT AHLUWALIA, *THE LEGAL STATUS, PRIVILEGES AND IMMUNITIES OF THE SPECIALIZED AGENCIES OF THE UNITED NATIONS AND CERTAIN OTHER INTERNATIONAL ORGANIZATIONS AND THEIR HEADQUARTERS* 48-104 (1964).

<sup>9</sup> RUMKI BASU, *THE UNITED NATIONS STRUCTURE AND FUNCTIONS OF AN INTERNATIONAL ORGANISATION* (2004).

<sup>10</sup> PHILIP ALSTON, *THE UNITED NATIONS' SPECIALIZED AGENCIES AND IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS* 79 (Dinah L. Shelton, 1st ed. 2009).

institutional framework, equipped with its own organs and a defined mandate conferred by a founding treaty under public international law.<sup>11</sup> IMO was established by the IMO Convention under the 1948 treaty, which defines its fundamental purpose and objectives. It consists of an Assembly, a Council, and four main Committees: the Maritime Safety Committee, the Marine Environment Protection Committee, the Legal Committee, and the Technical Cooperation Committee. Additionally, there is a Facilitation Committee and several Sub-Committees that support the work of the main technical committees.<sup>12</sup>

Hence, it can be construed that, in the true sense, the IMO is a specialized agency of the UN.<sup>13</sup> Article 57(1) of the UN Charter states that specialized agencies are intergovernmental international organizations with broad international responsibilities, as defined in their foundational instruments, covering economic, social, cultural, educational, health, and related fields. These agencies are required to have a formal relationship with the UN. In Paragraph 2 of Article 57 further clarifies that organizations brought into a relationship with the UN are referred to as specialized agencies. However, this creates a paradox: while Paragraph 1 presupposes that specialized agencies already exist, Paragraph 2 suggests that an international organization only attains the status of a specialized agency through a formal contractual agreement with the UN.

But this inconsistent and unclear terminology has no legal consequence because, before the beginning of the relationship, a specialized agency does not yet have rights and duties of its own towards the UN. This leads to the conclusion that once an agency becomes a specialized agency under these provisions, it assumes wide international responsibilities in fields related to economic, social, cultural, educational, and health matters. It is true that specialized agencies have a limited area of activity, but Article 57 is found in Chapter IX, which deals with international cooperation in economic and social matters.<sup>14</sup> It is undisputed that the activities of specialized agencies were to be described identically, but the San Francisco Conference stated that the term 'economic' was to be understood in a broad sense, covering at least trade, finance, communication, transport, reconstruction, commodities, capital transfers, and even issues related to drug abuse. Beyond that, the conference preferred an even broader formulation, also including cooperation in the fields of education and health.

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<sup>11</sup> Bruno Shima, *The Charter of United Nation a Commentary*, 1 OXFORD UNIVERSITY PRESS

<sup>12</sup> Convention on The International Maritime Organization art. 11, Mar. 6, 1948, 289 U.N.T.S. 3.

<sup>13</sup> Ilker Basaran, *The Evolution of the International Maritime Organization's Role in Shipping*, 47 JOURNAL OF MARITIME LAW & COMMERCE 101 (Jan., 2016).

<sup>14</sup> Fons Coomans, *The Extraterritorial Scope of the International Covenant on Economic, Social and Cultural Rights in the Work of the United Nations Committee on Economic, Social and Cultural Rights*, 11 HUMAN RIGHTS LAW REVIEW 1-35 (Mar.,2011).

Holistically speaking, the specialized agencies of the UN possess a high degree of responsibility.<sup>15</sup> While discussing the responsibilities of specialized organizations, one must consider the basic objectives of the UN system.<sup>16</sup> Specialized agencies are mandated to work on worldwide technical matters, with their decentralized structure serving as an alternative to conferring these functions exclusively on the United Nations itself.<sup>17</sup> Hence it is to understand that the specialized agency is the byproduct of the decentralized UN system and are subjected to responsibility that UN in general possess.<sup>18</sup>

It is important to note that any organization established by an intergovernmental agreement and entrusted with broad international responsibilities, as outlined in its founding instrument, in the fields of economic, social, educational, health, and related matters, may be brought into a formal relationship with the UN and thereby attain the status of a specialized agency.<sup>19</sup> This relationship must be established in accordance with Article 63 of the UN Charter, which stipulates that the Economic and Social Council (ECOSOC) is responsible for negotiating agreements with such agencies to integrate them into the UN system, subject to approval by the General Assembly.

Furthermore, the agreements concluded by ECOSOC under Article 63 constitute legally binding instruments under public international law, governing the relationship between the UN and specialized agencies. The second part of Article 63 further mandates that ECOSOC coordinate the activities of these agencies through consultations and recommendations directed at both the agencies themselves and the General Assembly, as well as UN member states. This underscores the structured yet decentralized nature of the UN's engagement with specialized agencies, ensuring coherence in their global governance functions.<sup>20</sup>

In a wider sense it can be concluded that these specialized agencies must work with other UN organs, specialized agencies and UN specialized programme for fulfillment of objective of UN.<sup>21</sup> Part XV of IMO convention governs relationship of IMO and UN, it says that, IMO shall

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<sup>15</sup> Agustín Blanco-Bazán, *IMO – Historical Highlights in the Life of a UN Agency*, 6 JOURNAL OF THE HISTORY OF INTERNATIONAL LAW / REVUE D'HISTOIRE DU DROIT INTERNATIONAL 259 (Jan.,2004).

<sup>16</sup> Gustav Pollaczek, *The United Nations and Specialized Agencies*, 40 AMERICAN JOURNAL OF INTERNATIONAL LAW 592-619 (1946).

<sup>17</sup> EDWARD C LUCK, *REFORMING THE UNITED NATIONS: LESSONS FROM A HISTORY IN PROGRESS* (Jean Crasno, New Haven, CT: Academic Council on the United Nations System, 2003).

<sup>18</sup> Bruno Shima, *The Charter of United Nation a Commentary*, 2 OXFORD UNIVERSITY PRESS 1617

<sup>19</sup> Rüdiger Wolfrum, *Legitimacy of International Law and the Exercise of Administrative Functions: The Example of the International Seabed Authority, the International Maritime Organization (IMO) and International Fisheries Organizations*, 9 GERMAN LAW JOURNAL 917-940 (2019).

<sup>20</sup> Bruno Shima, *The Charter of United Nation a Commentary*, 2 OXFORD UNIVERSITY PRESS 1697.

<sup>21</sup> Mary George, *Legitimacy of International Law and the Exercise of Administrative Functions: The Example of the International Seabed Authority, the International Maritime Organization (IMO) and International Fisheries Organizations*, 13 ASIAN YEARBOOK OF INTERNATIONAL LAW 127–156 (2007).

be brought into relationship with the United Nations in accordance with Article 57 of the Charter of the United Nations as the specialized agency in the field of shipping and the effect of shipping on the marine environment. This relationship shall be affected through an agreement with the United Nations under Article 63 of the Charter of the United.<sup>22</sup> Where Article 63 of UN charter provides that, the Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly. IMO is such a specialized organization approved by 3<sup>rd</sup> UN General Assembly in November 1948 and by the 1st IMO Assembly in January 1959, coming into effect on the same day 13 January 1959 IMO has been in the UN System for as long as it has existed. With obligation of Co-operation as stated, it shall co-operate with any specialized agency of the UN in matters which may be the common concern of the Organization and of such specialized agency, and shall consider such matters and act with respect to them in accord with such specialized agency as having agreement with ILO, IAEA, FAO, WTO.<sup>23</sup> Furthermore it may co-ordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations. The Organization may, on matters within its scope, co-operate with other intergovernmental organizations which are not specialized agencies of the United Nations, but whose interests and activities are related to the purposes of the Organization as having 60 Agreements,<sup>24</sup> and may also consult and cooperation with non-governmental organization as having 79 in consultative status.<sup>25</sup> Here the word co-ordination and cooperation indicates other organization as specialized agency, other intergovernmental organization not specialized agency of UN, non-governmental organization will also co-operate and co-ordinate with IMO.

### III. RESCUE AT SEA

Although such agencies provide assistance in technical fields, they work towards the same goals and objectives as the UN.<sup>26</sup> Each specialized agency has a particular role. With respect to IMO, its work is aimed at improving the safety and security of international shipping as well as controlling marine pollution from ships.<sup>27</sup> The IMO's primary purpose is to develop and

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<sup>22</sup> Convention on The International Maritime Organization art. 59, Mar. 6, 1948, 289 U.N.T.S. 3.

<sup>23</sup> Convention on The International Maritime Organization art. 60, Mar. 6, 1948, 289 U.N.T.S. 3.

<sup>24</sup> Convention on The International Maritime Organization art. 61, Mar. 6, 1948, 289 U.N.T.S. 3.

<sup>25</sup> Convention on The International Maritime Organization art.62, Mar. 6, 1948, 289 U.N.T.S. 3.

<sup>26</sup> PHILIPPE SANDS & PIERRE KLEIN, *BOWETT'S LAW OF INTERNATIONAL INSTITUTIONS* 75 (6th ed. 2009).

<sup>27</sup> <<https://www.un.org/Overview/uninbrief/institutions.shtml>> accessed 17 may 2018.

maintain a comprehensive regulatory framework for shipping and its remit today includes safety, environmental concerns, legal matters, technical co-operation, maritime security and the efficiency of shipping.<sup>28</sup> IMO is governed by an assembly of members and is financially administered by a council of members elected from the assembly. The work of IMO is conducted through five committees and technical subcommittees support these. Other UN organizations may observe the proceedings of the IMO. Observer status is granted to qualified non-governmental organizations.

IMO has been made one of the most important tasks to develop international rules and standards through the adoption of legal instruments. Along with other adoption IMO adopted two convention related to rescue at sea, such as, International Convention for the Safety of Life at Sea (SOLAS), 1974; and International Convention on Maritime Search and Rescue, 1979(SAR).<sup>29</sup>

The SOLAS Convention in its successive forms is generally regarded as the most important of all international treaties concerning the safety of merchant ships. The SOLAS is an international maritime treaty which sets minimum safety standards in the construction, equipment and operation of merchant ships. The convention requires signatory flag states to ensure that ships flagged by them comply with at least these standards. While SAR which was aimed at improving search and rescue operations at sea.<sup>30</sup>

#### **(A) Obligation of Masters at Rescue at Sea:**

Humanitarian agencies assisting migrants and refugees at sea have historically described search and rescue ships as “floating hospitals” or “ambulances for the sea.”<sup>31</sup> According to historical context,<sup>32</sup> three separate sets of norms were developed to address the need to save life at sea: rules on the safety of navigation; rules concerning assistance to the shipwrecked and their protection; and rules on the duty of masters to provide assistance.<sup>33</sup> In the modern

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<sup>28</sup> Gabriela Argüello, *The International Maritime Organization and Regime Interaction: Cooperation or Hegemony?*, 10 CAMBRIDGE INTERNATIONAL LAW JOURNAL 255-279 (2021).

<sup>29</sup> International Convention for the Safety of Life at Sea (SOLAS), adoption on 01 November 1974 and entry into force on 25 May 1980; International Convention on Maritime Search and Rescue, adoption on 27 April 1979 and entry into force: 22 June 1985.

<sup>30</sup> The international convention on maritime search and rescue, (Hamburg, 27 Apr., 1979).

<sup>31</sup> Imogen Dobie, “*Ambulances of the Sea*”: *The Terracization of Maritime Aid*, 13 HUMANITY: AN INTERNATIONAL JOURNAL OF HUMAN RIGHTS, HUMANITARIANISM, AND DEVELOPMENT 158-174 (2022).

<sup>32</sup> Ricky J Lee, *Emergency Assistance and Rescue Obligations for Commercial and Private Spacefarers in the Context of the History, Present, and Future of Human Spaceflight*, in ASCENDING TO SPACE: CRITICAL PERSPECTIVES FROM NEW ZEALAND AND OTHER NATIONS 35–72 (Maria A. Pozza ed., 2024)

<sup>33</sup> Irini Papanicolopulu, *The Historical Origins of the Duty to Save Life at Sea in International Law*, 24 JOURNAL OF THE HISTORY OF INTERNATIONAL LAW/REVUE D'HISTOIRE DU DROIT INTERNATIONAL 149-188 (2022); Imogen Dobie, *Rocking the Boat: Maritime Rescue and the Professionalization of Relief, 1978–82*, 29 EUROPEAN REVIEW OF HISTORY: REVUE EUROPÉENNE D'HISTOIRE 614-635 (2022).

international maritime law obligation to render assistance to rescue in distress persons at sea have been imposed on vessel masters.<sup>34</sup> Many provisions have been incorporated for shipmasters under the Convention on Facilitation of International Maritime Traffic (1965) (FAL Convention) which, obliges special measures of facilitation for ships calling at ports to disembark persons rescued at sea. Public authorities shall facilitate the arrival and departure of ships engaged in the rescue of persons in distress at sea to ensure they are provided with a place of safety. Further, the UN Convention on the Law of the Sea states that,

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.<sup>35</sup>

And the 1974 International Convention for the Safety of Life at Sea (SOLAS Convention) obliges the,

“...master of a ship at sea which is in a position to be able to provide assistance, on receiving information from any source that persons are in distress at sea, is bound to proceed with all speed to their assistance, if possible informing them or the search and rescue service that the ship is doing so.”<sup>36</sup>

And the 1979 International Convention on Maritime Search and Rescue (SAR Convention) obliges State Parties to,

“...ensure that assistance be provided to any person in distress at sea regardless of the nationality or status of such a person or the circumstances in which that person is found...” and to “provide for their initial medical or other needs, and deliver them to a place of safety.”<sup>37</sup>

As per international legal requirements placed on shipmasters and coastal states as they work together in coordinating and conducting maritime SAR operations.<sup>38</sup> However, in real scenario

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<sup>34</sup> Felicity G. Attard, *The Duty of the Shipmaster to Render Assistance at Sea Under International Law*, 41 BRILL (2020); Aysegul Bugra Sar, *Considerations on Assistance and Rescue at Sea in the Light of the Increasing Autonomy in Shipping*, 153 MARINE POLICY (2023).

<sup>35</sup> United Nations Convention on the Law of the Sea, art. 98(1), Dec. 10, 1982, 1833 U.N.T.S. 397.

<sup>36</sup> International Convention for the Safety of Life at Sea (SOLAS), ch. V, reg. 33(1), Nov. 1, 1974, 1184 & 1185 U.N.T.S. 278.

<sup>37</sup> International Convention on Maritime Search and Rescue (SAR), chs. 2.1.10 & 1.3.2, Apr. 27, 1979, 1405 U.N.T.S. 97.

<sup>38</sup> Rick Button, *International law and search and rescue*, in OPERATIONAL LAW IN INTERNATIONAL STRAITS AND CURRENT MARITIME SECURITY CHALLENGES 101-141 (Jörg Schildknecht et al. eds., 2018).



it's becoming shifting burden on commercial vessel. Further, in the development of autonomous and remotely controlled ships, scholars argue that ships must serve the prevailing norm for safety at sea. For a ship without a master, it would be necessary to modify this legal duty, possibly by imposing this duty on the owner and/or the controller of the autonomous ship.<sup>39</sup> So, obligations on commercial vessel are highlighted, for practical implication we must need co-ordination for disembarkation.

#### IV. OBLIGATIONS OF GOVERNMENTS AND RESCUE CO-ORDINATION CENTERS

UNCLOS imposes an obligation on every coastal State Party to promote the establishment, operation, and maintenance of an adequate and effective search and rescue service for safety at sea and in the air.<sup>40</sup> Where circumstances require, States must also cooperate with neighboring States through mutual regional arrangements for this purpose.<sup>41</sup> While, SOLAS requires State Parties 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. These arrangements shall include the establishment, operation and maintenance of such search and rescue facilities as are deemed practicable and necessary.<sup>42</sup> And SAR Convention obliges State Parties to ensure that assistance be provided to any person in distress at sea regardless of the nationality or status of such a person or the circumstances in which that person is found provide for their initial medical or other needs, and deliver them to a place of safety.<sup>43</sup> Even when the rescue has been accomplished, problems can arise in securing the agreement of States to the disembarkation of migrants and refugees. Despite having obligations in recent times states are abolishing state-operated search and rescue services, which has been reached a new alarming peak, including in Mediterranean. To compensate that, non-governmental organizations (NGOs) and private ships has become a crucial actor in lack of state-led search and rescue services. However, Coastal states significantly complicate the work of NGOs by refusing to provide a place of safety for the disembarkation of rescued refugees. When, following the rescue of people at sea, the rescuing vessel has to deliver them to a State; a dispute may arise concerning the State that should accept these people. This is particularly

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<sup>39</sup> Michael Tsimplis, *Designing Norms for Autonomous Ships: The Obligation to Call for Help and the Duty to Save Life in Danger at Sea*, in *AUTONOMOUS VESSELS IN MARITIME AFFAIRS: LAW AND GOVERNANCE IMPLICATIONS* 99-118 (2023).

<sup>40</sup> Sam Bateman, *UNCLOS and Its Limitations as the Foundation for a Regional Maritime Security Regime*, 19 *THE KOREAN JOURNAL OF DEFENSE ANALYSIS* 27-56 (2007).

<sup>41</sup> United Nations Convention on the Law of the Sea, art. 98(2), Dec. 10, 1982, 1833 U.N.T.S. 397; Robert Beckman & Zhen Sun, *The relationship between UNCLOS and IMO instruments*, 2 *ASIA-PACIFIC JOURNAL OF OCEAN LAW AND POLICY* 201-246 (2017); Irini Papanicolopulu, *The duty to rescue at sea, in peacetime and in war: A general overview*, 98 *INTERNATIONAL REVIEW OF THE RED CROSS* 491-514 (2016).

<sup>42</sup> International Convention for the Safety of Life at Sea, ch. V, reg. 7, Nov. 1, 1974, 1184 U.N.T.S. 278.

<sup>43</sup> International Convention on Maritime Search and Rescue, ch. 1.3.2, Apr. 27, 1979, 1405 U.N.T.S. 97.

likely in the case of assistance to migrants by sea, as States are often unwilling to assume their responsibilities to rescue *vis-à-vis* migrants and asylum-seekers, and may prefer to close their ports to rescuing vessels, as the case of the Tampa.<sup>44</sup> Just as Masters have an obligation to render assistance, Member States have a complementary obligation to coordinate and cooperate so that persons rescued at sea are disembarked in a place of safety as soon as possible.

#### **(A) Guidelines on the treatment of persons rescued at sea under the SAR (Search and Rescue) Convention**

Recognizing this problem, member States of the International Maritime Organization (IMO) adopted amendments to two of the relevant maritime conventions in 2004. The government responsible for the SAR region in which survivors were recovered is responsible for providing a place of safety or ensuring that such a place of safety is provided.<sup>45</sup> A place of safety is a location where rescue operations are considered to terminate, and where: their survivors' safety or life is no longer threatened; basic human needs (such as food, shelter and medical needs) can be met; and transportation arrangements can be made for the survivors' next or final destination.<sup>46</sup> And while an assisting ship may serve as a temporary place of safety, it should be relieved of this responsibility as soon as alternative arrangements can be made.<sup>47</sup> Disembarkation of asylum-seekers and refugees recovered at sea, in territories where their lives and freedom would be threatened should be avoided.<sup>48</sup> And any operations and procedures such as screening and status assessment of rescued persons that go beyond rendering assistance to persons in distress should not be allowed to hinder the provision of such assistance or unduly delay disembarkation.<sup>49</sup>

#### **(B) Case Analysis**

In IMO conventions responsibilities referred only for ship masters but don't expressly mention what would be consequence when commercial vessel rescued and proper disembarkation and problem arises when any private commercial vassal rescued any distress person states are not willing to take such responsibilities. In the MV Tiger River (pvt) case, a ship named MV Tiger River rescued a Rohingya asylum seeker along with other nationals. The ship entered Calcutta port in December 2014, the operator of the ship, Bengal Tiger Line Pvt. Ltd. Had given an undertaking stating that they will keep the rescued individuals under their custody and will be

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<sup>44</sup> Ruddock v. Vadarlis (Tampa Case), (2001) 183 A.L.R. 1 (Austl.).

<sup>45</sup> Guidelines on the Treatment of Persons Rescued at Sea under the SAR Convention, para. 2.5, 2004.

<sup>46</sup> *Ibid.* para 6.12

<sup>47</sup> *Ibid.* para. 6.13

<sup>48</sup> *Ibid.* para. 6.17

<sup>49</sup> *Ibid.* para. 6.20

responsible for all costs associated with keeping them in their custody, until they were repatriated. The rescued individuals including the Rohingya asylum seekers were kept in hotel rooms. Police guards were provided to ensure that they couldn't leave the rooms. Rohingya asylum seeker released after almost 2 years in custody of shipping company. In this situation the commercial vessel taking all responsibility after rescued. But problem is that if member states don't take responsibilities in further the private vessel will not take rescued persons in the navigation. Commercial vessel are responsible only to rescue but not for disembarkation.

## **V. CONCLUSION**

In the context of maritime rescue operations, the effective disembarkation of distressed persons rescued by commercial vessels remains a critical challenge. However, significant gaps persist in the disembarkation process, creating uncertainty and humanitarian concerns. The IMO should establish clear and comprehensive provisions to ensure the safe and timely disembarkation of rescued individuals. Without such measures, migration-related accidents and humanitarian crises at sea will continue to pose serious challenges. Strengthening international cooperation and regulatory frameworks is essential to safeguarding both human lives and maritime security. Therefore, as a specialized agency the IMO must take decisive action to address this issue and enhance the effectiveness of maritime rescue operations in accordance with international law and humanitarian principles.

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