



A HUMAN TIDE

NAVIGATING MIGRANT CHALLENGES IN THE MARITIME
SECTOR

SPOTLIGHT REPORT – SEPTEMBER 2023

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Introduction

The global refugee and migration situation has reached a critical juncture, marked by a disturbing increase in the number of attempted maritime crossings which often lead to a tragic loss of life. Conflict and poverty in their own countries have created an exodus of people looking for greater prosperity and stability in lands far away from home. Often the only way the migrants can reach their intended goal is by small boat. This has led to ruthless exploitation of the situation by criminal gangs. Migrants are parting with substantial sums of money to intermediaries who facilitate these hazardous crossings.

This report looks at how this migrant crisis has also placed the commercial maritime sector in a moral and legal dilemma. Do commercial and private vessels have an obligation to assist if they come across migrant vessels, how do they deal safely with the migrants if they do provide assistance, where does a ship land the migrants and who pays for the time and loss of revenue?

Why do Migrants Undertake Such Perilous Journeys?

If we take Africa as an example, the dire security and economic conditions prevailing in countries like Nigeria, Sudan, Niger, Somalia, Mali, Burkina Faso and Ethiopia compel individuals to embark on treacherous journeys, despite the harrowing risks involved. Since 2014 over 26,000 people have died or gone missing crossing the Mediterranean alone, including over 20,000 along the Central Mediterranean route which is considered among the deadliest migration routes in the world. A stark division of opinions has emerged regarding how to effectively manage Mediterranean migrant boat crossings. One viewpoint asserts that extending excessive assistance to rescue and rehabilitate migrants may inadvertently incentivise more perilous journeys. Conversely, a substantial faction contends that a moral and political obligation exists to safeguard human rights, dignity, and lives.



The SOLAS convention obligates passing ships to rescue those in peril

What are the Implications for Commercial and Private Shipping?

One of the aspects often overlooked is the risk to shipping and how this affects their daily business. Is there a legal obligation to help, do ships have to stop and assist? Notwithstanding ethical considerations when faced with a migrant vessel in distress, international maritime law states the following:

Under the International Conventions for Safety of Life at Sea (SOLAS) Chapter V Regulation 33.1

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

The master of a ship at sea, on receiving information that persons are in distress, is legally bound to proceed with all speed to their assistance. This obligation to provide assistance applies regardless of the nationality or status of such persons.

possible, informing them or the search and rescue service that the ship is doing so. This obligation to provide assistance applies regardless of the nationality or status of such persons or the circumstances in which they are found. If the ship receiving the distress alert is unable to proceed to their assistance, the master must enter in the log book the reason for failing to proceed to the assistance of the persons in distress, taking into account the recommendation of the organisation to inform the appropriate search and rescue service accordingly.

SOLAS Chapter V Regulation 33.6

Masters of ships who have embarked persons in distress at sea shall treat them with humanity, within the capabilities and limitations of the ship. This extract from SOLAS is unambiguous and clear. The duty to provide assistance to anyone in distress is an obligation and not a choice, the Master can only turn down a request for rescue in the following circumstances:

- The vessel has insufficient bunkers to aid in the rescue effort.
- The rescue poses a threat to his own ship and crew (e.g., rescue in a hurricane, rescue in fire situations if the vessel is a loaded tanker etc.).
- If other vessels are already in the process of rescuing.

Case Study: MAERSK PROSPER

In an incident on the 12th April 2015, a 61,000 Tonne tanker, M/T MAERSK PROSPER was en route to Mellitah, Libya, when she received a call from Maritime Rescue Coordination Centre (MRCC) Rome telling it to proceed to a position off Libya for a search and rescue operation of a migrant boat. Bound by his legal obligation, the ship's master complied with the MRCC's instruction and despite poor weather conditions, the migrant boat was located. The ship rescued a total of 263 refugees, some of which were pregnant women, infants and children, as well as sick and injured people who needed immediate medical attention.

The compassion and determination displayed by the crew extended far beyond the initial rescue. Upon completion of the delicate rescue mission, MRCC Rome issued a new directive that the ship should sail to Messina, Italy, to disembark the migrants. The vessel, designed to accommodate a maximum of 32 persons, now found itself faced with the unprecedented task of transporting almost ten times that number. The decision to sail with such a significant number of migrants onboard was not taken lightly but despite the challenges, the crew ensured the survivors delivered safely to Messina.

While the MAERSK PROSPER's response to its SOLAS obligations stands as a testament to human compassion and maritime excellence, it also underscores the urgent need for a broader solution and highlights that currently, there is no formal guidance or training for ship's crews on how to deal with such an influx of migrant survivors, some of which potentially, could be linked to terrorist organisations. The increase in such incidents not only across the Mediterranean, has raised safety concerns among stakeholders within the shipping industry, signalling the need for comprehensive, collaborative efforts to address this ongoing humanitarian crisis.

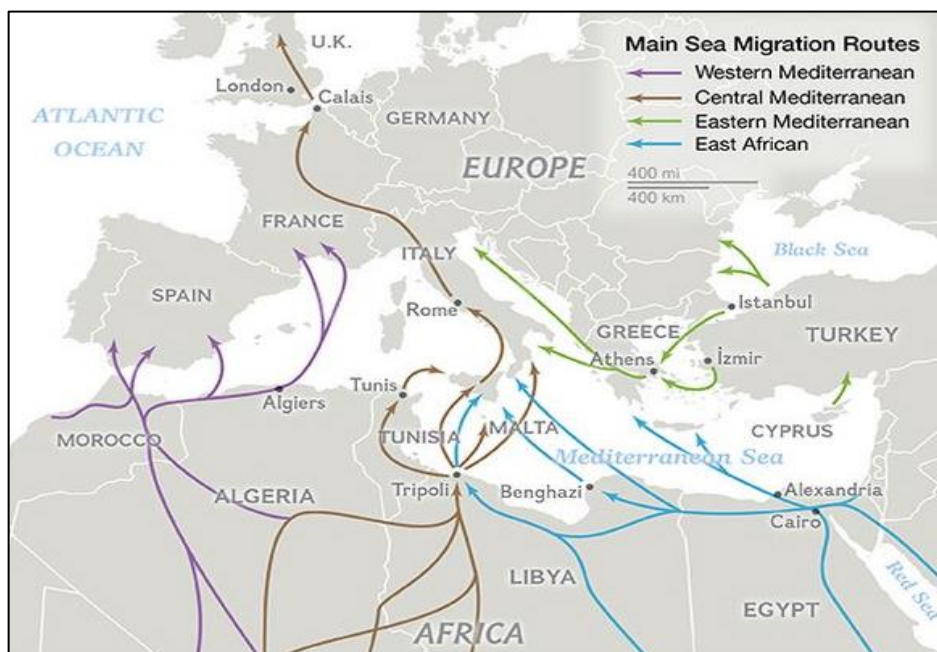
Over recent years, the continued movement of migrants coupled with the obligation to assist people in distress leaves shipping operators and masters in a difficult and sometimes expensive predicament. Who, for example, shoulders the expenses incurred by such operations?

Protection & Indemnity (P&I) Clubs are specialist marine insurers that have established rules on how they can assist their members when such needs arise. Most P&I Clubs cover typical expenses of rescue such as costs of diversion, victualling, medical supplies, port charges, tugs, disinfection etc. However, these covers are also subject to different conditions and limitations. For example, a P&I Club will only cover these expenses if said expenses will not be covered by another party. Consequently, before seeking reimbursement from the Club, the member should explore the possibility of being reimbursed by the authority instructing the shipowner to take part in the SOLAS operations.

Another problem is when ships rescue migrants where do they land them?

It may be difficult to find a port that is willing to receive the migrants, if no such port is found, the responsibility for the rescued migrants remains with the rescue vessel and the states having jurisdiction over it. It can be tempting in such cases to disembark the survivors in any willing port. However, international law requires that rescued persons should only be disembarked in a safe port. This does not have to be a Western European port, but for example, Libyan ports are not considered safe ports in this respect (UNHCR and IOM joint statement). Persons who may be political asylum seekers are even better protected by international law and may refuse to be landed in ports they consider unsympathetic or may return them to their country of origin.

The following graphic shows the main Mediterranean Migration routes (courtesy of the UN International Organization for Migration).



Mediterranean Migration Routes

Are your vessel and crew prepared to provide appropriate assistance when directed to?

As the maritime industry faces an increasing frequency of encounters with migrant rescue situations, the requirement for comprehensive preparedness has never been greater. The absence of clear guidelines and information on the associated risks underscores the need for well-defined procedures and crew guidance to ensure the safety of all stakeholders involved. Rescuers assume primary responsibility for taking care of the rescued, but there are limits to what they are trained to do.

In lieu of such guidance, the following are factors that it may be useful to consider:

1. **Safety of the Crew.** Ensuring the well-being of the crew is paramount. Adequate training and protocols should be in place to handle diverse situations that may arise during refugee rescues. This includes addressing potential health risks, providing medical care, and managing potential stressors.
2. **Safety of the Vessel.** Balancing the safety of the vessel, its cargo, and passengers with the urgency of a rescue operation requires careful planning. Rigorous procedures must be established to assess the vessel's capacity, stability, and structural integrity under increased load.
3. **On-Board Security.** The presence of a large number of migrants may introduce security challenges, including theft of personal items. Implementing security measures and guidelines to prevent such incidents is crucial for the safety and well-being of all parties involved.
4. **Incident Reporting and Contacts.** Efficient reporting mechanisms and clear points of contact are essential for effective coordination during refugee rescue operations. Developing crib sheets that facilitate accurate reporting can streamline communication and response efforts.
5. **Standard Operating Procedures (SOPs).** Defined SOPs enable the crew to respond swiftly and effectively to unexpected situations. Establishing protocols for rescue operations, crowd management, medical assistance, and more can mitigate risks and ensure a coordinated response.
6. **Crew Training.** Equipping the crew with the necessary skills and knowledge to manage refugee rescue scenarios is a cornerstone of effective preparedness. Training sessions should cover medical emergencies, communication strategies, cultural sensitivity, and crisis management.

Recognising the critical role of ship crews in these situations is paramount. Properly prepared and trained ship crews can serve as essential first responders, capable of providing immediate assistance to migrants in distress

Conclusion

The global migrant crisis stands as a poignant reminder of a humanitarian struggle that has implications on both land and sea. There is an urgent need for international collaboration to address the challenges posed by such perilous journeys, especially at sea, but this must be done in a comprehensive and compassionate manner. As nations work together to address the root causes of migration, improve search and rescue operations and establish fair and efficient asylum processes, we can hope to alleviate the suffering of those in need and prevent further loss of life.

Recognising the critical role of ship crews in these situations is paramount. Properly prepared and trained ship crews can serve as essential first responders, capable of providing immediate assistance to migrants in distress. Their ability to effectively handle and manage such scenarios can significantly impact the outcomes of rescue missions and contribute to saving lives. Equipping crews with the knowledge of humanitarian principles, cultural sensitivity, and necessary protocols ensures that their interactions with migrants are respectful and supportive.

Neptune P2P Group comment:

At Neptune P2P Group we recognise the pressing need for a comprehensive approach to migrant rescue preparedness for the crews of all vessels that sail our seas. Our experts are able to provide the latest intelligence updates and advice and guidance prior to transiting migrant routes. We can assist in training your crews to react in the eventuality that your vessel is obligated to respond to a SOLAS incident, using best management practices to navigate these complex situations with a focus on safety, efficiency, and humanitarian considerations.

Feel free to contact us to initiate a discussion and learn more about our services, [submit your details here](#) and one of our risk experts will call you back.



 **PREVENTION BY PROTECTION**

Head Office – UAE

Office 1404, JBC 2
Cluster V, Jumeirah Lake Towers
Dubai
PO Box 644854
United Arab Emirates
Tel +971 (0) 44 215 507

UK Office Manchester

Delphian House
Riverside
New Bailey Street
Manchester M3 5FS
United Kingdom
Tel +44 (0) 161 837 6220

French Office - Paris

6 Rue D' Armaille
75017
Paris
France
Tel +33 (0) 176 340 336

Email: info@neptunep2pgroup.com

Website: www.neptunep2pgroup.com