



STANDARDS OF CONDUCT AND  
ACCOUNTABILITY IN MILITARY ACTIVITIES:

**STATUS OF WARSHIPS IN PEACETIME**  
NON-MILITARY OBLIGATIONS AND NON-TRADITIONAL OPERATIONS

ABU DHABI, 12 DECEMBER 2024



## **AGENDA.**

1. Legal Framework
2. Non-Military Obligations
3. Non-Traditional Naval Operations
4. Accountability



Philippe Hermes is a leading expert in #BlueSecurity, focusing on maritime security, ocean governance, international law and human rights. Holding a position as naval staff reserve officer (OF4) with the German Joint Operations Command, CIMIC Branch, and experiences as legal advisor in various NATO HQs, Philippe pursued a distinguished legal career in ship finance and the maritime industry. These days, he leverages his diverse expertise as an international security consultant, advising public organisations and private enterprises on security strategies, emerging technologies, and the integration of human rights considerations into business development and investment initiatives of #BlueEconomy and #BlueTech.

He serves on the advisory board of human rights at sea charity and is appointed member of the ILA Committee on Protection of People at Sea as well as the Maritime Security Working Group of the International Code of Conduct Association for private security and is since Oct 2024 Director of the ISMLLW Documentation Centre.

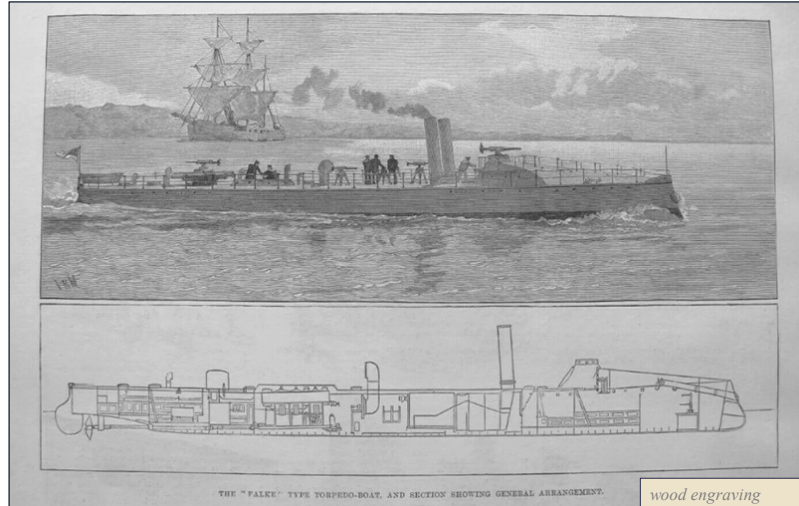
## LEGAL FRAMEWORK.

**ARMED FORCES**  
ART. 29 UNCLOS

**RESPECT FOR LAW  
OF COASTAL STATE**  
ART. 30 UNCLOS

**IMMUNITY**

**PASSAGE RIGHTS**



THE "FALKE" TYPE TORPEDO-BOAT, AND SECTION SHOWING GENERAL ARRANGEMENT.

wood engraving  
TORPEDO BOAT  
1887



Military activities at sea are guided by international law, including customs and treaties like the United Nations Convention on the Law of the Sea (UNCLOS). In peacetime, warships have clear rights and duties. These balance state sovereignty with the need for maritime security.

UNCLOS defines warships in Article 29. They are ships belonging to the armed forces, marked with their nation's identity, led by a commissioned officer, and crewed by a government-approved military team. Warships have sovereign immunity under Article 32. This means they are not subject to foreign laws when operating legally. They can pass through territorial seas under innocent passage or operate in exclusive economic zones (EEZs).

However, their actions must follow international law. Warships cannot harm the territorial integrity of coastal states. They must follow environmental rules and avoid using force unless acting in self-defense, as stated in Article 51 of the UN Charter.

# LEGAL FRAMEWORK.

ARMED FORCES  
ART. 29 UNCLOS

RESPECT FOR LAW  
OF COASTAL STATE  
ART. 30 UNCLOS

IMMUNITY

PASSAGE RIGHTS

UNCLOS Article 29 (Definition of warships):

For the purposes of this Convention, "warship" means a ship <sup>(1)</sup> belonging to the armed forces of a State <sup>(2)</sup> bearing the external marks distinguishing such ships of its nationality, <sup>(3)</sup> under the command of an officer duly commissioned by the government of the State and whose name appears in the appropriate service list or its equivalent, and <sup>(4)</sup> manned by a crew which is under regular armed forces discipline.

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## NON-MILITARY OBLIGATIONS.

DISCIPLINARY  
CONTROL

ENVIRONMENT

HUMAN RIGHTS  
STANDARDS

SOLAS/ SAR

COLREG

SCIENTIFIC RESEARCH



Christiaan de Moor  
*IUS EST ARS BONI ET  
AEQUI, 1939 (excerpt)*

One key obligation is the respect for the sovereignty of coastal states and discipline on board. Warships are permitted to navigate through territorial waters under the principle of innocent passage, as outlined in UNCLOS. However, this passage must remain non-threatening and compliant with the laws of the coastal state. In peacetime, warships are prohibited from using force, in line with Article 2(4) of the UN Charter.

They must operate within the principles of necessity and proportionality, even when acting in self-defence.

When entering foreign ports, warships must adhere to local laws and avoid unauthorized activities, such as intelligence gathering or interference in domestic affairs.

Environmental protection is a critical responsibility. Warships are expected to comply with international environmental regulations, such as those under UNCLOS and the MARPOL convention, which seek to prevent pollution and protect marine ecosystems. Although military vessels may have some exemptions, states must ensure that their warships uphold equivalent environmental standards.

Human rights obligations bind warships, particularly during interactions with civilians or detained individuals, ensuring humane treatment and protection against persecution. Other obligations include refraining from unauthorized scientific research in foreign waters, complying with neutrality laws during conflicts, and respecting international maritime rules, such as those governing search and rescue operations.

Warships have humanitarian obligations, such as aiding vessels in distress. UNCLOS and the Safety of Life at Sea (SOLAS) convention require all ships, including warships, to render assistance to people in distress at sea. This obligation transcends nationalities and ensures that life is prioritized in maritime emergencies.

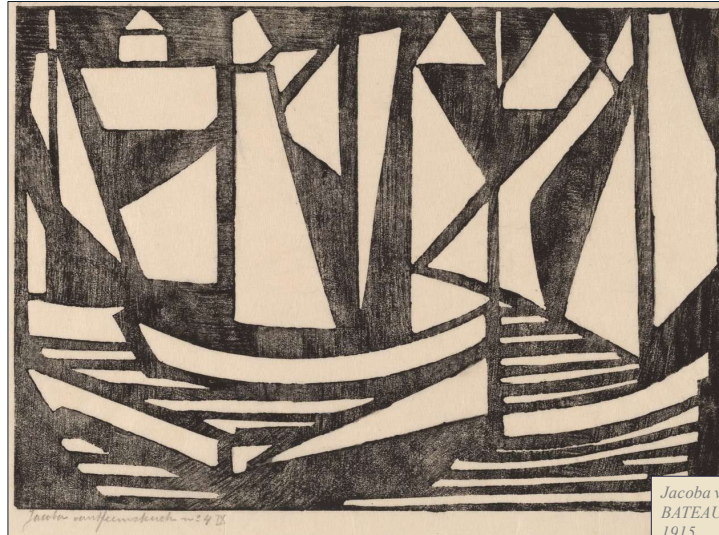
Warships must also respect civilian navigation and activities. Under international law, they are required to avoid disrupting civilian shipping, fishing, and other maritime economic activities, particularly in exclusive economic zones (EEZs). Similarly, they must follow collision prevention regulations to ensure safety at sea.

# NON-TRADITIONAL NAVAL OPERATIONS.

UNMANNED  
MARITIME SYSTEMS

CYBER  
OPERATIONS

EMERGING  
TECHNOLOGIES



Jacoba van Heemskerck  
BATEAUX  
1915



Non of these non-traditional operations impact the status of warships in the traditional meaning. These operations, however, challenge IHL principles, like accountability or proportionality

## Unmanned Maritime Systems:

This definition of “warship” assumes humans are onboard, raising legal questions about unmanned ships (UMS) during peacetime and their compliance with international humanitarian law (IHL).

Some UMS are specifically designed with advanced capabilities to support or enhance naval operations. For example:

- **Surveillance and Reconnaissance:** UMS can gather intelligence without putting human lives at risk.
- **Mine Countermeasures:** They are capable of detecting and neutralizing naval mines to ensure safe passage for other vessels.
- **Anti-Submarine Warfare (ASW) :** UMS can autonomously track submarines, providing critical data for naval strategies.
- **Offensive Capabilities:** Some UMS are even equipped with weapons systems, allowing them to conduct targeted strikes or create area denial zones.

Although UMS are not traditional "warships," they are becoming an essential part of modern naval warfare. They act as force multipliers, significantly enhancing the effectiveness of traditional naval fleets. On the other hand, IHL principles like distinction and proportionality are challenging for UMS. Distinction requires identifying combatants

and civilians, which automated systems may fail to do, risking violations of Articles 48 and 51 of Additional Protocol I to the Geneva Conventions. Proportionality is also problematic, as autonomous systems may miscalculate military necessity versus civilian harm.

As warships adopt AI and autonomous technologies, accountability becomes unclear. For instance, who is responsible if an autonomous warship enters another country's waters without permission? IHL is designed for human actions, leaving gaps in accountability for autonomous systems.

Emerging technologies complicate these issues further. AI-driven systems or cybersecurity tools on warships blur the line between peaceful operations and potential aggression. These technologies could be seen as preparations for conflict, risking disputes under IHL and threatening stability.

#### Cyber Operations:

In peacetime, cyber operations involving warships bring unique challenges. These operations can strain the principles of sovereignty and non-intervention. For example, using cyber tools to disrupt civilian maritime infrastructure, navigation systems, or ports can cause serious problems. Such actions might break international law if they lead to significant harm.

The Tallinn Manual 2.0 offers a framework to assess cyber operations under international law. These legal issues will be addressed in separate panels.

The growing threat of cyber operations challenges current legal systems.



# ACCOUNTABILITY.

COAST GUARD

PRIVATE MARITIME SECURITY COMPANY

SHIPS IN DISGUISE

MARITIME MILITIA



CHINESE  
VIET NAM's Militia and Self Defence Forces  
ALASKA NAVAL MILITIA  
BOLIVIA, founded 2013

## Coast Guard Operations:

Coast guard vessels, unlike warships, do not always have sovereign immunity under international law. They only have this status if their countries specifically grant it. Coast guards perform two roles: enforcing laws and assisting the military. This dual role can cause legal confusion.

For example, the 2020 collision between a Chinese coast guard ship and a Vietnamese fishing boat raised legal questions. It was unclear whether international humanitarian law (IHL) or UNCLOS applied. UNCLOS covers law enforcement at sea, but coast guard actions can escalate into situations similar to military conflicts, where IHL might apply.

## Private Maritime Security Companies (PMSCs) and Ships in Disguise:

Ships in disguise are vessels that appear to be civilian but secretly carry out military or security operations.

Private Maritime Security Companies (PMSCs) are often hired to protect commercial ships from illicit attacks. These companies work for on a contractual basis, either the private

sector or for specific purposes with public agencies, They must follow state laws and international rules, like the Montreux Document and the International Code of Conduct for Private Security Service Providers.

In some coastal areas, PMSCs assist navies and coast guards with resources and capabilities, joint training and surveillance activities in the maritime space. They can create problems when they use force that violates the rules of necessity and proportionality under international humanitarian law (IHL). States are responsible for the actions of PMSCs they allow to operate, but enforcement of these rules is inconsistent.

#### Maritime Militias:

CHN: <https://ursaspace.com/blog/scs-vessel-detection/>

USA: <https://cimsec.org/the-new-york-naval-militia-in-operation-sandy/>

A major legal problem is the role of maritime militias. These are paramilitary or civilian fishing fleets controlled by states. They often act in ways that blur the line between military operations and civilian navigation.

China's maritime militia, for example, has been accused of aggressive actions in the South China Sea. This creates challenges for enforcing international maritime law. The problem comes from their unclear legal status.

Under UNCLOS, warships follow clear legal rules. But militias, even when state-controlled, are in a grey area. They are not seen as legal combatants or fully civilian. Their actions may break Article 58(3) of UNCLOS, which says non-military ships must respect coastal state rights. However, it is hard to enforce this against groups secretly backed by states.



TÉTHYS NAVAL SRL  
BRUSSELS

