

Crime aboard Ships: Criminal Jurisdiction and the Problem of Enforcement beyond Territorial Waters

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Article Info	ABSTRACT
Article History: Received August 1th, 2026 Revised August 7th, 2026 Accepted August 12th, 2026 Keyword: Criminal jurisdiction; Fflag state; Enforcement jurisdiction; Maritime law; Shipboard crime.	Crimes committed aboard ships outside territorial waters expose a recurring weakness in maritime criminal law. The problem is often framed as uncertainty over which state has jurisdiction, although the harder question appears after a jurisdictional basis has been identified. A flag state may be entitled to prosecute, another state may rely on the nationality of the offender or victim, and a port state may later gain physical access to the vessel. None of those connections guarantees arrest, evidence preservation, witness availability, or prosecution. This article examines the separation between jurisdictional entitlement and enforcement capacity through doctrinal analysis of UNCLOS, relevant maritime-security instruments, international decisions, and. Article 92 is read primarily as a rule against unauthorized enforcement on the high seas rather than a complete bar to concurrent prescriptive or adjudicative claims. The overlap can be legally manageable, while enforcement remains fragmented by ship mobility, weak flag-state control, dispersed evidence, and dependence on later port access. A sequenced model of cooperation is proposed that preserves flag-state primacy while enabling early evidence preservation, notification, port-state assistance, and coordinated prosecution decisions.
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INTRODUCTION

A homicide, sexual assault, serious battery, or theft committed on a ship remains an ordinary criminal offence, but its legal setting changes once the vessel leaves territorial waters. On land, legislative authority, police access, evidence collection, and prosecution usually sit within one territorial system. At sea those functions can be divided. The ship has a flag state, the offender and victim may have different nationalities, and the next port may belong to another state. Maritime-security scholarship treats this dispersion of authority as a recurring feature of governance at sea rather than an exceptional defect (Bueger et al., 2025; Sevel, 2023). The same fragmentation appears in recent work on the application of human rights at sea, where legal responsibility and practical control do not always rest with the same state (Lewis & Galani, 2025).

The distinction becomes sharper beyond territorial waters. That phrase should not be treated as a synonym for the high seas. A ship in an exclusive economic zone remains outside the coastal state's territorial sovereignty, yet the coastal state retains functional rights and jurisdiction defined by the United Nations Convention on the Law of the Sea (UNCLOS). On the high seas, the freedom of navigation and the connection between a vessel and its flag state become still more prominent. Article 58(2) also carries many high-seas rules into the exclusive economic zone insofar as they are not incompatible with the EEZ regime. The consequence is not a jurisdictional vacuum. Rather, ordinary criminal law is placed within a maritime allocation of authority that was designed to protect navigation while assigning primary regulatory responsibility to the flag state. Studies of flag-state performance and flags of convenience show why that legal allocation can have very uneven practical consequences (Dong et al., 2024; Petrossian et al., 2020).

Contemporary writing on crime at sea concentrates heavily on offences with special international responses. Piracy is the obvious example. Universal jurisdiction and the right of visit make it legally unusual, even though prosecution remains difficult (Ahmad, 2020; Jin & Techera, 2021). Debate also continues over whether the UNCLOS definition adequately captures modern forms of piracy (Nilasari & Steele, 2022). Smuggling and pollution have produced their own targeted enforcement mechanisms (Coventry, 2023; Finska et al., 2022). Forced labour at sea presents a different but related problem because formal responsibility can be distributed among several states and private actors (Strating et al., 2024). Ordinary shipboard crime is different. A killing between crew members or violence against a passenger may fall within familiar domestic criminal statutes. The maritime location makes enforcement unfamiliar.

Treating every serious shipboard offence as a problem of piracy or maritime security obscures this point. Piracy is defined by elements that ordinary interpersonal violence will often fail to satisfy. The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation addresses specified conduct threatening safe navigation, but it does not convert every crime aboard a vessel into an international offence. Recent work on human rights and labour abuses at sea reaches a similar practical problem from another direction. Rights may exist and states may bear obligations, while victims remain physically distant from institutions capable of receiving complaints, securing evidence, or providing protection (Lima Weston & Kelling, 2024; Yuliantiningsih & Barkhuizen, 2021). Vandergeest and Marschke (2021) show how weak protection can also result from the interaction of recruitment practices, vessel operation, and fragmented regulation rather than from a single legal failure. The weakness lies partly in law and partly in the distance between law and coercive capacity.

This article therefore separates three forms of jurisdiction that are too often compressed into the single question of which state 'has jurisdiction'. Prescriptive jurisdiction concerns the authority to apply criminal law to conduct. Adjudicative jurisdiction concerns the authority of courts to hear the case. Enforcement jurisdiction concerns coercive acts such as stopping a vessel, boarding, arresting a suspect, searching cabins, seizing devices, or compelling the production of evidence. The distinction matters because the first two can extend beyond territory on accepted jurisdictional grounds, while enforcement in another state's territory or against a foreign ship at sea is much more tightly constrained. The *Norstar* and *Enrica Lexie* litigation has renewed attention to this separation and to the proper reach of exclusive flag-state jurisdiction under Article 92 (Csernus, 2023; Odello, 2021).

Two questions guide the analysis. How should jurisdiction over ordinary crimes aboard ships beyond territorial waters be allocated when several states have plausible legal connections? Why does enforcement remain difficult after a lawful basis for prosecution is established? The central weakness is not simply a lack of jurisdiction. Several bases may coexist. The persistent problem is a jurisdiction-enforcement gap in which legal entitlement does not reliably produce access, timely investigation, or custody. Broad new jurisdictional claims are therefore less useful than procedures connecting the state able to prosecute with the state able to reach the ship, evidence, and people involved.

RESEARCH METHODS

This study uses doctrinal legal research. The primary legal materials are UNCLOS, particularly the provisions governing the exclusive economic zone and high seas, the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation as a limited comparator, and the decisions in *M/V Norstar* and the *Enrica Lexie* arbitration. The analysis also uses recent journal literature on flag-state jurisdiction, maritime law enforcement, crimes and human-rights abuses at sea, port-state authority, and special maritime offences. Thirty journal articles published between 2020 and 2025 and carrying verified DOI identifiers are used in the discussion.

The legal materials are read through treaty and conceptual approaches. Textual interpretation is used where UNCLOS assigns powers to flag, coastal, or other states, while systematic interpretation distinguishes the territorial sea, exclusive economic zone, and high seas and relates those zones to general principles of criminal jurisdiction. The cases test the boundary between prescriptive, adjudicative, and enforcement jurisdiction. Scholarship on piracy, forced labour, illegal fishing, and autonomous shipping is used comparatively where those fields expose enforcement problems that also arise in ordinary shipboard investigations. Rules created for those special regimes are not assumed to apply automatically to homicide, assault, sexual offences, or theft.

Legal analysis proceeds from the location of the vessel and the legal connection claimed by the state. It then asks whether that connection supports prescription or adjudication and whether a separate rule permits coercive enforcement against the ship or persons on board. This order avoids the common move from a valid claim to prosecute directly to an assumed power to board or arrest. The final stage identifies recurring points at which enforcement fails and considers forms of cooperation that can close those points without turning ordinary shipboard crime into a new category of universal jurisdiction.

RESULTS AND DISCUSSION

1. Criminal Jurisdiction aboard Ships beyond Territorial Waters

Ship nationality supplies the most stable connection once a vessel moves beyond territorial waters. Article 92(1) of UNCLOS subjects ships on the high seas to the exclusive jurisdiction of the flag state, save for recognized exceptions. The rule protects navigation from competing physical control. Flag jurisdiction should not, however, be explained by saying that a ship is simply 'floating territory'. Nationality creates a legal relationship through which the flag state regulates the vessel and connected conduct. Autonomous-shipping scholarship shows how strongly the maritime system still relies on that connection even as conventional assumptions about crews and control change (Dong et al., 2024; Klein et al., 2020). Parlov (2023) reaches a related problem in the regulation of routing, reporting, and vessel traffic services, where new forms of ship control have to be fitted into rules built around conventional vessels.

For ordinary crime this distinction prevents an overreading of Article 92. Exclusive flag-state jurisdiction is strongest as a restraint on another state's enforcement against the vessel while it is on the high seas. Boarding, search, seizure, diversion, and arrest are exercises of public power. Unless an exception applies, a foreign state cannot acquire them merely because its domestic criminal law reaches the underlying conduct. Papastavridis (2020) makes the point clearly in the context of maritime interception, where physical measures against a vessel require an international-law basis beyond a state's general interest in the persons concerned. Coventry's (2023) analysis of stateless smuggling vessels reaches the same issue from a harder case. Even when a ship lacks nationality, identifying a power to board does not automatically settle the legal basis for every subsequent coercive measure.

Prescriptive and adjudicative jurisdiction are less easily reduced to flag-state exclusivity. International law has long accepted more than one connection for the application of criminal law, particularly territory, offender nationality, victim nationality in some systems, and effects or protective interests in more limited circumstances. The Enrica Lexie incident demonstrates the practical possibility of overlap. Italian marines aboard an Italian-flagged vessel shot Indian fishermen on an Indian vessel outside India's territorial sea. The arbitration did not reduce the episode to a simple choice between Italy as flag state and India as coastal state. Questions of concurrent jurisdiction and immunity had to be separated (Csernus, 2023; Odello, 2021). The case is factually unusual because the accused were state officials, but the jurisdictional lesson is wider. A flag does not erase other legally relevant connections.

Article 97 of UNCLOS does not change that position for ordinary intentional crime. Its special limitation on penal or disciplinary proceedings concerns collisions and other incidents of navigation. Extending it to a deliberate killing, assault, or sexual offence would detach the provision from its text and context. Nor does Article 94, which places administrative, technical, and social duties on the flag state, create a comprehensive maritime criminal code. The architecture is more fragmented. UNCLOS allocates maritime competences, while domestic criminal laws provide much of the substantive law for ordinary offences. Recent scholarship therefore cautions against expecting one convention to supply every criminal-law answer at sea (Bueger et al., 2025; Sevel, 2023). Comparable jurisdictional fragmentation also appears in work on infrastructure beyond national jurisdiction, where a maritime connection does not by itself identify one institution with complete regulatory authority (Guilfoyle et al., 2022).

The exclusive economic zone adds another layer. A vessel beyond 12 nautical miles may still be in an EEZ rather than on the high seas. Coastal-state rights there concern resources, installations, environmental protection, marine scientific research, and other matters specified by UNCLOS. A murder between crew members on a foreign merchant ship ordinarily does not become an EEZ offence simply because the ship is 50 nautical miles from the coast. At the same time, the coastal state can acquire a stronger connection if conduct affects interests over which UNCLOS gives it competence. Research on illegal fishing and vessel monitoring shows how coastal and flag jurisdiction can intersect

when the subject falls within the coastal state's functional rights (Bunwaree, 2023; Finska et al., 2022). Ordinary crime requires more care because that functional bridge may be absent.

The practical starting point is therefore flag-state primacy, not flag-state monopoly. Primacy recognizes the legal and operational position of the state whose nationality the ship carries. Monopoly would go further and deny other states a prescriptive or adjudicative claim even when general international law and domestic law provide one. Csernus (2023) shows why the recent jurisprudence on Article 92 remains contested on precisely this boundary. A restrained interpretation is preferable for ordinary crime. It preserves the high-seas rule against unauthorized interference while leaving room for legitimate concurrent criminal jurisdiction that can be exercised later, for example when an accused enters the territory of a state entitled to prosecute.

2. Competing Jurisdictional Claims over Shipboard Crime

Concurrent jurisdiction becomes concrete when the identities behind the ship are changed. Consider a vessel registered in State A, sailing in the EEZ of State E but outside its territorial sea. A national of State B kills a national of State C on board. The ship later enters a port in State D. State A has the flag connection. State B may prosecute its national under active personality. State C may rely on passive personality if its law recognizes that basis for the offence. State E has no automatic general criminal jurisdiction merely because the incident occurred in its EEZ, although a separate effect on its protected interests could alter the analysis. State D has custody opportunities once the vessel or suspect is in port, yet physical presence alone does not answer whether its criminal law reaches the earlier offence. The facts generate several legal questions rather than one hierarchy with an obvious winner.

Concurrent jurisdiction is not necessarily a defect. The more serious problem is uncoordinated concurrency. One state may have a lawful basis to prosecute while another holds the witnesses, ship records, medical evidence, or suspect. Maritime settings intensify the problem because evidence and people are mobile. Crew can disembark in different states and electronic records may sit with an operator elsewhere. Distant-water fishing research documents a similar dispersal of responsibility among flag, coastal, port, and labour-supply states (Lima Weston & Kelling, 2024; Strating et al., 2024). Yea and Stringer (2021) show how that dispersal can allow labour exploitation and environmental harm to reinforce one another across regulatory boundaries.

The flag state's claim remains the least contingent because it follows the ship. Yet flag-state capacity is not uniform. Open registries can separate vessel nationality from ownership, management, crew recruitment, and the location of commercial operations. Petrossian et al. (2020) empirically show that the attractiveness of flags of convenience is associated with regulatory and economic characteristics that complicate the assumption of a strong substantive bond between vessel and flag administration. This does not make open registration unlawful, nor does it mean that every open registry fails to police crime. The relevant point is institutional. A legal system that places great weight on flag control also depends on the flag state's willingness and capacity to investigate an offence that may involve no national victim, no national offender, and no commercial consequence at home.

Studies of forced labour at sea expose what happens when that capacity is weak or responsibility is dispersed. Yuliantiningsih and Barkhuizen (2021) identify long periods offshore, weak access to authorities, and uneven flag-state enforcement as barriers to legal protection. Vandergeest and Marschke (2021) similarly show that poor working conditions cannot be understood through a single dramatic label such as slavery because recruitment, labour control, vessel operation, and regulation interact across states. During the COVID-19 period, prolonged time at sea and restrictions on crew movement made those institutional gaps even more visible (Vandergeest et al., 2021). Ordinary violent crime is different in substantive law, but investigation faces the same spatial fact. The person most capable of reporting the offence may be confined to the same vessel as the alleged offender while the competent authorities remain hundreds of nautical miles away.

Special maritime offences show why jurisdictional solutions cannot simply be copied. Piracy attracts universal jurisdiction because international law has treated it as an exceptional offence against shared interests. Modern piracy literature still debates both the adequacy of its definition and the consistency of prosecution despite this unusually broad basis (Ahmad, 2020; Nilasari & Steele, 2022). The operation of universal jurisdiction itself remains contested in practice, including questions about domestic implementation and the sustainability of prosecution models (Jin & Techera, 2021; Khobragade et al., 2021). Migrant smuggling on stateless vessels likewise requires attention to treaty

authorization and vessel status before enforcement is justified (Coventry, 2023). These regimes are instructive because they demonstrate that international law knows how to create exceptional enforcement powers when states agree to do so. Their exceptional character is also the reason they cannot support a general proposition that any serious crime at sea permits any interested state to board and arrest.

The 1988 SUA Convention marks another limit. It addresses specified unlawful acts against the safety of maritime navigation and creates prosecution-or-extradition mechanisms. Some attacks aboard ships may fall within it, while an ordinary assault or homicide arising from a private dispute may not. Treating SUA as a universal answer would stretch a security convention beyond its offences. Current scholarship likewise describes maritime security as an overlap of institutions rather than a single criminal code (Bueger et al., 2025; Fouche & Herbig, 2024).

Conflict between lawful claims should therefore be approached as a problem of allocation after jurisdiction, not as proof that jurisdiction is absent. Relevant considerations include the flag connection, nationality of accused and victim, location of evidence, availability of witnesses, custody of the suspect, seriousness of the offence, and realistic prospect of trial. Those considerations do not create jurisdiction where law provides none. They help states decide which existing claim should lead. Such coordination is common in transnational criminal practice, though maritime mobility makes early communication more urgent. The preferred forum may change as the vessel moves. State A may have the strongest initial legal claim, while State D becomes the only state able to secure the suspect and preserve evidence when the vessel reaches port.

3. The Enforcement Gap beyond Territorial Waters

The enforcement gap begins at the moment when a valid criminal-law claim encounters the physical reality of the sea. A prosecutor may conclude that domestic law applies to an offence because the accused or victim is a national. That conclusion does not authorize a patrol vessel to stop a foreign ship on the high seas. Enforcement jurisdiction is territorial in a more demanding sense than prescriptive jurisdiction. Outside a state's territory, coercive action normally requires consent, a treaty rule, a specific rule of the law of the sea, or another recognized legal basis. The right of visit in Article 110 of UNCLOS is limited to enumerated situations. Hot pursuit under Article 111 follows its own conditions. Neither provision is a general police power for ordinary shipboard crime.

Physical access is only the first problem. A serious investigation depends on evidence that ship operations can quickly disturb. Cabins are reused, crew rotate, digital devices travel with their owners, and medical treatment may occur in a different state from the prosecution. Statements collected aboard can later be challenged because forensic procedures or translation were weak. Maritime enforcement has historically depended on physical presence and control (Stępień & Rivera León, 2025). A crime scene on a moving commercial vessel makes that dependence unusually visible.

Human-rights research at sea adds a further complication. A state exercising coercive authority must not treat the distance from shore as a reduction in legal protection. Boarding, detention, transfer, and custody engage rights as well as police powers. Galani (2020) and Papastavridis (2020) show that maritime-security operations raise difficult questions about the relationship between law-of-the-sea jurisdiction and human-rights obligations. Lewis and Galani (2025) go further by arguing that the maritime domain cannot simply be assumed to reproduce the jurisdictional conditions of land. For shipboard crime this matters in both directions. Weak enforcement can leave victims unprotected, while improvised enforcement without a lawful jurisdictional basis can violate the rights of suspects and the flag state's navigational freedoms.

A second gap appears between flag-state authority and flag-state performance. Legal primacy is valuable only if the flag administration can receive reports, contact the vessel, preserve evidence, direct the master, and arrange investigation or transfer. Literature on fishing vessels provides repeated examples of what happens when offshore operations, commercial incentives, and fragmented oversight reduce effective state control (Strating et al., 2024; Tindall et al., 2022). Yuliantiningsih and Barkhuizen (2021) identify the same difficulty from the perspective of modern slavery at sea, where weak enforcement and limited cooperation can leave formal legal protection largely inaccessible. Fouche and Herbig (2024) likewise emphasize that maritime crime control depends on institutional capability, information, and coordinated law enforcement, not simply on the existence of prohibitions. A flag state

that is legally competent but practically inactive can leave other interested states waiting until the vessel crosses into a place where lawful enforcement becomes possible.

Port entry can change the equation. A port state has territorial control over its port and may possess inspection or enforcement powers under domestic law and applicable international rules. Port-state jurisdiction has become particularly important in environmental and fisheries governance because access to port creates leverage that is absent on the high seas (Todorov, 2024). The analogy should be used carefully. A port state does not acquire unlimited prescriptive jurisdiction over every earlier offence merely because a vessel docks. What it does acquire is lawful physical access within its territory. That access can support cooperation with the flag state or another state entitled to prosecute, including preservation of evidence, identification of witnesses, provisional measures where domestic law allows them, and execution of mutual legal assistance or extradition requests.

The practical answer is sequential rather than universal. After a serious offence, the master and operator should preserve the scene as safety permits, protect the victim, retain relevant records, and notify the flag state. The flag state should quickly decide whether it will investigate and identify other states with plausible jurisdictional claims. Before the next port call, requests for evidence or lawful custody measures can be coordinated with the port state. If the flag state cannot proceed, another state with a recognized basis for prosecution may become the realistic forum. No new power at sea is created. Existing jurisdiction is connected to the moment when territorial enforcement becomes available.

The value of early coordination is supported by experience in other maritime fields. Waste and fisheries regulation show persistent gaps between legal standards and implementation when responsibility is distributed across vessels, flag administrations, ports, and coastal authorities (Bunwaree, 2023; Finska et al., 2022). Research on labour risks similarly finds that certification or private governance cannot substitute for state enforcement, though private actors can preserve information and trigger official attention (Lima Weston & Kelling, 2024; Tindall et al., 2022). Maritime insecurity studies also connect enforcement outcomes to institutional resilience and cooperation across jurisdictions (Sackey et al., 2022). Those findings should not be converted into a single maritime-crime regime. They support a narrower proposition: the effectiveness of criminal jurisdiction depends on procedural links between institutions that possess different pieces of authority.

Evidence preservation deserves emphasis because delay can irreversibly weaken prosecution. A master can preserve ordinary records, retain available CCTV, and report an incident without turning the ship into a police station. Searches of personal devices, forced confinement, or compulsory questioning require a clearer legal basis and rights safeguards. Preservation can begin aboard. Full investigation should pass to trained law-enforcement officials as soon as lawful access is available.

Technology does not remove the gap. Autonomous-shipping scholarship shows that better tracking can coexist with uncertainty over where control is exercised and how enforcement is physically implemented (Dong et al., 2024; Klein et al., 2020). Parlov (2023) similarly demonstrates that conventional rules on ship reporting and vessel traffic management need careful adaptation when operational control is no longer located in the expected place. A state may receive real-time information about a crime and still lack authority to board. Digital evidence travels more easily than a suspect, but custody remains physical.

Closing the gap requires coordination rather than a new universal jurisdiction over ordinary crimes. Domestic law should clearly define extraterritorial jurisdiction over offences involving nationals or flagged vessels. Flag administrations can require prompt reporting and evidence-preservation protocols. Mutual legal assistance should operate at the speed of shipping, with the next port contacted before arrival. Port states need clear procedures for requests concerning serious crimes committed aboard foreign ships. These measures do not eliminate hard cases, but they reduce the chance that jurisdiction exists only on paper.

CONCLUSION

Crime aboard a ship beyond territorial waters does not normally occur in a legal vacuum. The vessel's nationality provides an initial jurisdictional anchor, and other states may possess concurrent prescriptive or adjudicative jurisdiction through nationality, victim connections, or other accepted grounds. UNCLOS does not turn all of those claims into a flag-state monopoly. Its high-seas structure is most compelling where another state seeks to exercise coercive power against the vessel. That is why identifying a state's right to prosecute is only part of the legal analysis.

The harder weakness is enforcement. Ships move, evidence moves with them, witnesses disperse, and the state with the strongest legal claim may never obtain physical access to the accused. Flag-state capacity also varies, while the coastal state has limited general competence in the EEZ and a future port state may have access without being the natural prosecuting forum. Special regimes for piracy, smuggling, unsafe navigation, fisheries, or pollution show that broader powers can be created where international law expressly provides them. They should not be generalized to ordinary homicide, assault, sexual violence, or theft merely because those offences occur at sea.

A more credible response is to connect existing forms of authority. Flag-state primacy should operate with rapid notification, early preservation of evidence, identification of concurrent jurisdictional claims, and planning for the vessel's next lawful point of enforcement. Port-state assistance and ordinary mechanisms of mutual legal assistance, transfer, and extradition can then connect physical custody with the state best placed to prosecute. The contribution of this approach is deliberately narrow. The principal problem beyond territorial waters is not that no state can claim criminal jurisdiction. It is that jurisdiction and enforcement are held by different actors at different moments. Maritime criminal law becomes effective only when those moments are joined.

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