Migrants at Sea:
An Intersection between Moral and Legal Obligations
Aims:

1. Identify the current application of international law in relation to saving life at sea
2. Explore the potential for furthering protections through the use of human rights laws
3. Identify the outer limits of a State’s international law obligations and the start of its ‘moral obligations’
Obligations under the Humanitarian Law of the Sea

1) To render assistance to those in danger or distress at sea.
2) Establish and maintain an adequate and effective search and rescue service in own waters and those surrounding coast.
3) Through co-operation with other States, establish and maintain an adequate Search and Rescue region.
Weaknesses

• Interpretation

• Application

• Enforcement

Photo: Reuters
SAR Zones
Mediterranean Sea
Extraterritorial Application of Human Rights

The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention.

ECHR Article 1
Article 1 Jurisdiction

- Jurisdiction is ‘primarily territorial’ (*Banković v Belgium et al*)
- When a State exercises ‘effective control of an area’ outside its own borders (*Loizidou v Turkey*)
- When a vessel is under the ‘*de facto control*’ of State agents (*Medvedyev v France*)
- When individuals are under the ‘*de jure authority*’ of State agents (*Hirsi Jamaa v Italy*)
- When State agents are the ‘direct and immediate cause’ of injuries sustained (*Andreou v Turkey*)
- States will have to take the diplomatic, economic, judicial or other measures that it is in its power to take (*Treska v Italy and Albania*)
Scenarios

Are there human rights obligations?

1) A State’s territorial sea
2) Other territorially defined areas (i.e. Contiguous zone and SAR region)
3) Migrants who are rescued at sea and brought on-board a State’s vessel
4) A vessel is re-routed or ‘pushed-back’ from a State’s territorial waters through the use of force
5) A vessel is re-routed or ‘pushed-back’ from a State’s territorial waters without the use of force
6) Where inadequate assistance is provided
7) Emergency Situation
Re-routing or ‘push-backs’

Photo: Reuters
Emergency Situation

Picture: BBC
The Solution?