

Legal System Research on Humanitarian Rescue by Mainland Government Vessels Blockading in the Taiwan Strait During Wartime

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Abstract: This paper explores the legal system concerning humanitarian rescue by mainland government vessels blockading in the Taiwan Strait during wartime. Firstly, the concept of government vessels is defined, and their role in the humanitarian rescue system is analyzed. Subsequently, the concept of wartime maritime blockade and its conception in the Taiwan Strait are discussed. Furthermore, the feasibility of government vessels conducting humanitarian rescue in blockaded areas is analyzed from aspects such as legal basis, third-party intervention issues, and military-civil coordination. The legal nature of humanitarian rescue by government vessels and the analysis of national supervisory responsibilities are then discussed. Finally, the paper points out the deficiencies in the current legal system regarding rescue provisions, such as unclear power regulations, risks in relief channels, and risks in the choice of review agencies, and proposes improvement suggestions, including refining administrative regulations, adopting pre-review procedures, and specifying review agencies, to enhance rescue efficiency and protect the rights of distressed individuals. Through these measures, the government can better fulfill its responsibility to protect the lives of citizens and enhance the legal effectiveness of maritime rescue.

Keywords: government vessels, humanitarian rescue, Taiwan Strait, wartime blockade

1. Introduction

In the current international context, the geopolitical significance of the Taiwan Strait is increasingly prominent, with maritime security issues becoming more pronounced. Against this backdrop, it is worthwhile to further explore the relevant legal regulations regarding mainland government vessels conducting humanitarian rescue missions in blockaded areas during wartime. Firstly, what is the concept of government vessels? And what aspects should be included in the category of government vessels within the humanitarian rescue system? Secondly, how might wartime maritime blockades be implemented and further enforced in the Taiwan Strait? In such a wartime blockade scenario, does it have feasibility for government vessels to conduct humanitarian rescue operations in blockaded areas? If feasible, how should the legal nature of humanitarian rescue by government vessels and the

responsibilities of national supervisory authorities be defined? What are the shortcomings of the current legal system concerning rescue provisions related to this topic? What measures should be taken to improve the efficiency of humanitarian rescue and protect the legitimate rights and interests of distressed individuals in emergency situations? Through in-depth research and analysis of this issue, this paper aims to better understand and explore the legal mechanisms governing mainland government vessels' humanitarian rescue operations in blockaded areas during wartime, thereby making a positive contribution to maintaining maritime security and humanitarian spirit in times of blockade.

2. Definition of Government Vessels and Their Categories in the Humanitarian Rescue System

2.1. Definition and Characteristics of Government Vessels

Government vessels refer to watercraft owned, managed, and operated by government agencies or their delegated units for the purpose of carrying out government duties and non-commercial objectives, including maritime patrols, law enforcement, rescue operations, scientific research surveys, and welcoming government delegations, among others. The "Dictionary of Maritime Law" explicitly states that types of government vessels include coast guard ships, port patrol boats, water rescue vessels, and research vessels, designed and equipped according to different mission requirements. It is worth noting that military vessels are not within the theoretical scope of government vessels [1]. When performing their duties, government vessels typically enjoy certain privileges and immunities, such as specific law enforcement powers at sea. According to the "Regulations on Ship Registration of the People's Republic of China," the 1982 "United Nations Convention on the Law of the Sea," and the "United States Code," government vessels typically exhibit three typical characteristics. Firstly, the state holds ownership of government vessels. Secondly, such vessels may perform non-commercial public functions related to safeguarding national territorial integrity, maritime interests, environmental protection, and ensuring orderly maritime navigation under government control. Lastly, both non-commercial sailing purposes and government ownership control must be simultaneously satisfied to define a vessel as a government vessel [2].

2.2. Categories of Government Vessels in China's Humanitarian Rescue System

According to Article 68 of China's "Maritime Traffic Safety Law," the national maritime search and rescue coordination mechanism is responsible for organizing and coordinating major maritime search and rescue emergency operations, typically undertaken by the China Maritime Search and Rescue Center and local maritime search and rescue centers within their respective jurisdictional waters to organize and coordinate rescues [3]. Under China's current humanitarian rescue system, government agencies or institutions such as maritime bureaus, search and rescue centers, and salvage bureaus are usually responsible for specific rescue tasks. The Maritime Bureau of China mainly undertakes administrative management and law enforcement tasks related to maritime search and rescue organization and coordination. After China's accession to the "International Convention on Maritime Search and Rescue" in 1985, the China Maritime Search and Rescue Center was established to centrally organize and coordinate national maritime search and rescue work, with local maritime search and rescue agencies subsequently established. The primary task of various levels of search and rescue centers in rescue operations is to exercise unified control over accidents involving property, human life, and the environment [4]. Additionally, the China Transport Ministry's Salvage Bureau, as the sole national professional maritime rescue and salvage force, undertakes waterborne

humanitarian rescue tasks within China's maritime jurisdiction. In summary, multiple administrative agencies and departments such as maritime bureaus, salvage bureaus, maritime search and rescue centers, etc., should serve as supervisory authorities in the rescue system, and their government vessels such as coast guard ships, port fire boats, fishery administration vessels, and rescue vessels should intervene in maritime rescue activities due to their responsibilities, legal provisions, or other circumstances. Furthermore, environmental monitoring vessels used by China's Ministry of Ecology and Environment for marine ecological monitoring, customs patrol boats used by the customs department for maritime anti-smuggling activities, and maritime police boats used by the China Coast Guard for maintaining maritime security and combating maritime illegal activities should also receive instructions from relevant national supervisory authorities to participate in humanitarian rescue activities [5].

3. Conceptual Definition of Wartime Maritime Blockade and Conceptualization of Wartime Blockade in the Taiwan Strait

3.1. Conceptual Definition of Wartime Maritime Blockade

Wartime maritime blockade refers to measures taken by one party's navy during wartime or armed conflict to surround, through naval vessels and aircraft, the enemy's coastline, ports, or specific sea areas to exert actual control. The purpose is to weaken the enemy's military and economic strength by preventing merchant ships, supplies, and weapons from reaching the theater of operations, thereby cutting off the enemy's maritime logistical supply lines. However, according to relevant provisions of international law, a lawful maritime blockade must meet several conditions: firstly, blockade actions can only be carried out after formal declaration of war; secondly, the blockade must be effectively enforced to prevent enemy vessels from passing through, which requires the blockade to be effective; thirdly, prior notification to foreign parties is required to prevent neutral countries and other vessels from inadvertently entering the blockade area; fourthly, maritime blockades must fully respect the rights of neutral countries and avoid causing unnecessary harm to them; finally, the intensity and scope of the blockade must not exceed the objectives of the war. Maritime blockades have significant impacts on global maritime shipping and economies. The blockading party must ensure that its actions comply with international law to avoid unnecessary diplomatic disputes and conflicts.

3.2. Conceptualization of Wartime Blockade in the Taiwan Strait

The Chinese military's conceptualization of a wartime maritime blockade in the Taiwan Strait aims to restrict maritime traffic and trade activities in the Taiwan region and cut off maritime logistical supply lines to weaken its economic and military strength as much as possible. Firstly, the military can establish blockade zones in the main sea lanes and ports of the Taiwan Strait. Additionally, to effectively implement blockade actions, the military will deploy naval vessels, submarines, and aviation forces to comprehensively blockade Taiwan from all directions. Naval vessels will patrol, intercept, and monitor incoming and outgoing ships in the blockade zone, submarines will be responsible for attacking enemy ships, and aviation forces will establish an aerial patrol and monitoring network to enhance control over the airspace and the ability to conduct multidimensional strikes in the blockade zone. Furthermore, the military can deploy minefields and surveillance radar positions to prevent the entry of malicious third-party vessels. Meanwhile, the military needs to strengthen intelligence collection and analysis to ensure timely adjustment and deployment according to the blockade situation. Although conducting a blockade operation in the Taiwan Strait presents certain challenges, the military can fully utilize information technology to improve the precision and efficiency of blockade actions. It is essential to emphasize that the military must strictly adhere to the

provisions of international law to ensure the legality and reasonableness of blockade actions. These conceptualizations and specific deployments will be adjusted and executed according to actual needs during wartime to ensure the success of blockade operations.

4. Feasibility Analysis of Mainland Government Vessels Entering the Wartime Blockade Area of the Taiwan Strait for Humanitarian Rescue

4.1. Legal Basis

The actions of mainland government vessels entering the wartime blockade area of the Taiwan Strait for humanitarian rescue have legal foundations and feasibility. According to the “National Defense Mobilization Law,” after the country decides to implement national defense mobilization, medical personnel can be mobilized, medical supplies and equipment can be called upon to ensure wartime medical treatment and health epidemic prevention. Additionally, the law specifies that in the event of war disasters, local people’s governments should promptly activate emergency rescue mechanisms, organize forces to rescue the wounded, protect property, promptly eliminate the consequences of war disasters, and restore normal production and living order [6]. Furthermore, the “United Nations Convention on the Law of the Sea” stipulates that maritime vessels have an obligation to provide assistance when encountering distressed persons [2]. This is also an internationally recognized legal obligation. Even in times of heightened tension during wartime, maritime rescue operations are still protected and required by international law. This provides a legal basis and policy support for government vessels to conduct humanitarian rescue operations in maritime blockade areas.

4.2. Third-Party Intervention

Any rescue operation must strictly adhere to international law and the “United Nations Convention on the Law of the Sea.” Before mainland China executes rescue missions, it should fully communicate with potential third countries through diplomatic channels and clarify the humanitarian purposes of the actions to avoid misunderstandings or suspicions and reduce the risk of diplomatic friction. Additionally, mainland China should anticipate potential risks of third-party intervention in advance and formulate corresponding response measures. It can establish rapid response mechanisms and crisis management plans to ensure swift and effective adjustment of action methods in response to diplomatic protests and other interventions, ensuring the effectiveness of rescue operations. Mainland China should actively seek support from the international community, particularly from influential countries in international organizations, to create a favorable international public opinion environment for rescue operations. Increasing transparency in actions and timely reporting of rescue progress to the international community can reduce suspicion from third countries and avoid unnecessary interference. During operations, mainland government vessels should avoid confrontation and refrain from any actions that may be perceived as provocative to prevent escalation of conflicts with third countries. Furthermore, mainland China should establish or utilize existing regional coordination mechanisms to coordinate actions with other countries to jointly address potential third-party interventions. Lastly, mainland China must possess flexible diplomatic skills to swiftly resolve issues through diplomatic channels if third-party intervention occurs. With these measures in place, the impact of third-party intervention on rescue operations can be reduced to a certain extent, and it is feasible for mainland government vessels to enter the wartime blockade area of the Taiwan Strait for humanitarian rescue operations.

4.3. Military-Civilian Coordination

According to the “National Defense Mobilization Law,” the state has the right to implement necessary

defense mobilization measures such as medical assistance and health epidemic prevention during wartime [6]. Based on this, effective coordination mechanisms can be established between the government and the military to ensure consistency and coherence of decisions and actions. The military can formulate detailed action plans and conduct comprehensive risk assessments for potential risks during operations in accordance with the decisions and deployments of the Party Central Committee. Additionally, the military can provide necessary support for rescue operations, including escort, intelligence support, and response to potential threats, to ensure smooth implementation of rescue operations. Furthermore, the military can provide key intelligence such as maritime monitoring and meteorological information to help the government plan rescue operations more accurately. Meanwhile, the government can provide rescue resources, including medical teams, rescue equipment, and be responsible for coordinating relevant diplomatic affairs. In terms of personnel training, the military can provide professional training to ensure that personnel involved in rescue operations understand relevant international laws, humanitarian principles, and rules of military operations, thereby enhancing the professionalism and safety of rescue operations. The role of the government in legal support and public relations management is crucial. The government can ensure that military actions comply with international and domestic laws, reduce legal risks, and manage public relations and media communication to maintain a positive image of humanitarian rescue operations and reduce misunderstandings and negative impacts. Lastly, logistical support is key to the success of rescue operations. The military can provide necessary logistical support such as fuel supply, medical support, and technical assistance to ensure the continuity and stability of rescue operations. In summary, through close cooperation between the government and the military, the actions of mainland government vessels entering the wartime blockade area of the Taiwan Strait for humanitarian rescue have a high degree of feasibility and success rate.

5. Analysis of the Legal Nature of Humanitarian Rescue by Government Vessels and the Responsibilities of National Authorities

5.1. Legal Nature of Humanitarian Rescue by Government Vessels

The dispatch of rescue forces by national authorities for maritime humanitarian rescue is a proactive administrative act, constituting administrative payment within specific administrative actions. Administrative action refers to the legal effects produced by administrative subjects exercising their powers in accordance with the law, in the form of acts or omissions. Specific administrative actions target specific objects and involve their rights and obligations, possessing five basic elements: disposability, specificity, unilateralism, externality, and jurisdictionality. The rescue actions of government vessels meet these requirements: providing assistance to distressed parties establishes rights, produces legal effects, and meets disposability; the rescue targets specific individuals in specific maritime disasters, meeting specificity; the rescue actions are unilaterally decided by the competent authority without the consent of the distressed party, meeting unilateralism; the rescue targets are external administrative relative persons, meeting externality; and the rescue actions are exercised by the competent authority according to its jurisdiction, meeting jurisdictionality. Therefore, this rescue action is a specific administrative action, specifically an administrative payment. Administrative payment is an act of gratuitously providing property to administrative relative persons based on their application, considering their conditions, and has application dependency, specificity, and benefit conferral. The distress signal sent by distressed vessels constitutes the application for administrative payment; rescue targeting maritime personnel in danger reflects assistance to a specific group, meeting specificity; and rescue actions protect property and lives, are benefits conferred by the state, and have benefit conferral. In summary, the rescue actions of government vessels constitute administrative payments in administrative law, providing legal protection and practical assistance to

distressed parties.

5.2. Legal Status of National Authorities in Humanitarian Rescue by Government Vessels

The humanitarian rescue performed by government vessels in maritime distress situations is an administrative payment action implemented by the state in accordance with the law. This rescue service is gratuitous assistance provided by the state based on legal obligations, fully supported by the national finances, and during the rescue process, national authorities are not allowed to charge any form of fees or remuneration from the rescued individuals. In this administrative payment activity, national authorities, as administrative subjects, bear the responsibility for the implementation of rescue actions, including the formulation of rescue plans, organization of resources, and leadership of rescue activities. The rescued individuals, i.e., distressed maritime personnel, as administrative relative persons, have the right to accept state assistance without paying any fees. This assistance not only reflects the state's concern for people's lives but also demonstrates the government's public service functions. In administrative payment actions, national authorities occupy the legal position of administrative subjects, as the implementers of payments, while the rescued parties are the recipients of administrative payment actions, occupying the legal position of administrative relative persons.

5.3. Rights and Obligations of National Authorities in Humanitarian Rescue by Government Vessels

When national authorities carry out maritime rescue tasks, they exercise multiple rights and bear corresponding obligations in accordance with the law. Firstly, the competent authorities have the right to use the relevant facilities of the rescued individuals for reasonable rescue work without payment or compensation. Additionally, they possess control rights, meaning they can uniformly command and coordinate all forces participating in the rescue operation according to the actual situation, ensuring the orderly progress of the rescue operation. Saving lives is a statutory duty of the government, and government vessels must not demand any form of remuneration from the rescued parties when performing rescue tasks. The purpose of rescue is to fulfill the government's administrative responsibility to safeguard citizens' basic right to survival and development space. Therefore, after receiving emergency signals from accident victims, the competent authorities must immediately organize search and rescue operations, dispatch relevant government vessels to the scene, and command and coordinate nearby vessels to participate in the rescue. Relevant departments should choose the most reasonable and effective rescue methods and specific measures, make every effort to transfer the rescued individuals to safe areas, and ensure they are no longer in danger at sea.

5.4. Legal Responsibilities of National Authorities in Humanitarian Rescue by Government Vessels

Rescuing maritime distressed individuals is an important duty bestowed upon national authorities by law, and failure to perform it constitutes administrative negligence. Administrative negligence refers to the failure of administrative subjects to fulfill statutory duties, resulting in unlawful inaction. When receiving distress signals from distressed vessels, the competent authorities have a duty to promptly organize rescue forces to assist. Any refusal, delay, or disregard of distress signals should be considered administrative negligence. Typically, for general administrative negligence, administrative agencies can be required to fulfill their duties in accordance with the law through administrative reconsideration or administrative litigation. However, maritime humanitarian rescue is highly time-sensitive, and delayed rescue may result in loss of life, in which case subsequent reconsideration decisions or court judgments cannot reverse the losses. Therefore, in the event of rescue failure due to administrative negligence, administrative agencies should bear state

compensation liability in accordance with the provisions of the State Compensation Law [7]. Relevant state departments must take timely and effective measures to ensure the safety of distressed individuals when performing maritime humanitarian rescue tasks. Any negligence may lead to dreadful consequences, causing irreparable losses to vulnerable individuals and their families and damaging the reputation of the country. Therefore, relevant state departments should attach great importance to maritime humanitarian rescue, establish sound rescue mechanisms, improve rescue efficiency and success rate, effectively fulfill their legal duties, and protect the lives of citizens.

6. Improvement of Relevant Legal System for Humanitarian Rescue by Government Vessels during Wartime Maritime Blockades

6.1. Insufficiency of Relevant Legal System

Although the humanitarian rescue of distressed individuals by government vessels during wartime maritime blockades does not fall under the traditional definition of maritime distress rescue in the Maritime Law, it can be analyzed through administrative legal theories to determine its nature and legal characteristics. The existing legal provisions regarding such rescue operations have some deficiencies and loopholes, mainly manifested in three aspects: Firstly, the power regulations of national authorities in wartime maritime blockade humanitarian rescue are not sufficiently clear and specific. Although there are legal provisions authorizing national authorities to carry out control and compulsory rescue, there is a lack of specific regulations regarding the specific conditions, procedures, and scope of power exercise. This uncertainty may lead to the exercise of power by authorities lacking legal basis, thereby harming the legitimate rights and interests of distressed parties and increasing the difficulty of administrative law enforcement by authorities. Secondly, distressed parties, as administrative counterparts, face difficulties in choosing remedies when national authorities' rescue actions involve illegalities. Administrative reconsideration not only reviews the legality of administrative actions but also examines their reasonableness, while administrative litigation usually only reviews the legality of administrative actions [5]. In rescue disputes, the issue of reasonableness is particularly prominent. If the victims choose direct administrative litigation, the consideration of the reasonableness of rescue actions may be neglected, thereby failing to fully remedy their rights and interests. Thirdly, the rescue system involves many national competent departments, but not all of them have clear reconsideration institutions. In the absence of specific provisions, only general provisions of the Administrative Reconsideration Law apply, where the supervisory authority or the same-level government of the administrative agency that made the specific administrative action serves as the reconsideration authority, chosen by the applicant. Due to the nature of maritime rescue, if the damaged party chooses to apply for review to non-specialized agencies, their rights may be affected due to the lack of professionalism.

6.2. Perfection and Suggestions

The power arrangement of national authorities in the field of humanitarian rescue by government vessels during wartime maritime blockades is decentralized and uncertain, and should be resolved through the improvement and consolidation of legislation. Currently, the law is not specific enough regarding the conditions, procedures, and scope of maritime humanitarian rescue rights. This may lead to irregular behavior by competent authorities and government vessels in practice, harming the rights of distressed parties. To standardize rescue actions and avoid disputes, corresponding administrative regulations, rules, and judicial interpretations should be enacted to refine these powers and achieve legal standardization of rescue actions. For administrative illegalities occurring in humanitarian rescue by government vessels during maritime blockades, the relative parties currently have the options of administrative reconsideration or administrative litigation as remedies. Here, it is

advisable to adopt a reconsideration-preceding mechanism for maritime distress rescue disputes, similar to the dispute resolution mechanisms in other professional fields such as taxation, natural resources, patents, and pricing violations. There are two reasons for this: firstly, considering the professionalism and efficiency of maritime distress rescue dispute resolution; secondly, the comprehensive review principle of administrative reconsideration is more suitable for addressing reasonableness issues in maritime humanitarian rescue. Administrative reconsideration not only reviews legality but also examines reasonableness, making it more conducive to resolving rescue disputes [8]. Additionally, according to the general provisions of the Administrative Reconsideration Law, the applicant can choose the supervisory authority or the same-level government as the reconsideration authority. However, given the specificity of humanitarian rescue during maritime blockades, choosing non-specialized agencies may not be conducive to remedying rights. Therefore, it is recommended to refer to the rules for determining the reconsideration authority for specific administrative actions in the Administrative Reconsideration Law, as well as the specific practices in the Regulations on Administrative Reconsideration of Transportation, to clearly designate the reconsideration authority for disputes concerning humanitarian rescue during maritime blockades as the superior competent authority that made the administrative action. Only in this way can the reviewing body possess the necessary professionalism and be more conducive to protecting the legitimate rights and interests of distressed parties.

7. Conclusion

The actions of mainland government vessels conducting humanitarian rescue operations in the wartime blockade areas of the Taiwan Strait are not only legal but also theoretically and practically feasible. According to the National Defense Mobilization Law and the United Nations Convention on the Law of the Sea, such rescue actions are part of the state's administrative disbursements, reflecting the state's concern for the safety of its citizens and the government's public service function. However, the current legal system lacks specificity in the regulations concerning rescue actions, particularly in terms of specific conditions, procedures, and the scope of power exercise. Therefore, it is recommended to improve relevant administrative regulations, rules, and judicial interpretations to standardize rescue actions and enhance rescue efficiency. Additionally, clear reconsideration authorities should be established to ensure that rescue disputes are properly resolved in a professional, efficient, and reasonable manner. Through these measures, the perfection of the legal system can be strengthened, ensuring the timeliness, legality, and effectiveness of maritime humanitarian rescue operations, thus better fulfilling the state's duty to protect the lives of its citizens.

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