

Global IHL Initiative
Naval Warfare
(Workstream 7)
Third State Consultation

Since the first government consultation meeting, Japan has continuously raised issues regarding the obligation to search for, collect, care for and evacuate the wounded, sick, shipwrecked and dead. We would like to express our gratitude for setting such an agenda that focuses on this important obligation at this meeting.

Regarding the first guiding question, Japan would like to reiterate its position on the matter raised at the second consultative meeting. It is about the difficulty of rescuing the shipwrecked after the engagement. Ships rescuing the shipwrecked do not receive protection under international law. In addition, with the advancement of weapon systems such as long-range anti-ship missiles, unmanned vehicles, and submarines, field commanders are constantly exposed to the threat of attack, resulting in a de facto continuous state of hostilities. For these reasons, it is, in reality, extremely difficult to conduct timely rescue operations for the shipwrecked.

The important points to recognize in rescuing the shipwrecked after the engagement are that in addition to the need for rapid rescue, the number of people requiring assistance is large. For example, after the Battle of Surabaya in 1942, the record from the time stated that the Imperial Japanese Navy rescued 630 crew members from the enemy warships it had destroyed and sunk. Although modern warships have become more automated compared to those days, a typical destroyer still carries more than 100 crew members. If such a warship were to sink, it is expected that the number of the shipwrecked would far exceed the capacity that rescue aircraft, such as helicopters commonly used in peacetime maritime rescue operations, could handle. In order to rescue the shipwrecked after the engagement in accordance with the obligations under international law, it is necessary to conduct rescue operations with systematically coordinated manner.

One possible approach could be establishing humanitarian zones in waters where the shipwrecked are expected, based on agreement between belligerent States. Within these zones, for a specified period, only rescue operations would be permitted, and attacks on naval vessels or aircraft would be prohibited. Similar example can be observed on article 15 of Fourth Geneva Convention and paragraph 160 of San Remo Manual. One of the options would be having military attaché of neutral State or ICRC personnel board related vessels for monitoring purpose.

In Japan's efforts to fulfill the obligation to protect detainees at sea, all crew members of warships, from officers to sailors, receive education on IHL. Regarding the obligation to protect detainees at sea and the treatment of detainees on land, we recognize no significant difference between them in light of humane treatment. With this in mind, as the ICRC provides guidance on the treatment of prisoners of war on land, it could be an option that the ICRC takes the lead in creating guidelines and educational materials on the protection of detainees at sea and sharing them with States.

In any event, the rescue of the shipwrecked persons presents considerable challenges. To achieve humanitarian objectives, it is imperative that all States accord due attention to this issue.