INTRODUCTION

Tracing the Bases of an Integrated Paradigm for Maritime Security and Human Rights at Sea

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1 Introduction: Background to This Collection and Objective Pursued

This edited volume is based on the papers presented at a two-day Conference on ‘Boat Refugees’ and Migrants at Sea: A Comprehensive Approach. Integrating Maritime Security with Human Rights jointly organised by the Law Department of Queen Mary, University of London and the Refugee Law Initiative, University of London, with the support of both the National and Kapodistrian University of Athens and the University Association for Contemporary European Studies (UACES) in June 2014.

It aims to address ‘boat migration’ with a holistic approach, against the background of the meagre responses adopted hitherto by States and intergovernmental organisations. The different chapters consider the multiple facets of the phenomenon and the complex challenges they pose, bringing together knowledge from different disciplines and regions of the world within a single collection. Together, they provide an integrated picture of transnational movements of people by sea with a view to making a decisive contribution to our understanding of current trends and future perspectives and their treatment from legal-doctrinal, legal-theoretical, and non-legal angles.

The final goal the volume pursues is to unpack the tension that exists between security concerns and individual rights in this context and identify tools and strategies to adequately manage its different components. For this purpose, recent developments in law and case law regarding the applicability of human rights and refugee law at sea are taken into account together with past and present policy experiences to help placing on-going discussions within a comprehensive framework. The objective is to garner an inter-regional and multi-disciplinary dialogue across contributions, including input from the law

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of the sea, maritime security, migration and refugee studies, and human rights, to address the position of ‘migrants at sea’ thoroughly. This will help bridging current gaps in knowledge and policy responses, ranging from how to conceptually categorise ‘boat migrants’, to how to respond to differing needs and entitlements, and how to reconcile them with State obligations and national security/public policy concerns, transcending security-exclusive or humanitarian-only tools.¹

The literature has not been indifferent to ‘boat people’ hitherto. Several pieces have already discussed the subject. However, their approaches have been predominantly discrete, in that they have either examined the phenomenon from a single disciplinary perspective,² or focused on individual regions of the world.³ This book is therefore innovative in its approach and thus strives to make a distinct contribution to the field.

Within the legal discipline, the question of whether international law extends protection to non-citizens at sea has primarily received attention from the law of the sea.⁴ International refugee law, through the question of non-refoulement and access to asylum;⁵ the law of transnational crime, via the codification in 2000 of international definitions of migrant smuggling and human trafficking by sea;⁶ and international human rights law, through discussions on extraterritorial applicability, the notion of jurisdiction and ‘effective control’ at sea, have joined the debate more recently.⁷ But none of these works engages at once with all relevant frameworks from an integrated perspective.

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³ F Ippolito and S Trevisanut (eds.), Migration in Mare Nostrum, (CUP, 2015).


⁶ P Mallia, Migrant Smuggling by Sea, (Martinus Nijhoff, 2010).