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Flags must hoist a different standard

Nik Winchester, of the Seafarers’ International Research Centre, looks at the relationship between open registers and criminal acts

January 2002, Israeli forces captured a Tongan-registered general cargo ship in the Red Sea laden with 50 tons of arms. The Israeli authorities claimed that the vessel, Karine A, was on route to Yasser Arafat’s Palestinian Authority. June 2002, French authorities, suspecting cocaine smuggling, seized the Cambodian-registered vessel, Winner. The Cambodian owners of this vessel were subsequently charged with drug trafficking, setting up a Palestinian Authority.

These activities are not an isolated phenomenon. Authorities have caught scores of them trafficking narcotics, hauling toxic waste, fishing illegally and operating unsafe vessels. However, it could also be seen as an attempt to tackle the problem of substandard vessels by developing a comprehensive system of vessel inspection and creating a scheme by which at-risk vessels may be targeted. A recent directive by the European Commission have been set up to tackle the problem of substandard vessels.

These activities are not an isolated phenomenon. Authorities have caught scores of them trafficking narcotics, hauling toxic waste, fishing illegally and operating unsafe vessels. However, it could also be seen as an attempt to tackle the problem of substandard vessels by developing a comprehensive system of vessel inspection and creating a scheme by which at-risk vessels may be targeted. A recent directive by the European Commission have been set up to tackle the problem of substandard vessels. The question is then, why is there a relationship between criminal activity and the vessel registers? The answer relates to the nature of the regulatory environments present in different flag states. The differing forms and strengths of regulation put in place and enforced by flag states give the shipowner differing levels to which they may put themselves at a distance from the flag state control and self-regulate their operations. It is these differing levels of regulation in which the black market activity are given their conditions of existence, i.e. the potential for these registers as an enabling device to produce extensive layers of corporate secrecy sparing mutual inspections, restrict any relationship between them and the vessel, and have no interference from the state concerning the operations of the vessel. Human intention and action being what it is, for those pursuing illegal activity such registers are entirely suited to their wish. Now, it would be incorrect to claim that these vessel registers are attempting to provide outlets for criminal activity. However, it does seem that they produce regulations that are insufficient to prevent such activity. However, we have to be careful in making claims about causality here. The flag of convenience system does not cause criminal activity, nor is it restricted to it. Instead, the open register system enables those wishing to engage in criminal activities with a ready-made system that they can use to their advantage. In essence these opaque structures of vessel ownership, low requirements for the incorporation of offshore business entities, limited registration requirements and the absence of effective monitoring procedures produce an environment which could be attractive to those engaged in illegal activities. However, it could also be seen as a deregulated environment in which the shipowner has the freedom to take time-costly controls only to maintain their owner’s standards.

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