Pravo neutralnosti u okviru prava oružanih sukoba

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Master Thesis

RIGHT OF NEUTRALITY WITHIN THE LAW OF ARMED CONFLICTS

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Zagreb, October 2023.

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Summary

Neutrality is one of the fundamental institutes of international law aimed at maintaining peace, protecting the rights of states and safeguarding civilian populations during armed conflicts. It is not absolute and is subject to limitations and exceptions. The law of neutrality regulates the relations between states at war (belligerents) and states at peace (neutrals). Rights and duties stemming from neutrality are applied from the moment a neutral state becomes aware of the outbreak of war. Neutrals have rights to trade and establish relations with all parties to the conflict, while belligerents can penalize neutrals engaging in activities of aiding the enemy. The concept of neutrality faces challenges in the context of the Collective Security System (CSS), where member states commit to UN decisions and maintenance of international peace. Neutrality and CSS principles can clash, but the relevance of neutrality persists due to the limitations of UN enforcement. In naval warfare, neutrality regulations evolve to adapt to changing global dynamics. Blockades, contraband and unneutral service are key aspects but the neutrality principles also apply to visitation, capture and trial of neutral vessels, where the belligerent can examine and seize the vessels suspected of aiding the enemy. Neutrality ends with the conclusion of war or when a neutral state initiates hostilities.

Key words: neutrality, armed conflict, neutrals, belligerents, Collective Security System, blockade, contraband

Sažetak

Neutralnost je jedan od temeljnih instituta međunarodnog prava čiji je cilj održavanje mira, zaštita prava država i zaštita civilnog stanovništva tijekom oružanih sukoba. Nije apsolutan i podložan je ograničenjima i iznimkama. Pravo neutralnosti uređuje odnose između država u ratu (zaraćena strana) i država u miru (neutralna strana). Prava i obveze koje proizlaze iz neutralnosti primjenjuju se od trenutka kada neutralna država sazna za izbijanje rata. Neutralne strane imaju pravo na trgovinu i uspostavljanje odnosa sa svim stranama u sukobu, dok zaraćene strane mogu kazniti neutralnu stranu koja se bavi aktivnostima pomaganja neprijatelju. Koncept neutralnosti suočava se s izazovima u kontekstu Sustava kolektivne sigurnosti (SKS), gdje se države članice obvezuju odlukama UN-a i teže održavanju međunarodnog mira. Načela neutralnosti i SKS-a mogu se sukobiti, ali važnost neutralnosti i dalje postoji zbog ograničenja provedbe UN-a. U pomorskom ratovanju propisi o neutralnosti razvijaju se kako bi se prilagodili promjenjivoj globalnoj dinamici. Blokade, kontrabanda i protuneutralna pomoć ključni su aspekti, ali načela neutralnosti također se primjenjuju na zaustavljanje, uzapćenje i suđenje neutralnim plovilima, gdje zaraćena strana može pregledati i uzaptiti plovila za koja se sumnja da pomažu neprijatelju. Neutralnost prestaje završetkom rata ili kada neutralna država započne neprijateljstvo.

Ključni pojmovi: neutralnost, oružani sukob, neutralna strana, zaraćene strane, Sustav kolektivne sigurnosti, blokada, kontrabanda

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Introduction

Neutrality first came into existence during the Middle Ages, however; then it did not exist as an institution of international law but rather as a mere decision of a state not to participate in the armed conflict.[1] The first time that the neutrality was acknowledged as an institution was during the Era of Hugo Grotius, but despite that the 17th century practice indicates that neutrality was not genuinely characterised by an attitude of impartiality and the belligerent parties did not uphold the territorial integrity of neutral states. A lot of progress in the development was made during the 18th century when the previously mentioned elements were starting to get recognised, forming the basis for the neutrality that we know of today.[2] The conflicts of the Russo-Japanese and South African Wars led to numerous occurrences that prompted the Second Hague Conference in 1907 to address the concept of neutrality in its discussions and formulate agreements resulting in Convention (V) respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land[3] and Convention (XIII) concerning the Rights and Duties of Neutral Powers in Naval War[4]. This progression persisted until the commencement of World War I in 1914.[5] The lessons learned from the two world wars have indicated that a significant portion of the conventional laws related to neutrality, particularly those concerning the rights of commerce and communication, have largely lost their relevance. In contemporary warfare, where the military and economic dimensions of a state's engagement are intricately linked, the allowances that belligerents can provide to neutral trade have become significantly restricted.

This introduction merely scratches the surface of the intricate and multifaceted nature of the law of neutrality in armed conflicts. As we delve deeper into this subject, we will explore its key principles and institutions, notable treaties and contemporary issues, all of which contribute to our understanding of how the states navigate the complex terrain of international relations during times of war.

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[1] Oppenheim, L. (1952). International law: A Treatise. Vol. II Disputes, War and Neutrality, 7th edition. London: Longmans. (hereinafter: Oppenheim, L.), p. 624.
[2] *Ibid*, pp. 625-627.
[3] Convention (V) respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land. The Hague, 18th October 1907. Available at: https://ihl-databases.icrc.org/assets/treaties/200-IHL-20-EN.pdf (hereinafter: Hague V)
[4] Convention (XIII) concerning the Rights and Duties of Neutral Powers in Naval War. The Hague, 18th October 1907. Available at: https://ihl-databases.icrc.org/assets/treaties/240-IHL-28-EN.pdf (hereinafter: Hague XIII)
[5] Oppenehim, L., p. 633.

Concept of Neutrality and its Characteristics

Neutrality is a fundamental principle of international law that aims to promote peace, safeguard the rights of states and protect civilian populations during time of hostilities. It is not absolute and may be subject to some limitations and exceptions which will be discussed later in the thesis. The institute of neutrality in international law primarily aims to regulate the relations between the states at war (belligerents) and the states at peace (neutrals).[6] It can be defined as "the attitude of impartiality adopted by third States towards belligerents and recognised by belligerents, such attitude creating rights and duties between the impartial States and the belligerents"[7].

Neutrality in armed conflicts should not be confused with permanent neutrality. Perpetual or permanent neutrality is a form of state neutrality established by special treaties or unilateral declarations on the basis of which the state commits to refraining from participation in any armed conflict that may arise (e.g. Switzerland, Austria and Malta).[8] Permanently neutral states have rights and duties both during the time of peace and time of war which arise from their neutralisation.

There are three key principles which form the basis of the rules of neutrality; the principles of abstention, impartiality and prevention.[9] In order for a state to remain neutral it has to comply with all three principles, otherwise it will be considered only as a "non-belligerent". Firstly, the attitude of impartiality implies that a neutral state does not interfere between the belligerents and is prohibited to provide any assistance to them while treating them all equally.[10] However, that does not mean that a neutral state shall remain inactive in cases of breach of international law by the belligerents, meaning that the neutrals are not obliged but have the right to intervene in such cases.[11] Secondly, the principle of abstention, as stated in the Article 5 of The Hague V Convention, implies that a neutral state has to refrain from engaging in any hostile actions and is forbidden from providing any portion of its territory to support either of the belligerents or granting military passage and the facilities to them. Also, the abstention from assisting the

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[6] Bridgeman, T. (2010). The law of neutrality and the conflict with al Qaeda. New York University law review Volume 85 (pp. 1186-1224). Available at: https://www.nyulawreview.org/wp-content/uploads/2018/08/NYULawReview-85-4-Bridgeman.pdf (hereinafter: Bridgeman, T.), p. 1197.

[7] Oppenheim, L., p. 653.

[8] Neuhold, H. (1979). Permanent Neutrality and Non-Alignment: Similarities and Differences. India Quarterly, vol. 35, no. 3, (pp. 285–308). Available at: https://www.jstor.org/stable/45070949, p. 285.

[9] Ferro, L., Verlinden, N. (2018). Neutrality During Armed Conflicts: A Coherent Approach to Third-State Support for Warring Parties, Chinese Journal of International Law, Volume 17 (hereinafter: Ferro, L., Verlinden, N.), p. 30.

[10] *Ibid*.

[11] Oppenheim, L., p. 655.

belligerents is not absolute and, hence, does not involve breaking off all connections with the belligerents which particularly applies to treaties, trade and diplomatic relations.[12] Lastly, the principle of prevention, which is also derived from the aforementioned article, obliges the neutral state to protect its neutrality and the integrity of its territory from any violations by a belligerent, otherwise the belligerent has the right to enter the territory and take defensive actions.[13]

Neutrality vs. Non-Intervention

The institute of neutrality should not be mistaken with that of non-intervention. Despite both of them sharing the feature of not participating in the armed conflict, they operate on different levels and address distinct aspect of state behaviour.[14]

On the one hand, neutrality, as it was discussed in the previous chapter, considers the non-participation of the state in the armed conflict and, along with that, impartiality towards the belligerents while still having the right to maintain the usual relationship with them.

On the other hand, the principle of non-intervention could be defined as the "prohibition of the dictatorial interference in the internal or the external affairs of a State; the essence of the intervention is coercion and its prohibition protects the sovereignty of a State"[15]. It is not limited to only armed conflicts but rather extends to issues such as economic policies, state's political systems, human rights practices, etc. Non-intervention, unlike neutrality, is not based on a legal document specifically dedicated to it.[16] In order for there to be a breach of this principle there are two conditions that have to be cumulatively fulfilled: the interference has to be coercive and it has to interfere with the state's domestic affairs.[17]

[12] Oppenheim, L., p. 659.
[13] Kolb, R., Hyde, R. (2008). An Introduction to the International Law of Armed Conflicts, p. 280.
[14] Antonopoulos, C. (2022). Non-Participation in Armed Conflict: Continuity and Modern Challenges to the Law of Neutrality Cambridge: Cambridge University Press. Available at: https://www.cambridge.org/core/books/nonparticipation-in-armed-conflict/is-the-law-of-neutrality-obsolete/5E9903B07A348330881ECDA7E1BAF2BE (hereinafter: Antonopulous, C.), p. 181.
[15] *Ibid*, p. 182.
[16] Ferro, L., Verlinden, N., p. 35.
[17] *Ibid*, p. 36.

Legal Framework

The foundation of the law of neutrality primarily originates from customary international law and the treaties. Customary law of neutrality encompasses widely accepted practice, accompanied by *opinio iuris,* which developed through a historical process beginning in the 14th century and evolved and solidified until the 20th century. The development was characterized by physical actions taken by the belligerents, diplomatic statements regarding the rights and obligations of both neutrals and belligerents, actions of neutrals for maintaining their neutrality and legal decisions of national prize courts.[18]

There are three fundamental legal instruments which give the most extensive codification regarding neutrality: Declaration Respecting Maritime Law (Declaration of Paris, 1856)[19], Convention (V) respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land (1907) and Convention (XIII) concerning the Rights and Duties of Neutral Powers in Naval War (1907). The mentioned two Conventions, also known as The Hague Conventions, comprise the most extensive codification of neutrality in warfare.

When it comes to non-binding instruments,, it is important to mention the London Declaration concerning the Laws of Naval War (1909)[20], a treaty that never entered into force, and a non-binding code drafted by the *Institut de droit International*, adopted in Oxford in 1913[21].

Given the considerable degree of uncertainty as to the content of contemporary international law applicable to armed conflict at sea as well as neutrality at sea, two non- binding documents were prepared: the San Remo Manual on International Law Applicable to Armed Conflicts at Sea (1994)[22] and the Helsinki Principles on the Law of Maritime Neutrality adopted by the International Law Association (ILA) in 1998[23]. None of the mentioned instruments are legally binding but they carry a significant weight as a valuable indication of the content of the present state of customary law in the field.

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[18] Antonopoulos, C., p. 10.
[19] Declaration Respecting Maritime Law. Paris, 16th April 1856. Available at: https://ihl-databases.icrc.org/assets/treaties/105-IHL-1-EN.pdf
[20] Declaration concerning the Laws of Naval War. London, 26th February 1909. Available at: https://ihl-databases.icrc.org/assets/treaties/255-IHL-31-EN.pdf (hereinafter: Declaration of London)
[21] Manual of the Laws of Naval War. Oxford, 9th August 1913. Available at: https://ihl-databases.icrc.org/assets/treaties/265-IHL-33-EN.pdf
[22] San Remo Manual on International Law Applicable to Armed Conflicts at Sea, International Review of the Red Cross, 12th June 1994. Available at: https://ihl-databases.icrc.org/assets/treaties/560-IHL-89-EN.pdf (hereinafter: San Remo Manual)
[23] Helsinki Principles on the Law of Maritime Neutrality, International Law Association. Taipei, 1998. Available at: https://archive.org/details/pdfy-zwUMQoiwLk5e3kj_/mode/2up (hereinafter: Helsinki Principles)

Establishment of Neutrality

"Neutrality is not a unilateral act, it requires recognition by the belligerent States of the attitude of abstention and impartiality maintained by a neutral State"[24]. Meaning that once a state decides to adopt an attitude of impartiality and the belligerents agree to this choice, the responsibilities arising from neutrality become applicable to the neutral state. Historically, it has been customary for the belligerents to promptly inform the third states about the commencement of hostilities, allowing them to make their decision regarding neutrality. If a state chooses to remain neutral, its neutrality was considered to commence from the moment it became aware of the outbreak of war.[25] Nevertheless, it is evident that immediate notification of war by the belligerents is crucial in eliminating any uncertainty or disputes regarding a neutrals' knowledge of the conflict. This is essential because the state cannot be held accountable for the actions of its own or its subjects performed before it was aware of the war, even if the outbreak of hostilities could have been anticipated. Therefore, the Hague V Convention regulates in Article 2 the obligation of the belligerent to promptly inform the neutral Powers of the existence of a state at war, however; if it is evident that a neutral Power was already aware of that, they cannot claim lack of notification as a defence. In that case, their knowledge of the war's existence will prevail, regardless of whether an official notification was received.

Relations Between the Belligerents and the Neutral Party

In order for the neutrality to be realised, it is necessary for belligerents and neutrals to follow a specific line of conduct which results in derivation of specific rights and duties that both sides are obliged to obey.[26] Neutrality is the state's attitude during wartime and the rights and responsibilities between neutral states and the belligerents emerge as a result of commencement of hostilities.[27] The law of neutrality seeks to strike a balance between the rights and obligations of neutral states and belligerents during times of armed conflict. In the following paragraph this aspect of law of neutrality will be discussed in more detail.

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[24] Komarnicki, T. (1952). The Problem of Neutrality under the United Nations Charter. Transactions of the Grotius Society, Volume 38, (pp. 77–91). Available at: https://www-jstor-org.ludwig.lub.lu.se/stable/743159 , p. 80.
[25] Oppenheim, L., p. 667.
[26] Oppenheim, L., p. 673.
[27] *Ibid*, p. 655.

Rights and Duties

Both the belligerents and the neutrals have two fundamental duties and two rights arising from neutrality. As a result, both parties are entitled to expect impartiality from one another. Moreover, neutral states retain the right to maintain unrestricted relations and trade with the conflicting parties, enabling them to continue their interactions with all sides involved in the conflict.[28] The mentioned right is ensured in both The Hague V Convention[29] and the UN Charter[30] in a way that they protect the territory of the neutral state from use of force or threat. Neutrals are primarily obliged, towards belligerents, to act in accordance with the attitude of impartiality and, secondly, to refrain from participation in the armed conflict in a way that they should tacitly accept the belligerent's exercise of right to punish them in cases of breaching their neutral obligations.[31] Conducting themselves with an impartial attitude implies that neutrals must extend the same privileges to each belligerent equally; any deviation would be considered a breach of neutrality.[32]

Belligerents possess the right to penalize the subjects of a neutral state for engaging in activities such as transporting contraband, breaking blockades or providing unneutral services.[33] Conversely, belligerents are also obliged to treat neutrals impartially and refrain from hindering their relationship with the enemy.[34] The first obligation prohibits the use of neutral territory for military or naval purposes during the war and the disruption of lawful relations between neutrals and the enemy. The obligation, on the other hand, involves treating neutral diplomatic envoys accredited to the enemy, as well as neutral property and subjects found in enemy territory, with proper consideration and respect.[35] However, there is one exception when the belligerent is allowed to interfere with the relationship between the neutral party and the enemy. In cases when the enemy aims for the measures which are suppressing or are intended to suppress the belligerent's legitimate relationship with neutrals who are not preventing the enemy from carrying out such measures, the belligerent is authorised to prevent such relationship from forming.[36] The duties that derive from the principal obligation of non-

[28] Bridgeman, T., p. 1199.
[29] Hague V, Article 1 ("The territory of neutral Powers is inviolable.").
[30] Charter of the United Nations, 24th October 1945 (hereinafter: UN Charter), Article 2(4) ("All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.").
[31] Oppenheim, L., p. 673.
[32] Hague V, Article 9.; Hague XIII, Article 9.
[33] Oppenheim, L., p. 674.
[34] *Ibid*.
[35] *Ibid*, pp. 676-677.
[36] *Ibid*, p. 678.

interference with the neutral territory can be found in the Hague Convention (V) which specifically states that "belligerents are forbidden to move troops or convoys of either munitions of war or supplies across the territory of a neutral Power"[37]. Along with that, it is prohibited for them to use the territory of a neutral state to communicate with the enemy in any way or to set up recruiting agencies for combatants.[38]

Collective Security System

The concept of international peace and security has undergone a transformation with the establishment of the Collective Security System under the jurisdiction of the United Nations with the pivotal factors being, as mentioned in the Article 39 of the UN Charter, a threat or breach of peace and various acts of aggression. Collective Security System (hereinafter: CSS) can be defined as "a system for the collective use of force in response to a threat or attack against one or more States"[39] which depends on the rules governing the way decisions are made about the use of such force in order to achieve international peace and security and operates on the principle of shared responsibility and mutual assistance among member states. It was introduced with the Charter of the United Nations as, according to the Article 1, the sole purpose of the UN. The main body of the United Nations in charge of taking care of the functioning of the CSS is the Security Council which is visible from the Articles 24 and 43 of the Charter, forming the essential structural criteria. Article 24 proclaims that the Security Council has been given the responsibility of maintaining peace and security worldwide, while Article 43 ensures that all UN members are committed to providing armed forces, assistance, facilities, etc. when and if requested by the Security Council. The CSS is considered to have a negative impact on the right of neutrality which will be described in detail in the next chapter.

Effect on Neutrality

The establishment of the Collective Security System has had significant implications for the traditional concept of neutrality among the member states. According to the Article 2(5) of the Charter, by signing the Charter the Member States have agreed to assist the UN in conducting

[37] Hague V, Article 2.
[38] *Ibid*, Articles 3.-4.
[39] Blank, L. R. (2023). International Conflict and Security Law. Cheltenham: Edward Elgar Publishing Limited. Available at: https://www.elgaronline.com/monochap/book/9781800377240/book-part-9781800377240-7.xml (hereinafter: Blank, L. R.), p. 12.

the enforcement or preventive actions against a state guilty of breaching the peace. Likewise, the Member States are obliged to follow the Security Council's decisions[40] leaving them no room to declare neutrality as well as "comply with such provisional measures as it deems necessary or desirable"[41]. Hence, it placed a responsibility on the member states to actively contribute to the maintenance of international peace and security. Despite the inherent clash between neutrality and the CSS' principles, the latter's influence on the law of neutrality is somewhat limited in practical terms. This is due to the way its impact hinges on the specific obligations applied to UN member states, the authority granted to a centralised decision-making organs in exercising collective enforcement powers by the Security Council, along with its inability to take action when political deadlock arises during Council discussions, has resulted in the continued relevance of the law of neutrality in real-world scenarios.[42]

While the concept of neutrality is still relevant in some contexts, such as non-participation in wars between the states, the increasing focus on CSS has redefined the practical application of neutrality. States are now required to strike a delicate balance between upholding their traditional principles of neutrality and fulfilling their obligations to support the collective security measures outlined in the Charter. However, the CSS' imperfections have left us loopholes which would enable the institute of neutrality to push through. A good example of that is visible in the Vice-president Ammoun's separate opinion in the International Court of Justice's Namibia Advisory Opinion[43] in which he stated that even though the provisions of the Charter and the whole Collective Security System completely exclude the possibility of state's neutrality, the law of neutrality still remains applicable.[44] The situation in Namibia, without a doubt, had a warlike character including the legal effects as well as the imposed neutral status on the third-party states. Judge Ammoun claimed that "if the provisions of the Charter concerning collective security could have been implemented according to the letter and in the spirit of the San Francisco Conference, there would have been no place for neutrality, at least among States Members of the United Nations"[45]. But as long as the UN has not picked a

[40] UN Charter, Article 25.
[41] *Ibid*, Article 40.
[42] Nasu, H. (2020) The Laws of Neutrality in the Interconnected World: Mapping the Future Scenarios, ECIL Working Paper, forthcoming in Waxman, M. and Oakley, T. (eds) (2022). The Future Law of Armed Conflict. New York, NY: Oxford University Press (hereinafter: Nasu, H.), p. 124.
[43] International Court of Justice, Vice-president Ammoun, F. (1971). Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970), Separate opinion on Advisory Opinion. Available at: https://www.icj-cij.org/public/files/case-related/53/053-19710621-ADV-01-02-EN.pdf
[44] *Ibid*, p. 80.
[45], *Ibid*.

side of either of the belligerents or the Security Council has not made any decisions that need to be carried out by the Member States, the Member States have the right to exercise their neutrality. According to the Article 48 of the Charter, the Security Council may exempt some Member States from carrying out its decisions and by that acknowledging their neutral status. This rule does not only apply to permanently neutral states but also in situations like the Korean War where the UN considered Sweden as a neutral state in that particular conflict.[46]

Right of Angary

Amidst the complexities of war, belligerents may require essential resources or assets to support their military operations. To address this need, the right of angary comes into play. The right of angary, also known as the right of requisition, as defined in *The Zamora* case, implies that the belligerent has the right "to requisition the goods of neutrals found within its territory, or territory of which it is in military occupation"[47]. According to the Article 52 of The Hague IV Convention there is an obligation to pay compensation for the requisition of the goods. The goods which can be subject to requisition can solely be the goods which can be used for military purposes and can be vital for the belligerent's military objectives.[48] This is justified with the Roman maxim *salus rei publicae suprima lex*[49] which emphasises the primacy of the public interest and the well-being of the state over individual or private interests. The right of requisition seeks to strike a fair compromise between the military necessity and the protection of neutral interests, preventing undue hardships on neutral parties. Despite having connection with the law of neutrality the right of angary is not derived from it but rather from the law of war, however; the duty of compensation to the neutral party is derived from law of neutrality.[50]

However, the exercise of the right of angary is not without limitations and safeguards. Such limitations are in place to protect the rights and interests of neutrals and prevent abuse of this right. A particular type of the right of angary can be recognised in the Article 19 of The Hague V Convention which stipulates that railway material originating from a neutral state, be it

[46] Wrange, P. (2007). Impartial or Uninvolved?: The Anatomy of 20th Century Doctrine on the Law of Neutrality, p. 731.
[47] Judicial Committee of the Privy Council (1916). Part Cargo Ex SS. Zamora. The American Journal of International Law, vol. 10, no. 2, (pp. 422–444). Available at: https://doi.org/10.2307/2187542 , p. 434.
[48] Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18th October 1907. Available at: https://ihl-databases.icrc.org/assets/treaties/195-IHL-19-EN.pdf (hereinafter: Hague IV), Article 53.
[49] *Transl.* The safety of the state is the supreme law.
[50] Oppenheim, L., pp. 764-765.

owned by the companies, private individuals or the state itself, shall not be requisitioned or utilised by a belligerent "except where and to the extent that is absolutely necessary". In such cases the material must be returned to the country of origin at the earliest opportunity, and the belligerent must provide compensation for its use. Additionally, this article grants reciprocal right to the neutral state if its railway material is requisitioned by a belligerent. The neutral state is entitled to retain and use railway material from the territory of the belligerent to the same extent as compensation for its own requisitioned assets.

The right of requisition, originating from the law of war, should not be mistaken for a separate right that every state inherently possesses; the right to seize foreign property on its territory in times of emergency with compensation. Therefore, it is incorrect to refer to angary as a right shared by both neutrals and belligerents, or to consider it applicable in both peacetime and wartime contexts.[51]

Neutrality in Naval Warfare

The evolution of Law of the Sea over time has emerged from an ongoing reassessment of the equilibrium between the valid concerns of coastal nations and those of the global community. Similarly, the regulations governing neutrality in naval warfare cannot remain fixed but must consistently adapt to accommodate shifts in the interests of neutral coastal states and the operational requirements of the belligerents. Numerous principles of neutrality that were historically considered relevant to naval warfare were initially systematically organized in the 1907 Hague XIII Convention and subsequently further developed and improved during the progression of the two World Wars. There were two attempts to codify this area of international law which is visible through, before mentioned[52], the San Remo Manual and the Helsinki Principles. These codifications cannot be regarded as an exact representation of the customary law or as a definitive proof of the states' legal beliefs; however, they should still be considered as they offer a significant insight into current customary law of naval warfare.[53] An examination of international armed conflicts following the conclusion of World War II illustrates that the endeavour to proscribe the recourse to armed force has not led to the

[51] *Ibid*, p. 765.
[52] See title. *Legal Framework*
[53] Seršić, M. (2010). Neutrality in International Armed Conflicts at Sea, in Vukas, B., Šošić, T. M., International Law: New Actors, New Concepts, Continuing Dilemmas: Liber Amicorum Božidar Bakotić. Martinus Nijhoff Publishers (pp. 583-593) (hereinafter: Seršić, M.), p. 584.

eradication of force employment or the cessation of the applicability of certain neutrality regulations. In circumstances characterized by low levels of threat, systems governing practice of visit and search, contraband and blockade have endured.[54]

Blockade

The modern term of the institution of blockade could only be fully developed after the recognition of the institution of neutrality within the international law.[55] Blockade can be defined as "the closing of an enemy's port, part of the coast or the mouth of a river for maritime traffic"[56] with the aim of preventing the vessels from exiting or entering the blocked area. The area which is under the blockade has to be under the occupation of or belong to the enemy.[57] In modern international law, blockades are subject to specific rules and regulations to prevent excessive harm to civilian populations and to maintain compliance with international legal principles.

Conception and Establishment of Blockade

The fundamental principles of blockade, set out in the London Declaration Concerning the Laws of Naval War, are establishment, notice, effectiveness, impartiality and neutral rights.[58] As previously mentioned, the Declaration was never ratified but it is still being used as a guideline for content and interpretation of international law.

When it comes to establishment, in order for a blockade to be binding it is necessary that either the blockading Power or the naval authorities acting on its behalf declare the date of the start of the blockade, geographically specify the territory which will be under the blockade and the time period during which the neutral vessels are allowed to exit the territory under the blockade.[59] Hence, declaring a blockade is within the authority of the Government of the

[54] Harlow, B. A. (1984). The Law of Neutrality at Sea for the 80's and Beyond. UCLA Pacific Basin Law Journal, vol. 3, (pp. 42-54). Available at: https://heinonline.org/HOL/P?h=hein.journals/uclapblj3&i=48 , pp. 44,48.
[55] Oppenheim, L., pp. 768-769.
[56] Andrassy, J., Bakotić, B., Seršić, M., Vukas, B. (2006). Međunarodno pravo, vol. 3 (hereinafter: Andrassy, et al .), p. 196.
[57] Declaration of London, Article 1.
[58] Fraunces, M. G. (1992). The International Law of Blockade: New Guiding Principles in Contemporary State Practice. The Yale Law Journal, vol. 101, no. 4 (hereinafter: Fraunces, M. G.), p. 896.
[59] Declaration of London, Articles 8 and 9.

blockading state and the naval force commander of that state has no discretion about it.[60] Subject to the blockade can be both the ports and the coast but they have to be under the occupation of the enemy.[61]

The way of notifying about the blockade is equally important and it is done by the blockading power to the neutrals via means of communication addressed directly to their governments or to the accredited representatives. The commander of the blockading Power is obliged to notify the local authorities which will in return inform the foreign consular officers situated on the coastline or on the port which is under the blockade.[62] In cases when a vessel that is approaching the area under the blockade has no knowledge about it then the vessel must be notified by the officer of the ship of the blockading Power. If a neutral vessel coming out of the port under the blockade has not been informed of it due to the negligence of the officer of the ship of the blockading Power, then the neutral vessel has to be allowed to pass freely.[63]

One of the prerequisites for a binding blockade is its effectiveness, meaning that "it must be maintained by a force sufficient really to prevent access to the enemy coastline"[64] while temporary absence of the blockading forces does not affect it[65]. The purpose of this principle was to eradicate the declared blockades which the enemies were unable to enforce.[66] The principle of impartiality is visible through the fact that the rules of blockade apply to all ships regardless of their flags.[67] Concerning the rights of neutrals, neutral areas such as coasts and ports must be free from the blockading forces and have a free access as long as the neutrals stem away from trading with the territory under the blockade.[68]

Breach of Blockade

The blockade is considered to be breached in situations when a vessel exits or enters the area despite it being under the blockade.[69] The key component for breach of blockade is the knowledge of the vessel that the blockade exists, otherwise there would be no breach.[70] In case

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[60] Oppenheim, L., p. 775.
[61] *Ibid*, p. 771.
[62] Declaration of London, Article 11.
[63] *Ibid*, Article 19.
[64] *Ibid*, Article 2.
[65] Oppenheim, L., p. 782.
[66] Fraunces, M. G., p. 897.
[67] Declaration of London, Article 5.
[68] Fraunces, M. G., pp. 897-898, *see also* Declaration of London, Article 18.
[69] Oppenheim, L., p. 782.
[70] *Ibid*, p. 783.

of breaking the blockade, either inwards or outwards, the vessel can be subject to capture as long as the vessel of the blockading force is pursuing it, however; if the pursuit is in any way interrupted or the blockade has been lifted in the meantime, capturing the vessel will no longer have an effect.[71] The vessels which are heading towards the area which is not under the blockade cannot be captured for the breach of the blockade, regardless of their final destination.[72]

Contraband

"Contraband is goods that can be used for war purposes and are on the sea route for the enemy, even though their transportation has been prohibited by the opposing party."[73] In order for an article to be considered as a contraband it has to cumulatively fulfil two conditions: the article has to be able to serve for purposes of war and the article has to be intended for the enemy.[74] These conditions limit the belligerents to establish their own criteria for defining what constitutes contraband.[75]

According to the Declaration of London there are two known categories of contraband: absolute and conditional. Absolute contraband primarily considers articles whose essence is to be used in warfare[76].They are always treated as contraband. It is not restricted to only ammunition and arms, but also includes the materials and the machinery which are key for their manufacture.[77] However, it is important to note that the mentioned list is by no means a closed one, meaning that the additional articles which are exclusively used in war can be added following a notification and a declaration. The mentioned notification has to be addressed to all Powers if it was published during peace, otherwise it should only be addressed to the neutrals.[78] The second category, relative or conditional contraband, enumerated in Article 24 of the Declaration of London, includes articles which can be used both during the times of peace and war and in order for it to be treated as a contraband there is no need for notification, it only has to be of benefit for the belligerent regarding the continuation of the warfare.[79]

[71] Declaration of London, Article 20.
[72] *Ibid*, Article 19.
[73] Andrassy, J. et al, p. 201.
[74] *Ibid*.
[75] *Ibid*.
[76] Oppenheim, L., p. 801.
[77] *Ibid*, p. 802.
[78] Declaration of London, Article 23.
[79] Oppenheim, L., p. 805.

Regarding the non-listed articles, the Article 25 follows the same procedure as for the absolute contraband. After the Second World War the countries extended the range of contraband and by that diminished the difference between absolute and conditional contraband.[80] While the formal classification of contraband into absolute and relative categories is still in place, this differentiation has become less clear in practice which resulted in having the rules, that were initially intended exclusively for absolute contraband, extended to cover both categories.[81]

Some articles, so called free articles, cannot ever be considered as contraband, either because they are not suitable to be used in war or because the possibility of them being used in war is so remote that they can be considered as unsuitable.[82] Such articles are raw cotton and textile materials, paper, soap, paint, glass, furniture, articles used to aid the sick and wounded, etc.[83] The San Remo Manual is also familiar with the concept of free articles and the list that it contains is considered as a minimum, meaning that despite the articles being categorically stated, the list is not closed and more articles can be added.[84]

Carriage of Contraband and its Consequences

The primary practice of carriage of contraband included punishing all carriage of articles considered as contraband by the neutrals. However, the newer practice acknowledges the principle of free commerce between the neutrals and the belligerents but also encourages both to prohibit their subjects from carrying the contraband.[85]

There are three possible cases of carriage of contraband: direct, indirect and circuitous. Direct carriage implies that a vessel which is heading towards the enemy is carrying goods considered as contraband. On the other hand, if a vessel is carrying articles to the neutral port and then, following the arrangements, the articles are being sent to the enemy via land or sea, that is a case of indirect carriage. A case which was seen in practice the most and is similar to indirect carriage is so-called circuitous carriage. The vessel's voyage is divided into two parts: first part includes delivering contraband to a neutral port and in the second part, having the contraband delivered to the enemy.[86] Despite dividing the voyage into two parts, following the principle

[80] Andrassy, J. et al, p. 202.
[81] Seršić, M., p. 589.
[82] Oppenheim, L., pp. 801-802.
[83] Declaration of London, Articles 28 and 29.
[84] San Remo Manual, Article 150.
[85] Oppenheim, L., p. 814.
[86] *Ibid*, p. 816.

of *dolus non purgatur circuitu*[87] such cases should be treated as one complete voyage rather than two separate ones. The element that differentiates indirect and circuitous carriage is the intention. When speaking of indirect carriage, the vessel may or may not know that the articles are intended for the enemy and that they will be delivered to him, unlike in circuitous carriage where the vessel is familiar with the fact that the articles are intended for the enemy.

As long as the vessel is caught *in delicto* it can be seized by the belligerent's cruisers which implies that the vessel which deposited the contraband cannot be subject to seizure on its return voyage.[88] It is important to note that the vessel carrying the contraband cannot be seized in the neutral's maritime belt, only in belligerent's, otherwise it would constitute a breach of neutrality which will be explained in detail later in the Thesis.

When speaking of the consequences of carriage of contraband, the Declaration of London has, resolved the disagreements regarding the penalty. The general penalty implies confiscating the contraband goods, regardless of the category of contraband which they belong to and in some cases even the vessel itself if it is proven that the contraband takes up more than half of the value, weight or space of the cargo carried by the vessel.[89] The vessel may be required to pay the costs of the procedure before the national prize court that were incurred by the captor in situations where the vessel has not been subject to capture.[90] Article 43 is of great importance since it regulates the situation in which the vessel carrying the contraband is not familiar with the fact that there was a war outbreak, did not have the opportunity to unload its cargo or that a new contraband declaration applied to it. In such cases the articles can only be seized upon payment of compensation, while the vessel itself and the remaining cargo cannot be confiscated.

In order to avoid unnecessary inspection of the neutral vessels and interference with free trade[91], during the Second World War, the navicert system was introduced. Navicert is a certificate confirming that a certain vessel is not carrying articles considered as contraband and it is issued by a diplomatic or a consular representative of one of the belligerent states.[92] Such

[87] *Transl.* Fraud is not purged by circuity. Principle developed by the American Prize Courts during the American Civil war when the question about how such type of carriage of contraband should be treated considering that the voyage is divided into two or more parts. It concluded that circuitous carriage of contraband is considered a one continuous voyage which the Court supported by the mentioned principle and the doctrine of continuous voyage. Oppenheim, L., p. 816.
[88] Oppenheim, L., pp. 823-824.
[89] Declaration of London, Articles 39 and 40.
[90] *Ibid*, Article 41.
[91] Helsinki Principles, Article 5.2.6.
[92] Andrassy, J. et al, p. 208.

vessels are not subject to the inspections conducted by the warships of the belligerents, unless there are some circumstances that give rise to suspicion, meaning that having a navicert does not guarantee that the vessel will not be subject to inspection. San Remo Manual in Articles 122-124 indirectly acknowledges the navicert system, despite not using the exact term. Both the Helsinki Principles and the San Remo Manual state that the mere fact that the vessel was issued the navicert must not be used to their detriment.[93] Unfortunately, the negative side of the navicert system is that in practice it has been established that if a ship does not have a navicert issued, it is automatically considered to be transporting contraband and is therefore subject to inspection.

Unneutral Service

Unneutral service can be defined as "the carriage by neutral vessels of certain persons and despatches for the enemy"[94]. Originally, the theory was employed in relation to the transportation of contraband. However, the contemporary practice has acknowledged the excessiveness of this application and, hence, limited the scope to more serious transgressions, constituting the institute of unneutral service.[95]Rules regulating the area of unneutral service were uneven which is why the Declaration of London wanted to provide greater uniformity in this area. The Declaration of London differentiates two types of unneutral service. Lenient types involve measures similar to the treatment of contraband and the severe types resemble the treatment of enemy merchant vessels.

The lenient types, as stated in the Article 45 of the Declaration of London, encompass actions like transporting enemy armed forces personnel and specific cases of transmitting enemy-related intelligence. Here it is implied that the armed forces which are being transported are already a part of the enemy's armed forces which is visible from the phrasing "passengers who are embodied in the armed forces of the enemy" of the aforementioned article. Transmission of enemy-related intelligence also implies the transmission of political despatches, be it to or from the enemy. However, there is an exception to this rule which implies that considering that

[93] San Remo Manual, Article 123 ("The fact that a neutral merchant vessel has submitted to such measures of supervision as the inspection of its cargo and grant of certificates of noncontraband cargo by one belligerent is not an act of unneutral service with regard to an opposing belligerent.")
Helsinki Principles, Article 5.2.6 ("The navicert is not binding on the other party, but the fact that a ship carries a navicert issued by another party may not be used to the ship's disadvantage.")
[94] Oppenheim, L., p. 832.
[95] Hill, N. L. (1929). The Origin of the Law of Unneutral Service. The American Journal of International Law, vol. 23, no. 1 (pp. 56–67). Available at: https://doi.org/10.2307/2190235 (hereinafter: Hill, N. L.), p. 56.

neutrals have the right to non-suppressed relationship with either of the belligerents, the neutral vessel should not be penalized for transporting despatches between the belligerent and the neutral Government or for conveying despatches from the belligerent's Government to its diplomatic representatives and consuls stationed abroad in neutral states, and *vice versa*.[96] On board presence of political despatches intended to or coming from the enemy does not automatically demonstrate that the vessel is transporting them for the enemy. The vessel is deemed to be transporting such despatches only when it is aware of their nature and nevertheless proceeds to carry them, or if it is explicitly engaged for the task of carrying them which is part of the following category. When a vessel provides assistance to the enemy, it can be seized along with the enemy's cargo and all items that belong to the vessel's owner; however, the neutral cargo is typically released.[97]

Article 46 includes the second category, the severe types of unneutral service, specifically four distinct sets of actions that attributed an enemy character to the involved vessel: the vessel is solely employed by the enemy's government, involved either in transporting the troops or transmitting the intelligence beneficial to the enemy, directly engages in hostilities or operates under the command of an agent placed aboard by the enemy's government. Hence, it is of great importance to differentiate not only among the types of support offered to the enemy but also among the diverse levels of association with the enemy, which can be present irrespective of the particular services provided.[98] In such instances, the vessel forfeits its neutral status and is treated as if it were an enemy vessel, making it liable to capture.[99]

According to well-established rules of customary international law, which were incorporated in the Declaration of London, the capture of a neutral vessel could occur if a visit or search confirms or raises substantial suspicion that the vessel is providing assistance to the enemy in an unneutral manner. This capture is permissible in any location in the open sea or within the territorial maritime belt of the belligerents.[100] This procedure which is applied in all mentioned cases of control of neutral vessels will be explained in more detail in the following chapter. While the Declaration of London had some influence on state practices, in reality, the scope of actions categorised as unneutral service has broadened. Although universally accepted rules

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[96] Oppenheim, L., pp. 837-838.
[97] Andrassy, J. et al., p. 205.
[98] Tucker, R. W. (1955). International Law Studies. Washington D.C.: Government Printing Office. Available at: https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=2059&context=ils (hereinafter: Tucker, R. W.), p. 324.
[99] Andrassy, J. et al., p. 204.
[100] Oppenheim, L., p. 842.

have not emerged, practical examples indicate that the following actions by neutral merchant vessels and aircraft are regarded as providing unneutral service to one of the belligerents: any form or support to the adversary's armed forces, sailing alongside an enemy warship, operating under the direct control, orders or instructions of the enemy's government, working in its service or employment and accepting a navicert or a similar document issued by the opposing party, direct involvement in hostilities on the side of the enemy, etc.[101]

Rules related to neutral service can equally be applied to neutral aircrafts which is visible from the Article 53 c) of The Hague Rules concerning the Control of Wireless Telegraphy in Time of War and Air Warfare[102], stating that neutral aircrafts can be captured if it is found to have provided aid to the enemy. Determining whether a neutral vessel or aircraft has transmitted military information is even more complex and such a vessel can be captured even after the voyage in which the prohibited act occurred, all up to one year from the time of the act itself.[103]

Visitation, Capture and Trial of Neutral Vessels

Visitation and search

The practice of visit and search has long been acknowledged as an auxiliary prerogative of belligerents, serving the purpose of allowing them to ascertain the nature of merchant vessels, their activities and any other relevant details concerning their involvement in the conflict. It can be defined as "the right of belligerents to visit and, if need be, search neutral merchantmen for the purpose of ascertaining whether these vessels really belong to the merchant marine of neutrals, and, if this is found to be the case, whether they are attempting to break blockade, or are carrying contraband, or rendering unneutral service to the enemy"[104]. Nonetheless, while the uncontested authority of belligerents to employ visit and search on neutral merchant vessels indicates their right to scrutinize these activities, it does not definitively outline the extent of measures belligerents can adopt to enhance the efficacy of the preventive measures.[105] It is only logical that the belligerents would interpret this well-established right according to their aims

[101] Andrassy, J. et al., p. 205.
[102] Rules concerning the Control of Wireless Telegraphy in Time of War and Air Warfare. Commission of Jurists. The Hague, February 1923. Available at: https://ihl-databases.icrc.org/assets/treaties/275-IHL-35-EN.pdf
[103] *Ibid*., Article 6, paragraph 3.
[104] Oppenheim, L., p. 848.
[105] Tucker, R. W., p. 332.

in preventing contraband transport, breach of blockades and unneutral services. International law does not provide exhaustive regulations governing all the intricacies of the prescribed procedure for visitation. Instead, maritime states have issued guidelines to their naval vessels in this regard and, consequently, there are consistent protocols observed for various aspects, but variations in practices among states still exist in certain areas.[106]

The targets of the belligerent's right to visit and search encompass all privately owned neutral vessels. It is equally established that neutral warships and other government-owned vessels engaged in the service of the neutral's armed forces are immune from being subjected to visit and search. The practice of visiting and searching neutral merchant ships can be undertaken by belligerent warships and military aircraft anywhere beyond the territorial jurisdiction of neutral states. It is crucial to emphasize that the application of the right of visit and search must be strictly confined to vessels formally commissioned within the armed forces of a belligerent, as these are generally authorized to exercise belligerent privileges at sea.[107] Considering that this is a belligerent's right, it can be exercised only during wartime, meaning that neutral vessels cannot be subject to visitation before the outbreak and after the end of war, however; it should not be confused with the right of visitation when there is a suspicion of piracy which can be exercised even during the times of peace.[108]

A warship intending to inspect a neutral ship must halt it which can be done by commanding the vessel by shouting or by firing one or two blank shots from a "confirming gun", also, a warning shot can be fired across the vessel's bow if deemed necessary. Once the vessel has halted or come to a stop, it is subject to inspection by one or two officers dispatched from the warship who review the vessel's documents in order to determine its nationality, passengers, destination and departure ports and the nature of its cargo.[109] This authority can be exercised in the open sea or within the maritime territorial belt of the belligerents, however; it must not be exercised within the neutral's maritime territorial belt.[110] If the findings of the search and the questioning of the crew satisfy the inspecting officer of the vessel's innocence in terms of both vessel and cargo, a record is made in the vessel's logbook and it can be released to continue its journey. Conversely, if the outcome of the search fails to alleviate suspicion by revealing contraband or any justification for seizure, the vessel is seized and directed to a

[106] Oppenheim, L., p. 852.
[107] Tucker, R. W., pp. 333-334.
[108] Oppenheim, L., p. 848.
[109] *Ibid*, p. 852.
[110] *Ibid*, p. 849.

port.[111] Hence, when a search reveals no evidence against the vessel, seizure should only occur in cases of profound suspicion. The practice of diverting neutral vessels to belligerent ports for search which was developed during the First World War caused the development of the so-called navicert system.[112] As mentioned before, diplomatic or consular representatives of the belligerent in a neutral country issued official certificates called navicerts which verified that the cargo on the vessel en route to a neutral port was not of nature that would deem it liable to confiscation. Meaning that, by owning a navicert, if the vessel was encountered by the naval forces of the belligerent, it could continue its journey without being diverted to a port for inspection.[113] However, should a neutral merchant vessel resist to visit and search, according to the Article 63 of the Declaration of London, it "involves in all cases the condemnation of the vessel" and its cargo and goods acquire the character of an enemy entity. Once a vessel is captured due to resistance, there is no need for subsequent visitation and search procedures as the mere act of resistance renders the vessel liable to confiscation, regardless of whether a visit and search would prove its culpability or innocence.[114]

Capture

Following the previous discussions on contraband, blockade, unneutral service and visitation, it is evident that the capture, also known as seizure, can occur if the cargo, the vessel or both are being subject to confiscation or if a significant suspicion arises which necessitates a more thorough examination. Capture serves a dual purpose: primarily to obstruct the enemy's access to illicit assistance from neutrals which is suspected to be facilitated by the vessel and/or its cargo, if permitted to continue its journey. Simultaneously, it aims to initiate legal proceedings that determine whether the initially precautionary detained vessel and the cargo could be considered as or have the potential of being considered as unlawful aid, which would then ascertain whether the detained cargo and vessel could face condemnation as a consequence of attempting to engage in prohibited assistance.

It is important to differ the capture of neutral vessels and capture of enemy vessels, as the purpose is not the same. Neutral merchant vessels are captured to potentially confiscate the vessel and/or cargo as a punitive measure for specific distinct actions. After exhaustive

[111] Tucker, R. W., p. 338.
[112] Oppenheim, L., pp. 854-855.
[113] See title *Carriage of Contraband and its Consequences*
[114] Oppenheim, L., pp. 855-856.

examination of the circumstances, the Prize Court determines and imposes this punishment. Additionally, while the outcome of capturing a neutral vessel is that the vessel, its occupants and the cargo come under the jurisdiction of the captor, the vessel's officers and crew do not automatically become prisoners of war. Conversely, enemy vessels are seized with the intention of claiming them under the belligerent's entitlement to appropriate all enemy-owned assets discovered on the open sea or within maritime territorial belt of either warring party.[115]

No warring party is entitled to apprehend a neutral vessel unless there is a reasonable belief that the ship is involved in activities that are not impartial, or that the cargo, due to its nature or intended destination, would directly assist the enemy in advancing in the war, should it remain unimpeded. However, a review of authoritative sources demonstrates that a mere belief in the vessel's susceptibility to capture is inadequate. The belief must be substantiated by evidence of a calibre that warrants such action.[116] However, it should not be presumed that visitation and search are obligatory precursors to capture. Capture can be executed directly without engaging in a visit or search, based on the identical grounds that would warrant the latter actions.[117] This illustrates that a seizure becomes a capture only when it aligns with valid justifications, and when the criteria for a legitimate seizure are met, it becomes a formal capture within legal contexts. Consequently, the notion of an unlawful capture is non-existent, since an unlawful seizure cannot be categorised as a capture. Additionally, the legality of the act of capture does not hinge on subsequent condemnation by a Prize Court.

The general consensus has consistently acknowledged that, as a standard practice, captured neutral vessels should not be subject to any form of destruction, in the same way that captured enemy merchant vessels should not be. However, a longstanding debate has revolved around the issue of whether both captured neutral ships and captured enemy vessels could be destroyed in extraordinary circumstances, rather than being resented before a Prize Court.[118] The Declaration of London addressed the issue in Article 48 which states that the captured neutral vessel cannot be subject to destruction, instead it should be brought to a suitable port where all inquiries regarding the legitimacy of the capture can be resolved. However, Article 49 constitutes an exception implying that "a neutral vessel which has been captured by a

[115] *Ibid*, p. 862.
[116] Wise, J. C. (1922). The Rights of Visit and Search, Capture, Angary and Requisition. The American Journal of International Law, vol. 16, no. 3 (pp. 391–399). Available at: https://doi.org/10.2307/2188176 (hereinafter: Wise, J. C.), p. 391.
[117] *Ibid*, p. 392.
[118] Oppenheim, L., p. 863.

belligerent warship, and which would be liable to condemnation, may be destroyed if the observance of Article 48 would involve danger to the safety of the warship to the success of the operations in which she is engaged at the time". The captor has the obligation to demonstrate that the destruction of the vessel was prompted by an extraordinary necessity, otherwise, he is required to provide compensation to the concerned parties regardless of the validity of the capture.[119] Additionally, the captor must, before carrying out the act, ensure the safety of the passengers and the crew and guarantee the preservation of all documents and records associated with the captured neutral vessel. This rule, despite being contained in the Article 50 of the unratified Declaration of London, became an integral component of customary law.[120]

There are instances where vessels are set free without undergoing a formal trial. The principle dictates that a captured neutral vessel should be subjected to examination by a Prize Court if the captor alleges it to be suspicious or culpable. Nevertheless, circumstances may arise wherein all doubt is eradicated even prior to the trial, leading to an immediate release of the vessel. Even after the vessel has been taken to a Prize Court's port for examination, a release can occur without the necessity of a trial.[121]

Trial

Along with the right to seize neutral vessels, the belligerents also have the obligation to present the seized vessels for trial before the Prize Court. The neutral states to which the captured vessels belong are not directly represented or involved in the trials. These trials do not fall within the scope of international law as the Prize Courts are municipal institutions, hence the trials of captured neutral vessels remain within the realm of domestic affairs. It has been a practice in numerous states, when the state of war emerges, to establish a set of prize regulations that the Prize Courts must adhere to only if they are in accordance with the international law.[122] Such obligation is visible in, already mentioned, *The Zamora* case. Here the Privy Council of the Prize Court of Appeal recognised that "it is none the less true that if the Imperial Legislature passed an Act the provisions of which were inconsistent with the law of nations, the Prize Court in giving effect to such provisions would no longer be administering international law" and,

[119] Declaration of London, Article 51.
[120] Tucker, R. W., p. 352.
[121] Oppenheim, L., p. 868.
[122] *Ibid*, pp. 869-870.

hence, "would in the field covered by such provisions be deprived of its proper function as a Prize Court".[123] Prize Courts function as investigative tribunals, tasked by a belligerent's Government to determine the appropriateness of vessel seizures executed by its officials, in alignment with the Government's interpretation of international law. All these factors, nevertheless, are equally relevant when it comes to the governance of Prize law by the legislative body or any other entity of the national government. These considerations highlight the importance of ensuring that the constitution of a belligerent nation permits its prize tribunals to impartially implement the principles of international law in the cases they adjudicate, without being constrained by any domestic laws or directives.[124]

There was an attempt to found and International Prize Court whose foundations would be laid down with The Hague XII Convention[125], however, the Convention remained unratified and the Court was never founded. The Court would have functioned as an appellate court for verdicts delivered by national Prize Courts, permitting both neutrals and enemy nationals to file appeals. Nonetheless, the International Court of Justice, according to the Article 36 of its Statute, has the authority to address conflicts related to any matter of international law, including prize law, given that the involved parties have previously committed to submitting their disagreements to the Court or agree to do so on a case-by-case basis.

It is evident that the procedure within the Prize Court is distinct from that of civil or criminal courts, as the burden of proof falls on the owner of the seized cargo or vessel. While the initial evidence undoubtedly originates from the ship's documents and the testimonies of the ship's officers, additional evidence is also commonly accepted in practice. The trial can yield one or more of the following outcomes: solely the vessel or cargo may be deemed forfeited, both the vessel and cargo may be declared forfeited, both the vessel and cargo may be released either with or without associated costs and damages or with the condition of covering the captor's expenses linked to the proceedings.[126]

If a trial results in a forfeiture, and if this decision is upheld in the event of an appeal, the issue is ultimately resolved between the captor and the owner of the seized vessel and cargo.

[123] Privy Council of the British Prize Court of Appeal (1916). The Zamora. 2 A.C. 77. Available at: http://www.uniset.ca/other/cs5/19162AC77.html
[124] Pyke, H. R. (1916). The Zamora Judgment. Journal of the Society of Comparative Legislation, vol. 16, no. 2, (pp. 102–109). Available at: http://www.jstor.org/stable/752414 , pp. 106-107.
[125] Convention (XII) relative to the Creation of an International Prize Court. The Hague,18th October 1907. Available at: https://ihl-databases.icrc.org/assets/treaties/235-IHL-27-EN.pdf
[126] Oppenheim, L., pp. 871-872.

However, the concept of protection remains, which could potentially lead to diplomatic protest and demands from the neutral nation to which the condemned vessel or cargo belongs. This can occur if the judgment of the Prize Court is believed to be contrary to international law or if it is deemed unjust in terms of formality or substance. Through such protests and claims, a matter that was initially confined to national jurisdiction becomes a matter of international significance.[127]

Breach of Neutrality

The concept of breach of neutrality hinges on the responsibility of states to uphold impartiality and abstain from actions that could favour one belligerent over another. Breaches of neutrality can encompass a spectrum of actions deriving from neutrality, from providing military aid to one party, to facilitating contraband trade, to allowing violations of naval blockades; not just violating the duty of impartiality. Enabling movement of military forces across neutral land, contributing troops to a belligerent and sharing intelligence constitute well-known instances of breaches of neutral responsibilities.[128] These actions have the potential to not only escalate the conflict but also strain the relationship between parties involved and the international community as a whole.

It is important to differentiate between the breach of neutrality and the termination of neutrality. Neither a breach by a neutral party nor a mere violation by a belligerent automatically puts an end to neutrality. The state of neutrality persists between a neutral entity and a belligerent despite a breach occurring. A breach of neutrality is essentially a failure to fulfil the obligations stemming from the state of being neutral. This applies not only to unintentional breaches but also intentional ones. However, this principle is limited to mere breaches of neutrality, and it doesn’t apply to the declaration of hostilities. Acts of war, such as hostilities, effectively end neutrality. Furthermore, even the declaration of war can terminate neutrality before actual hostilities commence.[129]

A belligerent has complete discretion in deciding whether to accept a breach of neutrality conducted by a neutral state in support of the opposing belligerent. Conversely, a neutral state does not have the same level of discretion when it comes to breach of neutrality committed by

[127] *Ibid*, p. 875.
[128] Bridgeman, T., p. 1200.
[129] Oppenheim, L., pp. 752-753.

one belligerent that harms the other. According to the Article 3 of the Hague XIII Convention if a vessel is seized within the territorial waters of a neutral state, that state is obliged to utilize its available methods to free the captured vessel, along with its crew and officers and to confine the captors. Meaning that the obligation of neutrality dictates that the neural must primarily use its available resources to prevent the concerned belligerent from engaging in such breaches.[130] A neutral is obligated to employ available methods of observation to hinder any violations of its neutrality from taking place within its ports, anchorages or waters and any such exercise of its rights should never be construed as an antagonistic action by either belligerent that has agreed to the relevant articles of The Hague XIII Convention.[131]

Neutrals have the right of laying automatic contact mines "off their coasts" as a way of defending their territory of potential violations of their neutrality. However, according to Article 4 of The Hague VIII Convention, in such cases neutrals are obligated to adhere to identical regulations and preventive measures as those imposed on belligerent parties. Specifically, they have the obligation to notify the owners of the vessels about the placement of these mines by issuing a prior notice which should be promptly conveyed to the relevant Governments via diplomatic channels. The phrasing "off their coasts" used in the Convention implies that the mines can be laid only within the maritime belt of the neutrals. Likewise, when a neutral state installs mines within its territorial waters, it must take into account its obligation of impartiality and assess whether the arrangement of its minefield benefits one belligerent over another. [132]

The new unconventional methods of exerting control over maritime areas and resources have created challenges for the enforcement of traditional rules of neutrality. The Helsinki principles offer guidance on how the states should navigate them and, when speaking of breaching the neutrality, underscore the need for states to act diligently in preventing their territory or resources from being used to support belligerent activities. The San Remo Manual, while not addressing new types of blockade explicitly provides a framework for understanding the principles of naval warfare. States and legal experts must adapt these principles to contemporary challenges in naval warfare, including new technologies and evolving methods

[130] *Ibid*, p. 753.
[131] Hague XIII, Articles 25-26.
[132] Oppenheim, L., pp. 758-759.

of breaching neutrality, while ensuring compliance with international law and the rights of neutral states. [133]

End of Neutrality

The end of neutrality occurs when the war comes to an end, or when formerly neutral state initiates hostilities against one of the involved parties, or when one of the belligerent parties initiates an attack against a previously neutral state. However, it is important to differentiate between two categories of situations. Firstly, there is a category of situations where a conflict arises between one of the belligerents and a formerly neutral state primarily due to the fact that it is no longer advantageous for the belligerent to acknowledge the neutral stance, or the neutral state no longer deems it suitable to uphold its neutrality. Even though the declaration of war is not possible anymore, it is important to note that a declaration of war, in such instances, signified a breach of neutrality because the state of neutrality had been previously established both factually and legally. It was expected that a neutral state, barring its commitments as a UN member, should not have relinquished its neutral position except for reasons unrelated to the ongoing war's causes. Similarly, a belligerent should have refrained from involving the neutral nation in the conflict. The second category of situations involved the outbreak of war between one of the belligerents and a previously neutral nation, either due to a disagreement unrelated to the ongoing war's grounds, or because the belligerent had breached core principles of warfare, or because either the belligerent or the neutral had committed a severe breach of neutrality, prompting the aggrieved party to respond with a declaration of war. In such situations and comparable instances, a declaration of war did not automatically equate to a breach of neutrality. [134]

During the course of war, a neutral might deem it necessary to revise its existing neutrality laws in order to enhance the safeguarding of its interests as a neutral or for other valid reasons, aiming for a more effective fulfilment of its obligations of neutrality. Given this perspective, the regulations referring to neutrality should not be altered by a neutral state during the ongoing war, except in circumstances where practical experience demonstrates the necessity for such

[133] Dannebaum, T. (2021). Encirclement, Deprivation and Humanity: Revising the San Remo Manual Provisions on Blockade, International Law Studies, Stockton Center for International Law, Volume 97. Available at: https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=2956&context=ils , p. 393.
[134] Oppenheim, L., p. 671.

alterations to protect the rights of that state. [135]As long as such modifications are designed to be equally applicable to both belligerents in principle, the neutral entity retains the right, as dictated by international law, to enact these changes at its own discretion.[136]

Adaptation of Neutrality to Modern Era

Neutrality in the 21st century continues to play a significant role in international relations, although it has evolved and faced new challenges in the modern global landscape. The principles of neutrality, which historically aimed to maintain peace and minimize the impact of conflicts on non-participating states, remain relevant, but they have encountered complexities posed by technological advancements, asymmetric warfare and changing geopolitical dynamics. The evolving circumstances, diverging from the period when the principles of the law of neutrality were established and formalized, have the potential to erode the foundational premise upon which the entire legal framework has been constructed. Adapting to such shifts must effectively balance the competing interests of nations within the interconnected global landscape.[137]

The contemporary rise in intangible methods of aiding hostile activities, such as providing information and imagery through computer networks utilizing 3D printing to manufacture weapons, has expanded the range of choices available to neutral nations in supporting belligerent parties. The uncertainty surrounding technologically advanced means of assistance for belligerents introduces the possibility of creating gaps that allow neutral states to partake in hostilities while retaining their neutral status and the protection it affords. These states can continue to maintain their neutral standing until a belligerent state interprets the supportive action as constituting a hostile act aimed at them.[138]

There are few examples of how the modernization and development of technology has negatively affected major institutes of law of warfare such as blockade and contraband; in continuation that will be explained on the mentioned examples. On the one hand, the contemporary trend of decisions has primarily focused on the significant expansion of the conditional contraband category, primarily attributable to advancements in military technology and the prevailing inclination towards extensive national mobilization of resources for warfare.

[135] Hague XIII, Preamble.
[136] Oppenheim, L., p. 672.
[137] Nasu, H., p.129.
[138] *Ibid*, pp. 128-129.

These factors have collectively led to a substantial reduction in the scope of goods initially considered exempt as free articles.[139] On the other hand, when speaking of blockade in the context of contemporary warfare, the evolution of military brought about a revolution in blockade strategies by introducing tools like mines and submarines, enabling more effective long distance blockades over extensive areas with reduced risk to the blockading force. However, this approach carries an increased risk of indiscriminate destruction to both neutral and the enemy's vessels. Consequently, the outcome has been not only a more comprehensive embargo on a trade with the belligerent but also a significant limitation on all neutral trade within the broader theatre of the conflict.[140]

The contemporary arsenal of the elements that can potentially contribute to the capacity for conducting war include a plethora of applications, many of which possess dual-use capabilities and can be transported through various channels such as sea, land and even electronic networks. The proliferation of these dual-use technologies and diverse mechanisms for disseminating intelligence, goods and services has fostered an environment where military operations rely heavily on interconnected systems. The utilization of such interconnected infrastructure for belligerent purposes could potentially transform its enabling components, like satellites and computer servers, into legitimate military targets. As a consequence, neutrals might be prompted to impose limitations or closures on belligerent access to services like data transmission, communication or navigation in order to curtail their military operations.[141]

It is visible from the aforementioned that the global modernization of technology both had a positive and a negative impact on the law of neutrality, however; due to the need of law of neutrality to adapt to the modern era it is to be expected that some sort of compromise will be arranged in the end.

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[139] Williams, W. L. Jr. (1980). Neutrality in Modern Armed Conflicts: A Survey of the Developing Law. Military Law Review, vol. 90, (pp. 9–48). Available at: https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1834&context=facpubs , p. 42.
[140] *Ibid*, p. 44.
[141] Nasu, H., p. 131.

Conclusion

This Master's thesis wanted to present that while the practice of neutrality has evolved over time, its fundamental principles remain rooted in the pursuit of peace, impartiality and the protection of rights and as international relations and warfare continue to evolve, the concept of neutrality will undoubtedly continue to adapt, striking a balance between tradition and the realities of the modern world.

The concept of neutrality remains a fundamental pillar of international law, serving to mitigate conflicts, uphold peace and protect the rights of states and civilian population during times of hostilities. Neutrality is not a static principle, but rather a dynamic one that adapts to the changing dynamics of international relations, conflicts and technology. The characteristics of neutrality encompass a range of rights and duties for both belligerents and neutrals establishing a framework for fair and equitable conduct during wartime.

Neutrality is not an absolute concept and may be subject to limitations and exceptions, particularly in the light of modern challenges and the evolving landscape of warfare. The establishment of the Collective Security System and the increasing interconnectedness of technology have introduced new complexities to the practice of neutrality. According to the UN Charter and the CSS there was no room left of the right of neutrality; however, since that system did not come true the way it was intended, the institute of neutrality remained applicable.

The evolving maritime laws and regulations governing neutrality in naval warfare, including aspects such as blockade, contraband and unneutral service, have adapted to the changing nature of conflicts at sea. These regulations, while subject to strike a balance between the interests of coastal nations and global communities, ensure that neutral vessels and their cargo are treated fairly and impartially. Both the San Remo Manual and the Helsinki Principles play a vital role in shaping the legal landscape for neutrality at sea in modern times as they provide clarity, adaptability and guidance in a complex and dynamic maritime environment, contributing to the maintenance of peace, stability and the rule of law in international waters.

Bibliography

1. Andrassy, J., Bakotić, B., Seršić, M., Vukas, B. (2006). Međunarodno pravo, vol. 3. Zagreb: Školska knjiga.
2. Antonopoulos, C. (2022). Non-Participation in Armed Conflict: Continuity and Modern Challenges to the Law of Neutrality. Cambridge: Cambridge University Press. Available at: https://www.cambridge.org/core/books/nonparticipation-in-armed-conflict/is-the-law-of-neutrality-obsolete/5E9903B07A348330881ECDA7E1BAF2BE
3. Blank, L. R. (2023). International Conflict and Security Law. Cheltenham: Edward Elgar.
4. Bridgeman, T. (2010). The law of neutrality and the conflict with al Qaeda. New York University law review, vol. 85 (pp. 1186-1224). Available at: https://www.nyulawreview.org/wp-content/uploads/2018/08/NYULawReview-85-4-Bridgeman.pdf
5. Dannebaum, T. (2021). Encirclement, Deprivation and Humanity: Revising the San Remo Manual Provisions on Blockade, International Law Studies, Stockton Center for International Law, Volume 97. Available at: https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=2956&context=ils
6. Ferro, L., Verlinden, N. (2018). Neutrality During Armed Conflicts: A Coherent Approach to Third-State Support for Warring Parties, Chinese Journal of International Law, Volume 17 (pp. 15–43).
7. Fraunces, M. G. (1992). The International Law of Blockade: New Guiding Principles in Contemporary State Practice. The Yale Law Journal, vol. 101, no. 4 (pp. 893-918). Available at: https://openyls.law.yale.edu/bitstream/handle/20.500.13051/8684/43_101YaleLJ893_1991_1992_.pdf?sequence=2&isAllowed=y
8. Gavouneli, M. (2012). Neutrality – A Survivor?, European Journal of International Law, Volume 23, Issue 1, pp. 267–273. Available at: https://doi.org/10.1093/ejil/chr107
9. Harlow, B. A. (1984). The Law of Neutrality at Sea for the 80's and Beyond. UCLA Pacific Basin Law Journal, vol. 3 (pp. 42-54). Available at: https://heinonline.org/HOL/P?h=hein.journals/uclapblj3&i=48
10. Hill, N. L. (1929). The Origin of the Law of Unneutral Service. The American Journal of International Law, vol. 23, no. 1 (pp. 56–67). Available at: https://doi.org/10.2307/2190235

11. Kolb, R., Hyde, R. (2008). An Introduction to the International Law of Armed Conflicts. Portland, Oregon: Hart Publishing.
12. Komarnicki, T. (1952). The Problem of Neutrality under the United Nations Charter. Transactions of the Grotius Society, Volume 38, (pp. 77–91). Available at: https://www-jstor-org.ludwig.lub.lu.se/stable/743159
13. Nasu, H. (2020) The Laws of Neutrality in the Interconnected World: Mapping the Future Scenarios, ECIL Working Paper, forthcoming in Waxman, M. and Oakley, T. (eds) (2022). The Future Law of Armed Conflict. New York, NY: Oxford University Press (pp. 123-139).
14. Neuhold, H. (1979). Permanent Neutrality and Non-Alignment: Similarities and Differences. India Quarterly, vol. 35, no. 3 (pp. 285–308). Available at: https://www.jstor.org/stable/45070949
15. Oppenheim, L. (1952). International law: A Treatise. Vol. II Disputes, War and Neutrality, 7th edition. London: Longmans.
16. Pyke, H. R. (1916). The Zamora Judgment. Journal of the Society of Comparative Legislation, vol. 16, no. 2, (pp. 102–109). Available at: http://www.jstor.org/stable/752414
17. Roberts Amana, A. (2022). Neutrality of a State in Armed Conflict, Cavendish University Law Journal, vol. 1. Available at: https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=1558&context=ils
18. Seršić, M. (2010). Neutrality in International Armed Conflicts at Sea, in Vukas, B., Šošić, T. M., International Law: New Actors, New Concepts, Continuing Dilemmas: Liber Amicorum Božidar Bakotić. Leiden: Martinus Nijhoff Publishers (pp. 583-593).
19. Tucker, R. W. (1955). International Law Studies. Washington D.C.: Government Printing Office. Available at: https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=2059&context=ils
20. Williams, W. L. Jr. (1980). Neutrality in Modern Armed Conflicts: A Survey of the Developing Law. Military Law Review, vol. 90 (pp. 9–48). Available at: https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1834&context=facpubs
21. Wise, J. C. (1922). The Rights of Visit and Search, Capture, Angary and Requisition. The American Journal of International Law, vol. 16, no. 3 (pp. 391–399). Available at: https://doi.org/10.2307/2188176
22. Wrange, P. (2007). Impartial or Uninvolved?: The Anatomy of 20th Century Doctrine on the Law of Neutrality. Stockholm: Stockholm University.

Sources

23. Charter of the United Nations. San Francisco, 24th October 1945. Available at: https://treaties.un.org/doc/publication/ctc/uncharter.pdf
24. Convention (III) relative to the Opening of Hostilities. The Hague, 18th October 1907. Available at: https://ihl-databases.icrc.org/assets/treaties/190-IHL-18-EN.pdf
25. Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18th October 1907. Available at: https://ihl-databases.icrc.org/assets/treaties/195-IHL-19-EN.pdf
26. Convention (V) respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land. The Hague, 18th October 1907. Available at: https://ihl-databases.icrc.org/assets/treaties/200-IHL-20-EN.pdf
27. Convention (VIII) relative to the Laying of Automatic Submarine Contact Mines. The Hague, 18th October 1907. Available at: https://ihl-databases.icrc.org/assets/treaties/215-IHL-23-EN.pdf
28. Convention (XI) relative to certain Restrictions with regard to the Exercise of the Right of Capture in Naval War. The Hague,18th October 1907. Available at: https://ihl-databases.icrc.org/assets/treaties/230-IHL-26-EN.pdf
29. Convention (XII) relative to the Creation of an International Prize Court. The Hague,18th October 1907. Available at: https://ihl-databases.icrc.org/assets/treaties/235-IHL-27-EN.pdf
30. Convention (XIII) concerning the Rights and Duties of Neutral Powers in Naval War. The Hague, 18 October 1907. Available at: https://ihl-databases.icrc.org/assets/treaties/240-IHL-28-EN.pdf
31. Declaration concerning the Laws of Naval War. London, 26th February 1909. Available at: https://ihl-databases.icrc.org/assets/treaties/255-IHL-31-EN.pdf
32. Declaration Respecting Maritime Law. Paris, 16th April 1856. Available at: https://ihl-databases.icrc.org/assets/treaties/105-IHL-1-EN.pdf
33. Helsinki Principles on the Law of Maritime Neutrality, International Law Association. Taipei, 1998. Available at: https://archive.org/details/pdfy-zwUMQoiwLk5e3kj_/mode/2up
34. Manual of the Laws of Naval War. Oxford, 9th August 1913. Available at: https://ihl-databases.icrc.org/assets/treaties/265-IHL-33-EN.pdf

35. Rules concerning the Control of Wireless Telegraphy in Time of War and Air Warfare. Commission of Jurists. The Hague, February 1923. Available at: https://ihl-databases.icrc.org/assets/treaties/275-IHL-35-EN.pdf
36. San Remo Manual on International Law Applicable to Armed Conflicts at Sea, International Review of the Red Cross, 12th June 1994. Available at: https://ihl-databases.icrc.org/assets/treaties/560-IHL-89-EN.pdf
37. Statute of the International Court of Justice (1945). San Francisco; USA. Available at: https://www.icj-cij.org/statute

Case Law

38. International Court of Justice, Vice-president Ammoun, F. (1971). Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970), Separate opinion on Advisory Opinion. Available at: https://www.icj-cij.org/public/files/case-related/53/053-19710621-ADV-01-02-EN.pdf
39. Judicial Committee of the Privy Council (1916). Part Cargo Ex SS. Zamora. The American Journal of International Law, vol. 10, no. 2 (pp. 422–444). Available at: https://doi.org/10.2307/2187542
40. Privy Council of the British Prize Court of Appeal (1916). The Zamora. 2 A.C. 77. Available at: http://www.uniset.ca/other/cs5/19162AC77.html