

# **CRUISE SHIP CRIME**

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Too often, Masters of Cruise ships do not have in their possession the common laws of the Flag state of their ship to which they could refer, and do not have any training in dealing with criminal investigations or the preservation of evidence and in particular training in dealing with sexual offences, which, with the increasing number of females now coming to sea, is becoming more prevalent.

Around the world, Officers and even crews are detained and even imprisoned illegally again by Flag States ignoring any international resolutions or regulations and then their arrest and detention ignored by the ship's flag state.

The situation on the cruise and hotel ships is appalling with over 200 persons claimed to have fallen over the side in the last 10 years, most of them female, many without any proper investigation, reports or correct procedures being followed by the Master and his staff on board.

According to Lipcon, Margulies, Alsina and Winkelman P.A, another marine legal company dealing with crime at sea;

*'the likelihood of a rape, sexual assault, sexual battery, or other sexual misconduct is actually higher on a cruise ship than on dry land. In fact, cruise ship rape or sexual assault is the most common crime that takes place on a cruise ship, according to one study of data compiled from crimes reported on cruise ships 2003-2006. A staggering 86% of crimes*

*reported on cruise ships from 2003-2006 were cruise ship rapes or sexual assaults. People are 50% more likely to be sexually assaulted on board a cruise ship than if they are at home on dry land. It can, and has, happened to both passengers and crew.'*

Worse, is that these are the reported cases, with even more thought to be unreported or dealt with by negotiation between the cruise company and the victim.

Following a recent failure to investigate, the British Shipping Minister responded by announcing that the Marine Accident Investigation Branch would investigate all deaths or disappearances of British citizens from vessels anywhere in the world, paralleling similar legislation signed by U.S. President Barack Obama that gives the Federal Bureau of Investigation that authority in the event of the death or disappearance of any American citizen. The Government would also work through the International Maritime Organization to increase international cooperation on such investigations.

What the British Shipping Minister and the US authorities seem to have missed is that, under UNCLOS, such investigation can only take place with the complete agreement of the flag state, which in many cases, will not be forthcoming and that their investigative officials have no powers to call on foreign nationals to give evidence, be detained or even to be questioned.

Flag State responsibilities cannot be followed because of the limited resources of many of these States who, while signing their agreement to UNCLOS, have registered ships knowing of their inability to comply with their required commitment. Some 60 per cent of cruise ships are now registered in Panama, Liberia and the Bahamas.

Amnesty International has concluded that violent crime continues unabated in much of Panama. Reports of rape and other sexual violence are prevalent despite the under-reporting. Panama in addition has a large problem in trafficking in women and children who are sexually exploited. The police are widely accused of violating people's human rights. Conversely, the US Consular service notes that the Panama Police have taken steps to improve into responses to violence and other

investigations. Violence against women and girls is as recent as late 2012 said to be “a massive problem in Liberia”.

A 2010 human rights report on the Bahamas that states, “Human rights problems reported included complaints of abuse by police and prison and detention centre guards; poor detention conditions; a poorly functioning judicial system, leading to delays in trials and lengthy pre-trial detention; violence against women and children; and discrimination against persons of Haitian descent.” .

It is obviously impossible for these states to properly enforce their legal jurisdiction on their flag ships with such a poor record of justice in their own countries.

It would seem that we are now seeing recognition that UNCLOS is no longer a functioning basis for marine legal jurisdiction with the USA, which has not ratified the convention, declaring its own resolutions to the problem and signatories like the UK also declaring their intention of breaking the resolutions. While this is understandable it is not the correct way forward.

It is not UNCLOS that is at fault but the inability of those countries that have been allowed to sell the registration of ships like postage stamps regardless of their incompetence or indeed lack of intentions of providing the support required to comply with the resolutions thus depriving those who sail on such ships of any legal rights.

The Marine Industry is international and a situation that requires international agreement cannot be dealt with piecemeal. It is the registration of ships in states unable or unwilling to fulfil their obligations that is causing the problem, and it is a problem that, with the cruise ships carrying millions of passengers increasing, is out of control.