



Irini Papanicolopulu
The Past and Present of the Duty to Rescue at Sea
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The duty to rescue at sea is a cornerstone of modern (international) maritime law and the law of the sea. Its origins date back to past centuries, if not millennia. Today, this duty is well grounded in both treaty and customary international law. Yet, some gaps and ambiguities still exist, in particular concerning the “place of safety” and the role of non-state actors in its implementation.

At a time of rising sovereignty discourses, States have tried to exploit these gaps and inconsistencies to bypass their fundamental obligation to rescue, in particular when faced with the significant mixed fluxes of irregular migrants crossing seas in search of safety or a better future. The policies of Australia, Italy and the US testify that this is a global issue. Among others, “historical” arguments are often employed in an effort to try and reduce the scope of this duty. It is hinted that the relevant provisions were not initially developed with big numbers of people in mind, that they do not concern people voluntarily putting themselves at risk, or that the duty does not apply to individuals, but only to States – or the opposite.

Irini Papanicolopulu will discuss her current research, which aims to contextualize the duty to rescue in its historical context, focusing on the period between the 18th and the 20th century. She argues that many features of this international principle, including its hybrid nature – binding both states and individuals – and the role attributed to private actors in its operation actually date back to its origins. Far from constituting recent developments, they have characterized the duty as originally conceptualized and codified. Thus, a historical study of the duty to rescue has the potential to provide significant insights into the early developments of fundamental humanitarian principles of public international law, as well as the position of non-state actors in the development of these principles and rules.



Professor Irini Papanicolopulu (PhD) is Associate Professor of International Law at the University of Milano-Bicocca (Italy). She is the author of *International Law and the Protection of People at Sea* (OUP 2018) and is currently the Convenor of the Law of the Sea Interest Group of the Italian Society of International Law (SIDI). She has been a Senior Lecturer at the University of Glasgow (UK) and a Marie Curie Fellow at the University of Oxford (UK). She is currently a visiting scholar at the Max Planck Institute for Comparative Public Law and International Law.