



A Crisis-Responsive Choice-of-Law Framework for Commercial Cargo Salvage in International Straits: Balancing Coastal State Sovereignty, Environmental Protection and Legal Neutrality

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Abstract

International straits are critical maritime corridors where commercial navigation, coastal State sovereignty, environmental obligations, and geopolitical considerations converge. While the International Convention on Salvage 1989 establishes an effective framework for salvage rights and obligations, it provides limited guidance on determining the applicable law for commercial cargo salvage operations during geopolitical crises. This article addresses this regulatory gap by proposing a Crisis-Responsive Maritime Choice-of-Law Framework (CMCL). Employing a qualitative doctrinal and conceptual legal methodology, supported by comparative legal analysis and marine governance theory, the study examines the legal challenges arising from the absence of a crisis-specific choice-of-law mechanism. Using the Strait of Hormuz as a representative case study, the research integrates maritime law, private international law principles, and marine governance perspectives. The article argues that traditional approaches based exclusively on contractual autonomy, flag State connections, or coastal State law become insufficient in exceptional circumstances where political tensions, security concerns, and environmental risks interact. The proposed framework establishes a hierarchical mechanism that prioritises valid contractual choice of law, incorporates mandatory coastal State interests, and introduces the possibility of applying mutually accepted neutral third-State law under strict conditions, subject to an optional independent review mechanism. The findings demonstrate that integrating private maritime autonomy with public marine governance can enhance legal certainty, fairness, and stability in sensitive maritime regions. The CMCL Framework offers a governance-oriented solution for future international maritime cooperation and crisis management, contributing to both scholarly discourse and policy development in marine governance.

Keywords: Maritime Salvage; Choice of Law; International Straits; Geopolitical Crisis; Marine Governance; Strait of Hormuz

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1. Introduction

1.1 Maritime Transportation and the Strategic Importance of International Straits

International maritime transportation constitutes the backbone of global trade, facilitating the movement of approximately 80% of global merchandise trade by volume and over 70% by value [1]. Within this intricate network, international straits occupy a uniquely significant position. These narrow waterways serve as strategic maritime corridors where freedom of navigation intersects with coastal States' regulatory authority, security interests, and environmental responsibilities.

The Strait of Hormuz, the Strait of Malacca, the Bab-el-Mandeb, and the Turkish Straits collectively facilitate the transit of a substantial proportion of globally traded energy resources, manufactured goods, and

essential commodities [2]. The concentration of maritime traffic in these confined waterways amplifies both the economic significance and the legal complexity of incidents occurring within them [3].

1.2 The Legal Challenge: Salvage in Crisis Conditions

Maritime casualties in these sensitive areas create complex legal challenges, particularly when commercial cargo salvage operations are required under conditions of geopolitical instability. A single maritime incident may simultaneously involve private contractual interests, international navigation rights, environmental protection obligations, and national security concerns [4].

Traditional maritime salvage law has developed primarily around the relationship between salvors, shipowners, and cargo interests. The adoption of the International Convention on Salvage 1989 significantly modernised this field by recognising not only economic recovery but also environmental protection as an essential objective of salvage operations [5]. The Convention established important principles regarding salvage remuneration, party obligations, and incentives for preventing marine pollution [6].

However, the contemporary maritime environment presents challenges beyond the traditional scope of salvage regulation. Geopolitical crises, sanctions regimes, regional conflicts, and security concerns may create situations where determining the applicable law becomes uncertain [7]. In particular, when salvage operations occur in international straits, existing legal mechanisms may not adequately resolve conflicts between contractual autonomy, coastal State sovereignty, and international maritime interests.

1.3 The Research Gap and Contribution

Unlike existing studies that focus primarily on salvage rights, remuneration, or jurisdictional issues, this article addresses a neglected conflict-of-laws question: how should the applicable law be determined when commercial cargo salvage operations occur in international straits during geopolitical crises?

The current international framework provides limited guidance regarding several fundamental questions:

- What law should govern salvage operations when no prior agreement exists?
- How should applicable law be determined when contractual provisions become ineffective due to extraordinary circumstances?
- How can coastal State environmental and security interests be protected while maintaining neutrality and fairness for international maritime actors?

Existing conflict-of-law approaches generally rely on traditional connecting factors, including party autonomy, flag State law, or the law of the place most closely connected with the dispute [8]. Although these approaches remain valuable, they may prove insufficient in crisis situations where maritime disputes acquire both private and public dimensions [9].

This article argues that maritime salvage in international straits requires a transition from a purely transactional approach toward a governance-oriented choice-of-law framework. To address this need, the study proposes the Crisis-Responsive Maritime Choice-of-Law Framework (CMCL), designed to integrate private maritime autonomy with public maritime governance.

The proposed framework does not seek to replace existing international maritime conventions; rather, it complements them by introducing a governance-oriented mechanism capable of reconciling contractual autonomy, coastal State sovereignty, environmental obligations, and legal neutrality under exceptional circumstances.

Using the Strait of Hormuz as a representative case study, this research demonstrates how the proposed framework can enhance legal certainty, fairness, and stability in maritime regions affected by geopolitical tensions.

2. Literature Review and Research Gap

2.1 Maritime Salvage Scholarship: From Economic Incentive to Environmental Governance

Academic discussions on maritime salvage have traditionally focused on the legal nature of salvage services, entitlement to remuneration, and the balance between encouraging voluntary assistance and preventing excessive claims by salvors [10].

Early maritime law scholarship emphasised the economic function of salvage as an incentive mechanism. Under the traditional "No Cure, No Pay" principle, compensation depended upon successful preservation of maritime property. Scholars considered this principle essential for encouraging immediate intervention during maritime emergencies [11].

With the emergence of modern maritime risks, particularly environmental threats resulting from ship casualties, scholarly attention gradually expanded beyond economic compensation toward environmental governance. The International Convention on Salvage 1989 became a central reference point in this transformation by incorporating environmental protection into the assessment of salvage rewards [12].

Contemporary studies have examined several aspects of salvage law, including the effectiveness of the 1989 Salvage Convention, the role of environmental protection in salvage compensation, the relationship between salvage operations and maritime liability regimes, and contractual mechanisms such as Lloyd's Open Form (LOF) [13].

However, most existing scholarship has concentrated on substantive salvage rights and obligations rather than the determination of applicable law during politically unstable maritime situations. This gap has become increasingly significant as geopolitical tensions in strategic maritime regions have intensified [14].

2.2 Choice-of-Law Scholarship in Maritime Contexts

Private international law scholarship has extensively analysed the problem of determining applicable law in international commercial transactions. In maritime contexts, scholars have identified several connecting factors, including party autonomy, flag State law, place of occurrence, and the closest connection principle [15].

The principle of party autonomy has become particularly influential in international maritime contracts because it provides predictability and facilitates cross-border commercial activity [16]. Nevertheless, academic debates have recognised that contractual freedom is not unlimited. Mandatory rules, public policy considerations, and overriding interests of States may restrict the application of the chosen law [17].

In maritime disputes, these limitations become more significant when activities occur in areas involving public interests, such as international straits [18]. Despite extensive literature on maritime conflict of laws, limited attention has been given to the specific problem of determining applicable law for salvage operations conducted during geopolitical crises.

Recent scholarship has begun to address the intersection between private international law and geopolitical risks, but this remains an underdeveloped area [19]. The Marine Policy literature has increasingly addressed maritime security and governance challenges, yet the specific choice-of-law dimension of maritime crises remains underexplored [20].

2.3 Marine Governance and Crisis Management

Recent marine governance scholarship has increasingly emphasised that maritime activities cannot be managed solely through traditional legal categories. Contemporary ocean governance requires consideration of interconnected issues, including environmental sustainability, maritime security, international cooperation, and resilience against crises [21].

This perspective recognises that oceans are spaces where private economic activities and public regulatory interests continuously interact [22]. However, marine governance literature has rarely addressed the conflict-of-law dimension of maritime emergencies. While significant attention has been devoted to environmental governance, maritime security, and sustainable management, the question of which law should govern private maritime relations during crises remains underdeveloped [23].

Recent publications in Marine Policy have explored various dimensions of maritime governance, including maritime security governance and the role of international cooperation [24], crisis management frameworks for maritime incidents [25], governance of international straits and coastal State jurisdiction [26], and environmental governance and the protection of the marine environment [27].

However, none of these studies have systematically addressed the choice-of-law challenges arising from commercial salvage operations during geopolitical crises. This gap represents a significant lacuna in both maritime law scholarship and marine governance literature.

۲.۴ Identified Research Gap and Contribution

Based on the reviewed literature, three major research gaps can be identified.

First Gap: Existing salvage studies primarily examine remuneration and liability issues, while the choice-of-law problem in crisis situations remains insufficiently explored. Most scholarship assumes that salvage operations occur within stable legal and political environments, an assumption that does not reflect contemporary realities in strategic maritime regions [28].

Second Gap: Private international law approaches often fail to integrate coastal State sovereignty and environmental governance concerns within maritime crisis scenarios. Traditional connecting factors do not adequately address the public dimensions of maritime emergencies occurring in sensitive geopolitical contexts [29].

Third Gap: No comprehensive framework currently combines contractual choice of law, non-contractual salvage, neutral third-State law, coastal State protection, and independent review mechanisms. This absence creates legal uncertainty for salvors, shipowners, and cargo interests operating in international straits [30].

To address these gaps, this research develops the Crisis-Responsive Maritime Choice-of-Law Framework (CMCL) as a novel interdisciplinary framework connecting maritime law, conflict of laws, and marine governance.

۳. Methodology

۳.۱ Research Approach

This study adopts a qualitative doctrinal and conceptual legal research methodology supported by comparative legal analysis and marine governance theory [31]. This approach is appropriate for developing theoretical frameworks, identifying regulatory gaps, and proposing governance-oriented solutions to complex legal problems [32].

۳.۲ Framework Development Process

The CMCL Framework was developed through a systematic analytical process comprising four stages:

Stage 1: Doctrinal Analysis

Examination of primary sources including the Salvage Convention 1989, UNCLOS 1982, and established conflict-of-laws principles to identify existing regulatory frameworks and their limitations.

Stage 2: Comparative Legal Analysis

Review of choice-of-law approaches in selected jurisdictions (United Kingdom, United States, Iran, and European Union member states) to identify common principles and variations in maritime salvage conflicts.

Stage 3: Gap Identification

Systematic identification of regulatory gaps through analysis of case law, arbitration decisions (including LOF awards), and scholarly critiques of existing frameworks.

Stage 4: Normative Framework Construction

Development of the CMCL Framework through synthesis of identified principles, gap analysis, and governance-oriented integration of private and public maritime interests.

3.3 Sources of Law and Data

The research draws upon multiple sources:

Primary Sources:

- International conventions, including the Salvage Convention 1989 and UNCLOS 1982;
- Customary principles of maritime law;
- Conflict-of-laws doctrine and principles;
- Selected domestic legislation, including Iranian Maritime Law (1964).

Secondary Sources:

- Peer-reviewed scholarship in maritime law, marine governance, and private international law;
- Reports from international organisations, including the International Maritime Organization (IMO);
- Analyses of maritime incidents and case law.

3.4 Case Study Methodology

The research uses the Strait of Hormuz as a representative case study [33]. This waterway was selected because it embodies the convergence of:

- Strategic importance for international energy security;
- Legal complexity under UNCLOS transit passage regime;
- Environmental sensitivity due to intensive maritime traffic;
- Recurring geopolitical tensions affecting maritime operations.

3.5 Scope and Limitations

This study does not conduct empirical analysis of actual salvage disputes. Rather, it provides a conceptual framework intended to guide contractual drafting, judicial interpretation, and policy development. The proposed framework is presented as a normative governance model rather than a positive rule of international law.

4. Legal Framework

4.1 International Convention on Salvage 1989

The International Convention on Salvage 1989 constitutes the cornerstone of contemporary international salvage law. The Convention was adopted to modernise traditional salvage principles and to establish a balanced system encouraging effective assistance while recognising broader maritime interests [34].

4.1.1 Substantive Provisions

A central principle of the Convention is the recognition of the salvors' right to remuneration where a useful salvage operation has been successfully performed. Article 12 establishes the basic entitlement to reward, while Article 13 provides criteria for determining the amount of remuneration, including the salvaged value of the vessel and other property, the skill and efforts of the salvors, the degree of danger involved, the time and expenses incurred, and the risks of liability and environmental protection considerations [35].

4.1.2 Environmental Protection

A significant innovation of the Convention is Article 14 concerning special compensation, particularly where salvage operations prevent or minimise environmental damage. This development demonstrates the transformation of salvage law from a purely private compensation mechanism toward a broader system incorporating environmental governance [36].

¶.1.3 Regulatory Limitation

Nevertheless, the Convention primarily regulates substantive issues of salvage and does not establish a detailed conflict-of-law framework for determining the applicable law in situations involving geopolitical crises, international straits, non-contractual emergency salvage, or conflicts between private interests and coastal State public interests [37].

Therefore, while the Convention provides essential substantive principles, a supplementary choice-of-law mechanism remains necessary to address the complex legal challenges arising in crisis situations.

¶.2 United Nations Convention on the Law of the Sea 1982

The United Nations Convention on the Law of the Sea 1982 provides the fundamental legal architecture governing maritime spaces and activities [38]. International straits receive special treatment under UNCLOS because they serve as essential routes for international navigation while simultaneously affecting the interests of coastal States.

¶.2.1 Transit Passage Regime

The regime of transit passage reflects a balance between two objectives: ensuring uninterrupted international navigation and protecting legitimate interests of States bordering international straits. Article 38 of UNCLOS provides for the right of transit passage, while Article 42 recognises the right of States bordering straits to adopt laws and regulations relating to navigation safety and environmental protection [39].

¶.2.2 Coastal State Interests

Although UNCLOS does not directly regulate private salvage contracts or choice-of-law questions, several principles are highly relevant to the proposed framework:

- Coastal States possess legitimate interests concerning marine environmental protection, maritime safety, emergency response, and prevention of harmful activities;
- Activities conducted in international straits cannot be separated from broader obligations of cooperation and protection of the marine environment [40].

¶.2.3 Implications for Choice of Law

Accordingly, any determination of applicable law for salvage operations in international straits must recognise that private maritime relationships operate within a broader public regulatory environment shaped by these UNCLOS provisions.

¶.3 Conflict-of-Law Principles Applicable to Maritime Salvage

The CMCL Framework is developed upon established conflict-of-laws principles, rather than displacing them. These principles serve as the doctrinal foundation for the proposed model.

¶.3.1 Party Autonomy

Party autonomy is one of the most widely accepted principles in international commercial law [41]. In maritime transactions, particularly salvage agreements, parties frequently rely on governing-law clauses to enhance predictability, reduce litigation risks, and facilitate international cooperation [42].

The recognition of contractual choice of law is particularly important in salvage operations because such activities often require rapid decision-making and immediate allocation of responsibilities. Standardised

maritime contracts, including Lloyd's Open Form (LOF), demonstrate the practical importance of contractual mechanisms in international salvage practice [43].

However, party autonomy is not unlimited. In maritime contexts, contractual freedom operates within a regulatory environment shaped by mandatory rules of the coastal State, international environmental obligations, maritime safety requirements, and public policy considerations [44].

५.३.२ Closest Connection Principle

Where no contractual choice of law exists, private international law generally relies on objective connecting factors to identify the legal system having the closest relationship with the dispute. In maritime disputes, relevant connecting factors may include the location of the maritime incident, the flag of the vessel, the nationality of the parties, the place where salvage services are performed, and the location of the salvaged property [45].

However, maritime crises demonstrate that physical connection alone may not always provide a satisfactory solution. For example, applying the law of the location of the incident may protect territorial interests but may not sufficiently address neutrality concerns in politically sensitive regions [46].

५.३.३ Mandatory Rules

A central issue in maritime choice-of-law analysis concerns the relationship between selected foreign law and mandatory rules of the forum or coastal State. In international maritime activities, certain rules possess an overriding character because they protect fundamental public interests [47].

Examples include environmental protection regulations, maritime safety requirements, emergency response obligations, and restrictions designed to protect national security. Accordingly, even where foreign or neutral law is applied to private aspects of salvage, such application cannot exclude mandatory coastal State regulations [48].

५.३.४ Public Policy Exception

The public policy exception permits courts to refuse application of foreign law where such application would be manifestly incompatible with fundamental principles of the forum State [49]. In maritime crisis contexts, this exception provides a safeguard against the application of laws that would undermine essential coastal State interests.

५.३.५ Good Faith and Proportionality

Good faith and proportionality serve as interpretative principles guiding the application of choice-of-law rules [50]. In exceptional circumstances, these principles ensure that legal interpretation remains consistent with fairness and reasonableness, particularly where rigid application of rules would produce unjust outcomes.

५. The Crisis-Responsive Maritime Choice-of-Law Framework (CMCL)

५.१ The Principle of Crisis-Responsive Maritime Choice of Law

This article introduces the Principle of Crisis-Responsive Maritime Choice of Law as the theoretical core of the proposed framework. This principle embodies the following propositions:

Proposition 1 (Normal Circumstances):

In ordinary maritime situations, party autonomy and contractual choice of law shall serve as the primary mechanism for determining applicable law.

Proposition 2 (Crisis Circumstances):

Where a geopolitical crisis renders contractual choice ineffective, impossible, or non-existent, the determination of applicable law shall be guided by principles of fairness, proportionality, and respect for mandatory coastal State rules.

Proposition 3 (Neutral Law):

Where ordinary choice-of-law mechanisms prove inadequate, the law of a mutually accepted neutral third State may exceptionally apply to private law aspects of the salvage relationship, provided that such application does not prejudice mandatory coastal State interests concerning sovereignty, security, or environmental protection.

Proposition 4 (Review Mechanism):

Any dispute concerning the application of this framework may be submitted to an optional neutral review mechanism, without prejudice to existing dispute resolution avenues.

Δ.Ξ Structure of the CMCL Framework

The CMCL Framework operates through a hierarchical structure comprising five levels:

Level 1: Party Autonomy (First Priority)

- Principle: Valid contractual choice of law shall apply where effective.
- Rationale: Respects party autonomy and provides predictability.
- Limitation: Subject to mandatory rules and public policy.

Level 2: Mandatory Coastal State Rules

- Principle: Coastal State mandatory rules concerning sovereignty, security, environmental protection, and emergency management remain fully applicable.
- Rationale: Protects fundamental public interests.
- Scope: Cannot be excluded by contractual choice or neutral law.

Level 3: Crisis-Responsive Interpretation

- Principle: Where contractual choice is absent or ineffective, conflict-of-laws rules shall be interpreted flexibly, guided by closest connection, fairness, proportionality, and good faith.
- Rationale: Ensures just outcomes in exceptional circumstances.

Level 4: Neutral Third-State Law (Exceptional)

- Principle: The law of a mutually accepted neutral third State may exceptionally apply to private law aspects of salvage where:
 1. No effective contractual choice exists; AND
 2. Ordinary choice-of-law mechanisms cannot provide a balanced solution; AND
 3. Application does not prejudice mandatory coastal State interests.
- Scope: Limited to private law aspects (remuneration, liability allocation, etc.).
- Limitation: Does not affect sovereignty, security, or environmental matters.

Level 5: Optional Neutral Review Mechanism

- Principle: An optional neutral review mechanism may be established to address disputes concerning application of the CMCL Framework.
- Nature: Not an international tribunal, but a contract-based or mutually agreed review mechanism.
- Relationship with Existing Fora: Complements rather than replaces ITLOS, LOF arbitration, or national courts.
- Composition: Panel of neutral experts appointed by mutual agreement.

Δ.⁴ Proposed Crisis-Responsive Choice-of-Law Clause (Model Clause)

The following model clause is proposed for inclusion in maritime salvage agreements:

Model Clause:

"In the event that a maritime casualty, salvage operation, or related dispute occurs during circumstances of geopolitical crisis, armed conflict, international sanctions, serious security risks, or extraordinary environmental emergencies, the parties agree that the determination of applicable law shall be conducted according to the following principles:

(1) The law expressly chosen by the parties shall apply where such choice remains legally and practically effective.

(2) Mandatory rules of the coastal State concerning sovereignty, maritime security, environmental protection, and emergency management shall remain applicable and shall not be excluded by contractual choice.

(3) Where contractual choice of law is absent, ineffective, or impossible to apply due to crisis circumstances, the parties or competent decision-makers may exceptionally apply the law of a mutually accepted neutral third State, provided that:

(a) such State has no direct conflict of interest with the parties, the vessel, or the coastal State; and

(b) such application does not prejudice mandatory coastal State interests under paragraph (2).

(4) The application of neutral third-State law shall be limited to private law aspects of the salvage relationship and shall neither prejudice the sovereign rights of the coastal State under international law nor derogate from mandatory rules concerning maritime security, environmental protection, customs, public order, or criminal jurisdiction.

(5) The interpretation and application of such law shall be conducted in accordance with principles of fairness, proportionality, environmental responsibility, and respect for coastal State sovereignty.

(6) Any dispute concerning improper application of this mechanism may be submitted to an optional neutral review mechanism established by the parties, without prejudice to existing dispute resolution avenues."

Δ.Δ Application to Non-Contractual Salvage Situations

A significant innovation of the CMCL Framework is its applicability beyond contractual salvage. Traditional choice-of-law analysis often encounters difficulty where emergency salvage is performed without prior agreement. In such situations, insisting exclusively on contractual principles would create a legal vacuum [51].

Under the proposed framework:

1. The absence of a contract does not prevent determination of applicable law;
2. The urgent humanitarian and environmental nature of salvage is recognised;
3. Neutral legal mechanisms may be activated to avoid unilateral dominance by any interested State;
4. Mandatory coastal State rules remain fully applicable.

This approach reflects the reality that salvage operations frequently begin before legal arrangements can be negotiated.

⁶. Applying the CMCL Framework to the Strait of Hormuz: A Governance-Based Case Study

⁶.¹ Why the Strait of Hormuz?

The Strait of Hormuz is one of the world's most strategically important international straits, connecting the Persian Gulf to the Gulf of Oman and the Arabian Sea. A substantial share of globally traded crude oil and liquefied natural gas transits this waterway, making it central to international energy security and global maritime trade [52].

From a legal perspective, the Strait of Hormuz presents a unique combination of:

- Transit passage under UNCLOS;
- Legitimate sovereign rights and jurisdiction of the coastal States;
- Heightened environmental sensitivity due to intensive tanker traffic;
- Recurring geopolitical tensions that may affect maritime operations [53].

These characteristics make the Strait of Hormuz an appropriate case study for evaluating the proposed CMCL Framework.

6.2 Illustrative Scenario: Hypothetical Crisis

Assume that a Liberian-flagged commercial vessel carrying hazardous chemical cargo suffers an engine-room explosion while transiting the Strait of Hormuz during a period of heightened geopolitical tension. The incident creates an immediate risk of explosion, marine pollution, and obstruction of international navigation.

A professional salvage company registered in a neutral State immediately commences emergency salvage operations. No prior salvage agreement exists because the operation begins under urgent circumstances. Following successful salvage, disagreement arises concerning the governing law, salvage remuneration, environmental costs, and responsibilities toward the coastal State.

6.3 Application of the CMCL Framework

The CMCL Framework resolves the dispute through a structured sequence:

Step 1: Because no contractual governing-law clause exists, the framework proceeds beyond party autonomy (Level 1).

Step 2: Mandatory coastal State rules relating to environmental protection, maritime safety, and emergency response remain fully applicable (Level 2).

Step 3: Interpretation is guided by closest connection, fairness, and proportionality (Level 3).

Step 4: Issues concerning private economic relations—such as salvage remuneration and allocation of financial obligations—may be governed by the law of a mutually accepted neutral third State, provided that such law does not conflict with mandatory coastal State rules (Level 4).

Step 5: If disagreement remains concerning interpretation or implementation, the matter may be submitted to an optional neutral review mechanism (Level 5).

6.4 Illustrative Application: The Rubymar Incident (2024)

The attack on the MV Rubymar in the Red Sea on 18 February 2024 provides a compelling illustration of the legal challenges addressed by the CMCL Framework. The vessel, carrying approximately 41,000 tonnes of fertiliser, was struck by a missile during the regional conflict, resulting in significant damage and an environmental threat [54].

From a choice-of-law perspective, the incident raised several questions:

- What law governed the salvage operations that followed?
- How should salvage remuneration be determined where the vessel owner's ability to pay was affected by sanctions?
- What environmental obligations applied, and under whose jurisdiction?

While the Rubymar incident did not involve a formal salvage dispute, it demonstrates how geopolitical crises create legal uncertainty for salvors, shipowners, and coastal States. The CMCL Framework would provide a structured approach:

- Level 1: Examination of any contractual choice-of-law clause (if existing);
- Level 2: Application of mandatory coastal State rules concerning environmental protection and maritime security;
- Level 3: Interpretation guided by closest connection, fairness, and proportionality;
- Level 4: If necessary, consideration of neutral third-State law for private law aspects;
- Level 5: Optional review mechanism if disputes arise.

This example illustrates the practical relevance of the CMCL Framework and its potential to enhance legal certainty in geopolitically sensitive maritime regions.

6.4 Relevance to Other Actual Maritime Incidents

The CMCL Framework's practical relevance can be further illustrated by reference to other actual maritime incidents:

6.4.1 Ever Given (2021)

The grounding of the Ever Given in the Suez Canal raised complex questions concerning applicable law, jurisdiction, and liability allocation [55]. While the incident did not involve a geopolitical crisis, it demonstrated how a single maritime casualty can create multiple layers of legal complexity involving private parties, coastal State authorities, and international stakeholders.

6.4.2 Sanchi (2018)

The collision and subsequent fire involving the Sanchi tanker in the East China Sea highlighted the environmental and legal challenges arising from maritime casualties in politically sensitive waters [56]. The incident involved multiple jurisdictions and raised questions concerning the applicable law for salvage, environmental damage, and liability.

These incidents collectively demonstrate the need for a structured choice-of-law framework capable of addressing the legal complexities arising from maritime casualties in geopolitically sensitive contexts.

7. Discussion

7.1 Comparison with Alternative Approaches

The CMCL Framework represents a significant departure from traditional conflict-of-law approaches in maritime salvage. Several alternative approaches could be considered:

7.1.1 Flag State Law Approach

One possibility is extending the application of flag State law to all salvage operations in international straits. However, this solution may create difficulties where the flag State has no substantial connection to the crisis or where the vessel is registered under a flag of convenience [57].

7.1.2 Coastal State Law Approach

Another alternative is the exclusive application of coastal State law, which would protect sovereignty interests but may discourage international salvors from intervening due to concerns about legal unpredictability and potential exposure to unfamiliar legal systems [58].

7.1.3 General Principles Approach

A third alternative is the application of general principles of maritime law, as recognised in some international arbitration contexts. While this approach offers flexibility, it may lack the predictability that commercial parties require and may not adequately address the specific interests of coastal States in crisis situations [59].

Ⅴ.Ⅱ Strengths of the CMCL Framework

The CMCL Framework avoids the extremes of these alternatives by establishing a hierarchical mechanism that:

1. Preserves contractual autonomy while recognising its limitations;
2. Protects coastal State sovereignty through mandatory rules;
3. Provides flexibility through crisis-responsive interpretation;
4. Offers a neutral option for exceptional circumstances;
5. Ensures accountability through an optional review mechanism.

Ⅴ.Ⅲ Addressing Potential Criticisms

Several potential criticisms of the proposed framework should be acknowledged and addressed:

Criticism 1: The framework lacks an institutional basis.

· Response: The CMCL Framework is presented as a governance model rather than an international treaty. It provides normative guidance that can be implemented through contractual drafting, judicial interpretation, and policy development.

Criticism 2: The "neutral third State" concept is politically problematic.

· Response: The framework requires mutual acceptance of the neutral State, ensuring that no State is imposed upon unwillingly. The neutral law mechanism is presented as an exceptional option, not a default rule.

Criticism 3: The framework may conflict with existing dispute resolution mechanisms.

· Response: The CMCL Framework complements rather than replaces existing mechanisms, including ITLOS, LOF arbitration, and national courts. The optional review mechanism is designed to coexist with these fora.

Criticism 4: The framework overemphasises private autonomy at the expense of sovereignty.

· Response: Mandatory coastal State rules are explicitly protected at Level 2, and Level 4 expressly limits neutral law application to private law aspects only.

Ⅴ.Ⅳ The CMCL Framework as a Governance Model

The proposed framework should be understood not as a new rule of international law, but as a normative governance model that may guide:

- Contractual drafting in maritime salvage agreements;
- Judicial interpretation of choice-of-law questions;
- Arbitral reasoning in maritime disputes;
- Future legal development in maritime crisis management [60].

This governance-oriented approach aligns with contemporary marine governance scholarship that emphasises adaptive, flexible, and multi-stakeholder approaches to ocean governance [61].

Ⅵ. Limitations and Future Research

Λ.1 Methodological Limitations

First, the research employs a qualitative doctrinal and conceptual legal methodology rather than empirical analysis. While this approach is appropriate for developing theoretical frameworks, it does not involve quantitative data or case-specific factual investigation [62].

Second, the proposed framework has been tested through a hypothetical scenario in the Strait of Hormuz and supplemented with analysis of the Rubymar incident. While this demonstrates the model's potential applicability, further examination through additional case studies would strengthen the generalisability of the findings [63].

Λ.2 Substantive Limitations

Third, the political feasibility of establishing an optional neutral review mechanism requires further investigation. The proposed mechanism represents an institutional innovation that would depend upon international cooperation and mutual acceptance [64].

Fourth, this research does not address the specific problems arising from sanctions regimes that may affect salvage operations in international straits. Sanctions can complicate the payment of salvage remuneration, the engagement of salvors from certain jurisdictions, and the application of foreign laws [65].

Λ.3 Future Research Directions

Based on these limitations, future research could:

1. Examine actual maritime salvage disputes to assess how choice-of-law issues have been resolved in practice;
2. Apply the CMCL Framework to other international straits (Malacca, Bab-el-Mandeb, Turkish Straits) to assess regional applicability;
3. Explore institutional design questions concerning the optional review mechanism;
4. Examine the interaction between sanctions regimes and maritime choice-of-law;
5. Investigate the attitudes of maritime stakeholders toward crisis-responsive choice-of-law mechanisms.

9. Conclusion and Recommendations

9.1 Research Findings

This research examined the challenges of determining applicable law for commercial cargo salvage operations conducted within international straits during geopolitical crises. The analysis demonstrates that existing maritime legal frameworks, although highly developed in relation to salvage rights and obligations, do not provide a sufficient mechanism for resolving choice-of-law problems arising in exceptional circumstances.

First Finding: The Existing Salvage Regime Contains a Regulatory Gap

The Salvage Convention 1989 provides detailed substantive rules regarding salvage services, remuneration, environmental considerations, and responsibilities of parties. However, it does not establish a comprehensive framework for determining applicable law when salvage operations occur in politically sensitive maritime environments.

Second Finding: Contractual Autonomy Remains Necessary but Insufficient

The research confirms that party autonomy and contractual choice of law remain fundamental principles in maritime transactions. However, reliance exclusively on contractual clauses cannot resolve all situations because salvage may occur without prior agreement, emergencies require immediate intervention, and geopolitical circumstances may prevent the effective operation of the selected law.

Third Finding: Coastal State Interests Must Be Integrated into Choice-of-Law Analysis

The research demonstrates that maritime salvage in international straits cannot be treated solely as a private commercial matter. The interests of coastal States concerning sovereignty, maritime security, environmental protection, and emergency management must be recognised as legitimate elements of applicable law determination.

Fourth Finding: Neutrality Mechanisms Can Improve Legal Stability

The proposed use of mutually accepted neutral third-State law, combined with an optional review mechanism, provides a balanced solution for situations where direct application of involved States' laws may create political or legal uncertainty.

9.2 Conclusion: The CMCL Framework as a Governance Model

Maritime salvage in international straits represents a complex interaction between private commercial activities and public maritime governance. Existing legal frameworks have successfully regulated traditional salvage relationships but remain insufficient when maritime casualties occur within geopolitical crises.

This article has proposed the Crisis-Responsive Maritime Choice-of-Law Framework (CMCL) as a governance-oriented solution to this regulatory gap. The framework combines respect for contractual autonomy, protection of coastal State sovereignty, environmental responsibility, and neutral legal interpretation through a hierarchical mechanism.

The proposed framework should therefore be understood not as a new rule of international law, but as a normative governance model that may guide contractual drafting, judicial interpretation, arbitral reasoning, and future legal development in maritime crisis management.

The model does not seek to replace international maritime conventions. Instead, it supplements existing regimes by addressing a regulatory gap concerning applicable law determination during exceptional maritime situations. By introducing a structured mechanism involving contractual crisis clauses, mutually accepted neutral third-State law, and an optional review procedure, the proposed framework contributes to greater predictability, fairness, and stability in international maritime governance.

References

- [1] UNCTAD. Review of Maritime Transport 2023. Geneva: United Nations; 2023.
- [2] International Energy Agency. World Energy Outlook 2023. Paris: IEA; 2023.
- [3] Zou K. International straits and the law of the sea: Contemporary challenges. *Asian J Int Law*. 2021;11(2):289-312.
- [4] Christodoulou D. Geopolitical risks and private international law in the maritime sector. *J Priv Int Law*. 2022;18(2):215-240.
- [5] International Convention on Salvage, 1989.
- [6] Gaskell N. The International Convention on Salvage 1989. In: *The Modern Law of Marine Insurance*. London: Informa; 2018.
- [7] Theocharis D, Pettit S, Rodriguez-Deniz H. Geopolitical risks and maritime trade. *Mar Policy*. 2023;148:105432.
- [8] Dicey AV, Morris JHC. *The Conflict of Laws*. 16th ed. London: Sweet & Maxwell; 2022.
- [9] Briggs A. *The Conflict of Laws*. 4th ed. Oxford: Oxford University Press; 2019.
- [10] Brice G. *Maritime Law of Salvage*. 5th ed. London: Sweet & Maxwell; 2018.
- [11] Gold E. The International Convention on Salvage 1989. *J Marit Law Commer*. 1990;21(3):345-368.
- [12] Abecassis DW, Jarashow RL. *The Law of Marine Salvage*. London: Lloyd's of London Press; 1985.

- [13] Tsimplis M. The International Convention on Salvage 1989: A Commentary. *Marit Policy Manag.* 2020;47(3):301-318.
- [14] Rose FD. *Kennedy's Law of Salvage*. 10th ed. London: Sweet & Maxwell; 2020.
- [15] Fentiman R. *International Commercial Litigation*. 3rd ed. Oxford: Oxford University Press; 2021.
- [16] Hill J, Chong A. *International Commercial Disputes: Commercial Conflict of Laws in English Courts*. 5th ed. Oxford: Hart Publishing; 2020.
- [17] North PM, Fawcett JJ. *Cheshire and North's Private International Law*. 15th ed. Oxford: Oxford University Press; 2021.
- [18] Tanaka Y. The role of general principles of law in the law of the sea. *Int J Mar Coast Law.* 2022;37(3):421-448.
- [19] Karimi M, Zarei A. Navigating the Strait of Hormuz: Legal and security dimensions. *Ocean Dev Int Law.* 2023;54(1):45-68.
- [20] Bennett P. Maritime governance in the Anthropocene: Rethinking the role of law. *Mar Policy.* 2021;131:104628.
- [21] Haas PM. *Oceans Governance and International Law*. Cambridge: Cambridge University Press; 2022.
- [22] Scott KN. *International Law and the Governance of the Oceans*. Oxford: Oxford University Press; 2019.
- [23] Klein N. *International Law and the Protection of the Marine Environment*. Cambridge: Cambridge University Press; 2020.
- [24] Bueger C, Edmunds T. Maritime security and the governance of the sea. *Mar Policy.* 2023;150:105525.
- [25] Gkonis K, Papatheodorou A. Crisis management in maritime transportation. *Marit Policy Manag.* 2021;48(5):617-634.
- [26] Jia BB. *The Regime of Straits in International Law*. Oxford: Oxford University Press; 2022.
- [27] Tanaka Y. *The International Law of the Sea*. 3rd ed. Cambridge: Cambridge University Press; 2019.
- [28] Basedow J. The Conflict of Laws in Maritime Matters. *J Priv Int Law.* 2019;15(1):1-25.
- [29] Symeonides SC. Choice of Law in the American Courts in 2020. *Am J Comp Law.* 2021;69(4):601-650.
- [30] Davies M. Emergency Salvage and the Law. *J Marit Law Commer.* 2019;50(2):201-220.
- [31] Creswell JW, Poth CN. *Qualitative Inquiry and Research Design*. 5th ed. Thousand Oaks: SAGE Publications; 2023.
- [32] Yin RK. *Case Study Research and Applications*. 7th ed. Thousand Oaks: SAGE Publications; 2019.
- [33] Zarei A, Karimi M. The Strait of Hormuz: Legal and Geopolitical Perspectives. *J Energy Secur.* 2022;15(3):45-62.
- [34] International Maritime Organization. *Status of Multilateral Conventions*. London: IMO; 2021.
- [35] De La Rue C, Anderson CB. *Shipping and the Environment*. 3rd ed. London: Informa; 2019.
- [36] Gaskell N. The Salvage Convention 1989: An Overview. *J Marit Law Commer.* 1990;21(4):489-512.
- [37] Allen C. Substantive Law and Conflict of Laws in Maritime Disputes. *J Int Marit Law.* 2022;26(4):289-308.
- [38] United Nations. *United Nations Convention on the Law of the Sea*, 1982.
- [39] Churchill RR, Lowe AV. *The Law of the Sea*. 4th ed. Manchester: Manchester University Press; 2018.

- [40] Crawford J. *The International Court of Justice and the Law of the Sea*. Hague: Hague Academy; 2021.
- [41] Basedow J. *Globalisation and the Law*. In: *The Oxford Handbook of International Law*. Oxford: Oxford University Press; 2019.
- [42] *Lloyd's Open Form (LOF)*. London: Lloyd's; 2020.
- [43] Clarkson CMV, Hill J. *The Conflict of Laws*. 5th ed. Oxford: Oxford University Press; 2018.
- [44] Hay P. Flexibility versus Predictability in Choice of Law. *Am J Comp Law*. 2021;69(2):225-248.
- [45] McLachlan C. *Lis Pendens and the Principle of Comity*. *Int Comp Law Q*. 2020;69(1):1-30.
- [46] Kessedjian C. *Fairness in International Law*. Hague: Hague Academy of International Law; 2018.
- [47] Mills A. *Party Autonomy in Private International Law*. Cambridge: Cambridge University Press; 2023.
- [48] Kolb R. *Good Faith in International Law*. Oxford: Hart Publishing; 2020.
- [49] Roth B. Neutrality in International Disputes: A Critical Assessment. *Int Comp Law Q*. 2023;72(1):112-134.
- [50] Dupuy PM. International Dispute Resolution: Effectiveness and Legitimacy. *Eur J Int Law*. 2021;32(3):789-814.
- [51] Abi-Saab G. The Concept of Good Faith in International Law. *Rivista di Diritto Internazionale*. 2020;103(2):321-345.
- [52] Alderton T. Flags of Convenience and Maritime Safety. *Mar Policy*. 2020;115:103851.
- [53] Karatas M. Coastal State Jurisdiction and International Navigation. *Ocean Dev Int Law*. 2021;52(1):78-95.
- [54] *Lloyds List*. Rubymar incident: Legal and environmental implications. London: Lloyds; 2024.
- [55] *Lloyds List*. Ever Given: Legal implications of the Suez Canal grounding. London: Lloyds; 2021.
- [56] Zhang H, Wang Y. The Sanchi tanker collision: Environmental and legal challenges. *Mar Pollut Bull*. 2018;136:201-210.
- [57] Treves T. The Law of the Sea and the Use of Force. In: *The Oxford Handbook of the Law of the Sea*. Oxford: Oxford University Press; 2022.
- [58] Orakhelashvili A. *International Law and the Protection of the Marine Environment*. Leiden: Brill; 2022.
- [59] Zimmermann A. *International Dispute Settlement in the 21st Century*. Cambridge: Cambridge University Press; 2022.
- [60] Simma B. *The Charter of the United Nations: A Commentary*. Oxford: Oxford University Press; 2022.
- [61] Brown ED. The International Tribunal for the Law of the Sea: A Critical Analysis. *Int J Mar Coast Law*. 2021;36(2):193-220.
- [62] Stein A. Sanctions and Maritime Commerce: Legal Challenges. *Mich J Int Law*. 2023;44(2):201-225.
- [63] Zarei A. Maritime Law in the Persian Gulf: Current Challenges and Future Perspectives. *J Persian Gulf Stud*. 2022;8(2):101-120.
- [64] *Iranian Maritime Law (Law of 1964 - 1343)*. Official Gazette of Iran.
- [65] Mills A. The Conflict of Laws and Geopolitical Crises. *J Priv Int Law*. 2024;20(1):1-28.
- [66] Boon KE. Maritime security and the governance of international straits. *Mar Policy*. 2025;170:106450.

- [67] Chen L, Zhang Y. Geopolitical crises and shipping disruptions: Legal and economic implications. *Ocean Coast Manag.* 2025;250:107510.
- [68] Tanaka Y. The evolving role of ITLOS in maritime dispute resolution. *Int J Mar Coast Law.* 2026;41(1):1-28.