

Krispy Legal's NEWSLETTER



DETENTION OF VESSELS BY GOVERNMENT AGENCIES: LAWFUL REGULATION OR ABUSE OF POWER

- INTERNATIONAL MARITIME CONVENTIONS AND NIGERIAN STATUTORY FRAMEWORK FOR VESSEL DETENTION
- UNCLOS, IMO CONVENTIONS, AND PORT STATE CONTROL REGIMES.
- THE MERCHANT SHIPPING ACT, NIMASA ACT, AND ADMIRALTY JURISDICTION ACT
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- JUDICIAL OVERSIGHT AND SAFEGUARDS AGAINST RISKS OF IMPROPER DETENTION



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DETENTION OF VESSELS BY GOVERNMENT AGENCIES: LAWFUL REGULATION OR ABUSE OF POWER.

1.0 INTRODUCTION

Maritime transport is the lifeblood of global trade. Over 80% of the world's cargo by volume is carried by sea, underscoring the centrality of shipping in global economic systems and the interconnectedness of national markets. This expansive maritime activity necessarily attracts state regulatory intervention to ensure safety, security, environmental protection, and compliance with international obligations. Among these interventions is the detention of vessels by government agencies, a practice that serves as a potent regulatory tool within the framework of maritime law.¹

Detention of vessels refers, in its broad regulatory sense, to the holding back or immobilisation of a ship under the authority of a state or administrative agency pending compliance with safety, certification, or environmental norms. This should be distinguished from judicial arrest a court-ordered seizure to secure a maritime claim, although the two are often conflated in legal discourse. In maritime practice, administrative detention typically arises from a port state control inspection when deficiencies are found that render the vessel hazardous to safety or the environment. Conversely, a judicial arrest generally arises in admiralty proceedings to preserve assets pending litigation.²

At the international level, the regulatory basis for vessel detention exists within a constellation of treaties and conventions overseen by the International Maritime

¹ United Nations Conference on Trade and Development (UNCTAD), Review of Maritime Transport (UN Publications, latest edn). Available at: <https://unctad.org/publication/review-maritime-transport> accessed 24 December 2025.

² Ajumogobia & Okeke, 'The Procedure for Arrest and Detention of Ships under Maritime Law in Nigeria' (Mondaq, 2023). Available at: <https://www.mondaq.com/nigeria/marine-shipping/1431576/the-procedure-for-arrest-and-detention-of-ship-under-maritime-law-in-nigeria> accessed 24 December 2025.

Organization (IMO). Port state control (PSC) regimes such as those established under the Paris Memorandum of Understanding empower coastal states to inspect and detain foreign vessels visiting their ports if these vessels fail to meet prescribed international safety and pollution standards. These PSC measures are not punitive *per se*; rather, they are preventive regulatory mechanisms designed to ensure maritime safety, environmental protection, and compliance with international conventions such as the Safety of Life at Sea (SOLAS) and the International Convention for the Prevention of Pollution from Ships (MARPOL). These treaties reflect the consensus of maritime nations on standards for vessel operation and are incorporated into national laws, shaping detention practices globally.³

Within domestic legal orders, the authority to detain vessels is typically grounded in national statutes. For example, under Nigerian maritime law, the Merchant Shipping Act 2007, Admiralty Jurisdiction Act, and the Nigerian Maritime Administration and Safety Agency (NIMASA) Act collectively establish the powers of governmental agencies to detain non-compliant vessels and set out procedural requirements, including grounds for detention, evidentiary thresholds, and remedial steps. The Federal High Court of Nigeria has exclusive jurisdiction to hear admiralty causes, including actions related to arrest and detention of vessels, thereby integrating statutory detention powers into a broader legal framework of judicial oversight.⁴

The issue of vessel detention by government agencies raises critical legal questions regarding the balance between regulatory necessity and individual rights. On the one

³ Pallis AA, Ng AKY and De Langen PW, 'Port State Control Inspections under the Paris Memorandum of Understanding: Patterns, Deficiencies and Detentions' (2024) 12(4) Journal of Marine Science and Engineering 533–556. Available at: <https://www.mdpi.com/2077-1312/12/4/533> accessed 24 December 2025.

⁴ Banwo & Ighodalo, "Arrest and Detention of Vessels under Nigerian Maritime Law: Understanding the Legal Framework." (2024). Available at: <https://www.mondaq.com/nigeria/marine-shipping/1552796/arrest-and-detention-of-vessels-under-nigerian-maritime-law-understanding-the-legal-framework> accessed 24 December 2025.

hand, detention acts as a legitimate exercise of police powers serving public interests in safety, environmental protection, and enforcement of international obligations. On the other hand, detention can be manipulated or applied arbitrarily as a form of regulatory overreach or abuse of power, especially in contexts where procedural safeguards are weak or enforcement agencies act beyond their statutory mandates. The economic consequences of prolonged vessel detentions such as loss of charter hire, demurrage charges, and reputational harm further amplify the stakes for shipowners and maritime stakeholders.⁵

This work seeks to interrogate whether vessel detention practices represent lawful regulatory measures necessary for maritime governance or whether they have degenerated into abuse of power by governmental agencies. It aims to analyse the legal basis for detention, the procedural safeguards embedded in both international and domestic frameworks, and the actual impact of detention practices on maritime operations. By doing so, it frames detention not merely as a technical administrative action but as a locus of tension between effective regulation and the protection of private interests in maritime commerce.

2.0 LEGAL AND INSTITUTIONAL FRAMEWORK

The detention of vessels by government agencies is deeply rooted in both international maritime law and domestic regulatory structures. Effective regulation requires a coherent legal framework that delineates the powers of states, agencies, and courts to detain and arrest ships balancing legitimate regulatory aims with protection against abuse.

⁵ Knudsen OF and Hassler B, “A Review of Port State Control Inspections: Critical Issues and Future Directions” (2025) Australian Journal of Maritime and Ocean Affairs 1–18. Available at: <https://www.tandfonline.com/doi/full/10.1080/18366503.2025.2554348> accessed 24 December 2025.

2.1 International Legal Framework

The United Nations Convention on the Law of the Sea (UNCLOS) is the foundational treaty regulating maritime jurisdiction, rights, and duties of coastal and port states. Under UNCLOS coastal states enjoy sovereignty over their territorial seas and ports and may enforce national laws relating to safety, navigation, and environmental protection so long as such enforcement does not infringe on recognized navigation rights such as innocent passage. The Convention expressly authorises port State enforcement measures against ships voluntarily within ports, including detention where necessary to enforce international standards.⁶

In particular, UNCLOS Article 218 empowers states to investigate and initiate proceedings against vessels within ports where there is evidence of violations of international standards, whilst Article 219 allows a state to take administrative measures to prevent a ship from sailing if it is unseaworthy and risks marine harm.⁷ Such provisions underpin the Port State Control (PSC) regime administered globally under the auspices of the International Maritime Organization (IMO). PSC enables states to inspect foreign ships in their ports to verify compliance with key safety and environmental conventions including SOLAS (Safety of Life at Sea), MARPOL (Pollution Prevention), STCW (Standards of Training, Certification and Watchkeeping for Seafarers) and to detain vessels that fail to meet required standards until deficiencies are rectified.⁸

Enforcement powers under PSC and UNCLOS are part of the broader international

⁶ United Nations, “United Nations Convention on the Law of the Sea (UNCLOS)” (1982) Arts. 218–219, Available at: https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf (https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf). Accessed on 24th December, 2025.

⁷ International Maritime Organization, “Port State Control” (IMO) online: <https://www.imo.org/en/OurWork/IIIS/Pages/Port%20State%20Control.aspx> (<https://www.imo.org/en/OurWork/IIIS/Pages/Port%20State%20Control.aspx>) Accessed on 24th December, 2025.

⁸ Ibid.

legal structure designed to ensure maritime safety and environmental protection. Yvonne Baatz notes that international conventions and port state enforcement mechanisms are “vital for maintaining safety, security, and environmental standards” through detention or delay of non-compliant vessels as a last resort.⁹

2.2 Domestic Legal Framework in Nigeria

In Nigeria, the domestic legal framework governing detention of vessels is anchored on legislation that incorporates international law and sets out regulatory powers and institutional responsibilities. Key statutes include:

- 1. The Constitution of the Federal Republic of Nigeria 1999 (as amended):** Confers judicial authority and underpins the exercise of federal regulatory powers, including maritime adjudication.
- 2. Merchant Shipping Act 2007:** The primary statute regulating registration, safety, seaworthiness, certification, and detention of ships. It provides detailed grounds and processes for detention where a vessel is unsafe or non-compliant with statutory requirements.
- 3. Admiralty Jurisdiction Act:** Grants the Federal High Court exclusive jurisdiction over maritime claims and allows for ship arrest and detention in admiralty proceedings, thereby tying regulatory detention to judicial oversight.
- 4. Nigerian Maritime Administration and Safety Agency (NIMASA) Act 2007:** Establishes NIMASA as the apex maritime regulatory body responsible for promoting and enforcing maritime safety, security, and port State control functions, including power to stop, board, inspect, and detain vessels within the Nigerian maritime zone.
- 5. Coastal and Inland Shipping (Cabotage) Act 2003:** Governs coastal maritime trade and reinforces domestic regulatory oversight, including aspects of vessel operation and

⁹ Yvonne Baatz, “Maritime Law” (London: Routledge, 2014)

compliance that may trigger detention actions.

Under the NIMASA Act 2007, NIMASA's functions encompass port state control inspections, issuance and enforcement of safety standards, and enforcement of international conventions domesticated into Nigerian law. Statutory powers explicitly include authority to stop, board, inspect and detain any vessel within Nigerian maritime zones suspected of non-compliance with safety, labour, documentation, or security requirements, reflecting both domestic regulatory imperatives and obligations under international conventions.

Complementing NIMASA's regulatory mandate, the Nigerian Ports Authority Act empowers the Nigerian Ports Authority (NPA) to distrain or arrest vessels for non-payment of dues and port charges, broadening the institutional contexts in which vessels may be detained beyond safety and compliance deficiencies.

2.3 Institutional Arrangement and Overlap

Several government agencies play complementary roles in vessel monitoring and detention in Nigeria:

1. NIMASA: principally responsible for safety, security, and port state control enforcement.
2. NPA: focuses on port charges and related incidental detentions under port authority powers.
3. Customs Service: enforces customs, immigration, and revenue laws that can lead to vessel detention in specified circumstances.
4. Nigerian Navy and Marine Police: provide security enforcement including hot

pursuit and interdiction in territorial waters and exclusive economic zones.¹⁰

This multiplicity reflects an attempt to integrate international maritime obligations with national enforcement capacity. However, overlapping jurisdictions occasionally pose challenges in coordination and consistent application of detention powers, a point often discussed in maritime administrative research.

3. GROUNDS AND PROCEDURE FOR LAWFUL DETENTION OF VESSELS

3.1 Legal Grounds for Lawful Detention

1. Safety and Seaworthiness Deficiencies

One of the primary grounds for the lawful detention of vessels is significant deficiency threatening the safety of the ship, crew or environment. Under Port State Control (PSC) regimes, a ship may be detained if serious non-conformities are found during inspection, such as defects in machinery, inadequate safety equipment, insufficient crew competency or improper loading that render the vessel unsafe for sea. Port State Control inspectors act to enforce international conventions like SOLAS (Safety of Life at Sea) and MARPOL (Marine Pollution) and will detain ships that fail to meet minimum standards until deficiencies are rectification.¹¹

In Nigerian law, the Nigerian Maritime Administration and Safety Agency (NIMASA) is statutorily empowered to detain an unsafe ship that poses a danger to life and property at sea. Such grounds include unsafe vessel condition, inadequate manning, overloading,

¹⁰ Ajuzie Chizoba Osondu, “Modern Maritime Law and Practice in Nigeria” (University of Lagos Press, 2020) (overview of domestic maritime regulatory institutions).

¹¹ International Maritime Organization, “Procedures for Port State Control (PSC)” 2023, IMO Res. A.1185(33),<https://wwwcdn.imo.org/localresources/en/OurWork/IIIS/Documents/A%2033-Res.1185%20-%20PROCEDURES%20FOR%20PORT%20STATE%20CONTROL%2C%202023.pdf>
Accessed on 24th December, 2025.

and other safety and security hazards. This reflects the international safety regime translated into domestic law.¹²

2. Non-Compliance with International and National Regulatory Requirements

Vessels may also be detained where they violate regulatory obligations, including:

- a. Failure to hold valid statutory certificates issued under international conventions or domestic law. Under Section 135 of the Merchant Shipping Act 2007, ships without required valid certificates are liable to detention since operating without such certificates attracts criminal sanctions and endangers safety.
- b. Violation of environmental protection obligations, such as breaches of MARPOL standards. Detention can be triggered where there is evidence that the vessel is not compliant with applicable pollution prevention conventions.

Additionally, non-payment of port dues and charges constitutes grounds for detention under the Nigerian Ports Authority Act, whereby the Ports Authority may arrest and detain the ship until payment is made.¹³

3. Breach of Cabotage and Domestic Shipping Laws

Nigerian domestic law, particularly the Coastal and Inland Shipping (Cabotage) Act 2003, gives enforcement officers power to detain vessels operating in coastal waters in contravention of cabotage provisions, such as improper ownership or manning requirements. If these breaches are established, the agency may detain the vessel pending compliance.

4. Admiralty Jurisdiction and Maritime Claims (Arrest vs. Detention)

¹² Ajumogobia & Okeke, 'The Procedure for Arrest and Detention of Ships under Maritime Law in Nigeria' (2023). Available at: <https://www.mondaq.com/nigeria/marine-shipping/1431576/the-procedure-for-arrest-and-detention-of-ship-under-maritime-law-in-nigeria> accessed 24 December 2025.

¹³ Ibid.

Under the Admiralty Jurisdiction Act, a vessel may be arrested in an in rem action as security for maritime claims (e.g., cargo loss, collision, salvage). Although arrest and detention have distinct legal bases, procedural overlap exists where arrest occurs to secure jurisdiction over a maritime dispute. The arrest remains until security is provided or the claim is resolved.¹⁴

3.2 Procedural Requirements for Lawful Detention

1. Statutory Authority and Notice Requirements

Lawful detention must be grounded in clear statutory authority. In Nigeria, the Merchant Shipping Act provides express power to detain ships that may be unsafe or in breach of statutory requirements and requires competent authority to give notice of detention to the vessel master. The Act also forbids departure of the vessel from port without proper release once detained and prescribes penalties for unlawful sailing after detention.

For foreign-flagged vessels detained under Nigerian statutes, the Merchant Shipping Act further imposes a duty to inform the appropriate consular officer of the flag state of the grounds for detention. This reflects procedural fairness and international comity.¹⁵

2. Port State Control Inspection and Detention Procedures

Internationally, port State control inspections are governed by IMO procedures that form part of the PSC regime. These guidelines detail how inspections are conducted, how deficiencies are categorised, and how detention decisions are made primarily based

¹⁴ *ibid*

¹⁵ Merchant Shipping Act 2007, Sections 135 & 388, Laws of the Federation of Nigeria 2007, available via [public](https://placng.org/lawsofnigeria/laws/M11.pdf) [legal](https://placng.org/lawsofnigeria/laws/M11.pdf) [archive](https://placng.org/lawsofnigeria/laws/M11.pdf), <https://placng.org/lawsofnigeria/laws/M11.pdf> accessed on 24th December, 2025.

on serious deficiencies that undermine safety or environmental compliance. Although PSC procedures are technically not binding law, they represent accepted best practice and are widely implemented by states under international conventions such as SOLAS and MARPOL.¹⁶

3. Opportunity to Rectify and Release Conditions

A detained vessel may be released once deficiencies are corrected and the competent authority is satisfied that it is fit to proceed to sea. In practice, this often involves rectifying safety failures, obtaining valid certificates, or providing acceptable security (such as bonds or letters of undertaking) to the detaining authority or court. This procedural step protects owner rights and ensures detention is not indefinite.

4. Judicial Oversight and Remedies

Domestic law provides that affected parties may seek judicial review or appeal in respect of detention decisions. Courts can examine whether the statutory powers were properly exercised and whether due process was observed. In Nigeria, although statutory frameworks provide for detention, judicial oversight remains a critical check on arbitrary action, ensuring compliance with constitutional guarantees such as fair hearing.

4.0 DETENTION AS LAWFUL REGULATION

In the regulation of maritime activities, the detention of vessels by government agencies

¹⁶ International Maritime Organization, “Procedures for Port State Control (PSC)” 2023, IMO Res. A.1185(33),<https://wwwcdn.imo.org/localresources/en/OurWork/IIIS/Documents/A%2033-Res.1185%20-%20PROCEDURES%20FOR%20PORT%20STATE%20CONTROL%2C%202023.pdf>
<https://wwwcdn.imo.org/localresources/en/OurWork/IIIS/Documents/A%2033-Res.1185%20-%20PROCEDURES%20FOR%20PORT%20STATE%20CONTROL%2C%202023.pdf>

Accessed on 24th December, 2025.

is a critical enforcement mechanism designed to uphold safety, environmental standards, and legal compliance. This chapter examines how detention serves as lawful regulation, grounded in statutory authority, international frameworks, and sound public policy. It also explains why detention, when properly managed, is an essential tool in protecting life, property, the marine environment, and global trade.

4.1 Statutory Basis for Vessel Detention

1. Nigerian Legal Framework

The detention of vessels in Nigerian waters is expressly authorised under key maritime statutes. For example, the Nigerian Maritime Administration and Safety Agency (NIMASA) Act 2007 empowers NIMASA to detain unsafe vessels that pose danger to human life or marine safety. Section 40(1) grants the agency power where a ship is “unfit to proceed to sea without serious danger to human life,” which includes unsatisfactory machinery, under-manning or unsafe loading.¹⁷

Likewise, the Nigerian Ports Authority Act 1999 authorises the Nigerian Ports Authority to distrain or arrest a vessel and its equipment for unpaid dues or rates, detaining until those obligations are satisfied.¹⁸ These statutory provisions underline that detention is not arbitrary but rooted in specific legislative mandates that balance regulatory interests with the rights of ship owners.

2. International Context: Port State Control

International law recognises port states’ right and duty to inspect foreign ships that visit

¹⁷ Nigerian Maritime Administration and Safety Agency Act, 2007 (empowering detention of unsafe ships) - FAOLEX Database, Available at: <https://faolex.fao.org/docs/pdf/nig92403.pdf> accessed on 24th December, 2025.

¹⁸ Nigerian Ports Authority Act, 1999 (authorising arrest/detention for unpaid dues) Nomos Legal Practice Blog, <https://nomoslegalpractice.com/wp/2025/01/20/procedure-for-arrest-and-detention-of-ship-under-maritime-law-in-nigeria/> accessed on 24th December, 2025.

their ports. Beyond Nigeria, the practice of Port State Control (PSC) represents a globally accepted mechanism to ensure maritime safety and environmental compliance. PSC allows coastal states to inspect foreign-flagged ships and detain them when they are substandard or unsafe.¹⁹

This international control is underpinned by conventions adopted through the International Maritime Organization (IMO) and regional memoranda such as the Paris MoU and Tokyo MoU, which harmonise PSC standards and procedures for inspection and detention.²⁰

4.2 Policy Rationale: Safety and Protection of Human Life

The primary rationale for vessel detention lies in risk mitigation. Ships that do not meet minimum safety requirements present clear hazards to the crew, passengers, port workers, and the general public. Detention until defects are rectified is therefore a preventive regulatory action rather than punitive overreach.

International research highlights the positive impact of PSC detention on maritime safety outcomes. For example, studies demonstrate that inspections and detentions correlate with better compliance with safety and pollution prevention standards, thereby reducing maritime accidents and environmental harm.²¹ This research confirms that

¹⁹ Ajumogobia & Okeke, ‘The Procedure for Arrest and Detention of Ships under Maritime Law in Nigeria’ (2023). Available at: <https://www.mondaq.com/nigeria/marine-shipping/1431576/the-procedure-for-arrest-and-detention-of-ship-under-maritime-law-in-nigeria> accessed 24 December 2025.

²⁰ Sheriff et al, “An in-depth analysis of port state control inspections: A bibliometric analysis and systematic review,” Journal of International Maritime Safety, Environmental Affairs, and Shipping, DOI:10.1080/25725084.2025.2454754

²¹ ASCE Library, Impact of PSC detention on safety and environmental compliance — “Dynamic Effects of Port State Control on Ship Risk Profiles” Available at: <https://ascelibrary.org/doi/10.1061/AJRUA6.RUENG1632> https://ascelibrary.org/doi/10.1061/AJRUA6.RUENG1632 accessed on 24th December, 2025.

detention is an effective tool in improving risk profiles of ships operating in international trade.

From a regulatory perspective, therefore, detention aligns with the precautionary principle, a core tenet of maritime safety policy that prioritises prevention over reaction to disasters.

4.3 Environmental Protection and Pollution Control

Detaining vessels that fail to comply with environmental conventions such as MARPOL (International Convention for the Prevention of Pollution from Ships) protects fragile ecosystems and coastal communities. Obvious pollution risks whether from oil, chemicals, or garbage discharge justify detention until proper compliance mechanisms are instituted.

Although not exclusively a Nigerian statutory matter, the spirit and practice of environmental detention are similar globally. Port State Control regimes detain ships primarily because of environmental deficiencies identified during inspections. This demonstrates that enforcement through detention is not only about safety but also protecting the marine environment, a fundamental public interest in maritime governance.

4.4 Procedural and Due Process Safeguards

For detention to remain lawful, it must respect procedural fairness. Most regulatory frameworks require that detention orders be properly communicated to ship masters and owners, often with clear reasons cited and rights of appeal provided. This procedural dimension helps mitigate risks of abuse while ensuring compliance with legal standards.



In Nigeria, vessel owners have avenues for appeal against detention decisions, including internal agency reviews and judicial remedies through the Federal High Court's admiralty jurisdiction. These mechanisms uphold accountability and mitigate risks of arbitrary detention, enhancing the legitimacy of regulatory action.

Ensuring due process confirms that detention is lawful and proportionate, rather than punitive or oppressive.

4.5 Judicial Reinforcement of Regulatory Detention

Although Nigerian courts have not been as prolific in detention jurisprudence compared to some common law jurisdictions, the judiciary plays a central role in validating regulatory detentions and ensuring they do not exceed statutory authority. Judicial review of detention orders, for example, can determine whether regulatory detention was executed within the scope of enabling statutes.

Courts in other common law jurisdictions routinely enforce detention actions when they serve legitimate regulatory functions, such as enforcing international safety standards under IMO conventions and national maritime safety laws. While Nigerian cases are less reported, the principle remains universal: detention grounded in clear statutory authority and due process withstands judicial scrutiny.

5.0 DETENTION AS ABUSE OF POWER

While detention of vessels is a recognised regulatory tool in maritime law, it has in practice sometimes been criticized as an abuse of regulatory authority rather than a legitimate enforcement measure. Abuse of power in the context of vessel detention can take several forms, including arbitrary and prolonged detention, detention lacking statutory basis, overlapping agency jurisdiction, economic harm, and potential human

rights implications.

5.1 Arbitrary and Prolonged Detention

A common criticism of vessel detention arises where detention is applied without clear statutory basis or extended beyond what is necessary for regulatory compliance or remediation. Although port State control mechanisms embedded in the International Maritime Organization's (IMO) port State control regime permit detention for safety and environmental deficiencies, these powers must be exercised within clearly defined procedures to avoid arbitrariness. The IMO Procedures for Port State Control emphasise that inspection and detention procedures should be consistent and proportionate to actual deficiencies identified on board vessels.²²

Empirical research also documents that abuse of port State control may occur where shipowners perceive the detention regime as opaque or inconsistently applied, and that such perceptions undermine confidence in enforcement mechanisms rather than enhance safety outcomes. For instance, some shipowners have reported that limited redress or unclear administrative guidance during detention can escalate minor procedural breaches into long detention periods that are disproportionate to any actual risk posed by the vessel.²³

²² International Maritime Organization, “Procedures for Port State Control” (IMO, 2023), available online: Available at: [https://wwwcdn.imo.org/localresources/en/OurWork/IIIS/Documents/A%2033-Res.1185%20-%20PROCEDURES%20FOR%20PORT%20STATE%20CONTROL%2C%202023%28Secretariat%29.pdf](https://wwwcdn.imo.org/localresources/en/OurWork/IIIS/Documents/A%2033-Res.1185%20%20PROCEDURES%20FOR%20PORT%20STATE%20CONTROL%2C%202023%28Secretariat%29.pdf) accessed on 24th December, 2025.

²³ Emilia Lindroos, “Port State Control Impact on Shipowners” (Master’s Thesis, Theseus, 2019), Available at: <https://www.theseus.fi/bitstream/handle/10024/167658/Lindroos%20Emilia.pdf> Accessed on 24th December, 2025

5.2 Detention Without Statutory Authority

One of the most striking illustrations of detention as abuse of power is when enforcement agencies detain vessels without clear backing in law or exceed their statutory remit. In Nigeria, for example, there have been controversies over governmental action that arguably went beyond what the statutory maritime safety and Port State control regimes permit. Although the Nigerian Maritime Administration and Safety Agency (NIMASA) has authority to detain unsafe vessels under section 40 of the NIMASA Act and the Merchant Shipping Act, disputes have arisen when stakeholders allege that detentions were undertaken without proper procedural adherence or due process.²⁴

Procedural shortcomings and overlapping powers among agencies can fuel allegations of abuse. The absence of clear enforcement guidelines may result in a practice where vessel detention becomes a tool for exerting leverage, rather than a proportionate safety response.²⁵

5.3 Jurisdictional Overlap and Inter-agency Conflicts

Multiple agencies with detention powers can also create jurisdictional confusion that contributes to perceptions of abuse. In Nigeria, entities such as NIMASA, the Nigerian Ports Authority (NPA), and the Customs Service have overlapping responsibilities

²⁴ Ajumogobia & Okeke, “The Procedure For Arrest And Detention Of Ship Under Maritime Law In Nigeria,” (5 March 2024), Available at: <https://www.mondaq.com/nigeria/marine-shipping/1431576/the-procedure-for-arrest-and-detention-of-ship-under-maritime-law-in-nigeria>

<https://www.mondaq.com/nigeria/marine-shipping/1431576/the-procedure-for-arrest-and-detention-of-ship-under-maritime-law-in-nigeria>. Accessed on 24th December, 2025.

²⁵ Akabogu Law, “Avoiding Vessel Detention in Nigeria,” Available at: <https://akabogulaw.com/articles/avoiding-vessel-detention-in-nigeria/> <https://akabogulaw.com/articles/avoiding-vessel-detention-in-nigeria>. Accessed on 24th December, 2025.

related to vessel control, inspection, and detention.²⁶ When agencies act without clear coordination, a vessel may be detained by one authority for reasons that fall under another agency's statutory domain, resulting in extended detention and legal uncertainty.

For example, the NPA enjoys power to detain ships for non-payment of port dues that could otherwise fall under the remit of customs enforcement, creating friction and potential gaps in due process. The resulting uncertainty can prolong detention periods, amplify costs without advancing regulatory objectives, and effectively punish compliant stakeholders on flimsy grounds.

5.4 Economic Impact and Harm to Trade

Detention as abuse of power often manifests in economic harm inflicted on shipowners, charterers, and traders. Prolonged vessel detention can lead to loss of revenue, charter hire, and reputational damage. In regulatory scholarship, unjustified detention has been linked to adverse reputational effects and financial losses as shipowners suffer contract interruption and delayed delivery schedules.²⁷

In the Nigerian context, reported disputes involving vessels detained by NIMASA or blocked from accessing channels have at times drawn criticism for seemingly prioritising regulatory overreach over economic considerations. For example, governmental blockage of vessel movements related to commercial disagreements has been portrayed by industry observers as exceeding the legitimate remit of maritime safety regulation.

²⁶ Ibid.

²⁷ Emilia Lindroos, "Port State Control Impact on Shipowners" (Master's Thesis, Theseus, 2019), Available at: <https://www.theseus.fi/bitstream/handle/10024/167658/Lindroos%20Emilia.pdf> (https://www.theseus.fi/bitstream/handle/10024/167658/Lindroos%20Emilia.pdf) Accessed on 24th December, 2025.

5.5 Human Rights and Procedural Fairness

Abuse of detention powers also raises human rights concerns, particularly where vessel masters and crew are affected by extended detention without clear mechanisms for appeal. While international law recognises port State authority over foreign vessels that voluntarily enter ports, this power is not unlimited and must respect procedural fairness. Abuse can occur when crew and shipowners lack accessible avenues for independent review or judicial oversight of detention decisions.

In legal scholarship, analogous concerns have arisen in contexts where State enforcement actions at sea have risked infringing fundamental rights due to lack of procedural safeguards or proportionality. Although these discussions often arise in broader maritime enforcement contexts (such as migrant vessels or search and rescue operations), they reinforce the principle that enforcement must be balanced with respect for due process and human rights norms.

In summary, detention becomes susceptible to abuse where enforcement diverges from statutory authorization, due process is weak, and procedural transparency is lacking. This undermines the regulatory objectives of maritime safety and environmental protection by eroding stakeholder trust, discouraging compliance, and harming legitimate trade.

6.0 CONCLUSION AND RECOMMENDATIONS

6.1 Conclusion

The detention of vessels by government agencies occupies a critical but delicate balance in maritime governance. On the one hand, vessel detention is an essential regulatory tool that enables port States and maritime authorities to enforce safety, environmental, and security standards. Port State control regimes, supported by international frameworks such as the IMO's guidelines and conventions, offer structured mechanisms for detention when necessary.

On the other hand, the potential for abuse of detention powers through arbitrary application, jurisdictional overlap, prolonged confinement, and insufficient procedural safeguards—poses significant risks. Abuse not only affects shipowners and traders economically, but also challenges broader principles of due process and regulatory legitimacy, ultimately undermining compliance incentives.

6.2 Recommendations

To ensure that vessel detention remains a lawful, transparent, and justifiable regulatory instrument, the following recommendations are proposed:

1. Clarify and Harmonise Statutory Powers

Legislatures should ensure that maritime detention powers are clearly articulated in national statutes to eliminate ambiguity. In contexts like Nigeria, harmonisation of overlapping mandates among NIMASA, NPA, and other agencies would reduce conflicting detention practices. Clear statutory boundaries and enforcement guidelines will reduce discretionary overreach.

2. Strengthen Procedural Safeguards

Detention decisions must be accompanied by written reasons, notice provisions, and accessible appeal mechanisms. Agencies should develop internal review processes and allow stakeholders to seek judicial oversight without undue cost or delay. Procedural fairness ensures that detention is proportionate and defensible.

3. Enhance Transparency and Accountability

Regulatory authorities should publish detention statistics, rationales, and outcomes to foster transparency. International Port State control regimes already encourage documentation and reporting of detention cases; domestic adoption of similar practices enhances accountability and mitigates perceptions of abuse.

4. Promote Inter-agency Coordination

Formal frameworks for inter-agency coordination, including memoranda of understanding, help align enforcement objectives, reduce duplication, and avoid jurisdictional conflicts. By clarifying roles and collaborative enforcement protocols, authorities can uphold safety goals without unjustified detention.

5. Engage Stakeholders in Policy Development

Dialogue with shipowners, maritime lawyers, and industry associations ensures that detention procedures reflect operational realities and fair enforcement. Stakeholder engagement during rulemaking enhances legitimacy and compliance.



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