

Reviving Prize Law Would Reshape Maritime Seizure Risks

By **Sean Pribyl and Allison Luzwick** (July 14, 2026)

Recent U.S. maritime interdictions of sanctioned tankers and shadow fleet vessels raise urgent questions for the shipping industry about which legal framework governs these seizures — and what that means for vessel owners, charterers and insurers caught in the crossfire.

In April, the guided-missile destroyer USS Spruance fired on an Iranian-flagged vessel, the M/V Touska, in the Arabian Sea after the vessel reportedly defied a blockade, disabling it before U.S. military personnel boarded and seized the ship. Last month, U.S. forces confirmed that they attacked three Indian-managed vessels to enforce the blockade of Iran's seaborne trade. Since the U.S.' blockade began, forces have attacked at least nine vessels for alleged violations.

Despite the escalating military operations thus far, however, the government has reportedly continued to process vessel seizures through civil forfeiture procedures, the traditional peacetime framework. Yet this mechanism was never designed to adjudicate what are functionally military captures on the high seas.

This, together with the government's stated objective of enforcing the blockade and seizing vessels associated with the conflict when able, raises a key question: Will the U.S. invoke the Prize Act and the constitutional war powers that support it — and, if so, what would that shift mean for vessel owners, operators, charterers, cargo interests and their insurers entering a legal regime that has not been meaningfully tested since the Spanish-American War?

While the U.S. has yet to formally invoke prize law, recent operations suggest that a shift may be coming, and maritime stakeholders should take note. The April seizure of the Iranian-flagged cargo vessel is illustrative.

After attempting to run the declared blockade, the vessel was stopped by naval gunfire, boarded and taken into military custody. Analysts immediately characterized the vessel as a potential prize.

For example, in April, CNN reported that Jennifer Parker, a nonresident fellow at the Lowy Institute and a former Australian Navy officer, observed that the seizure raised questions about whether the vessel could be treated as a wartime prize under international law. In the same CNN article, another analyst and former U.S. Navy captain, Carl Schuster, noted the historical precedent for such characterizations in naval conflicts and characterized the vessel as potential "spoils of war."

As of April, U.S. Central Command reported that the vessel remained in U.S. custody, and no forfeiture proceedings have been initiated to date.

More recent operations push the envelope further. In June, U.S. forces fired Hellfire missiles into the engine room of one Indian-managed tanker and attacked two additional tankers in



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the same waters off Oman within a four-day span.

The Law Enforcement Model: Civil Forfeiture and Its Procedural Architecture

Under the prevailing and familiar model, maritime boardings, vessel detentions and seizures are law enforcement actions taken to enforce sanctions, export controls and smuggling prohibitions. Title 28 of the U.S. Code, Section 1355(b)(2), establishes U.S. district court jurisdiction over vessels outside U.S. territory in limited circumstances. Once seized, civil forfeiture proceedings are brought against the vessel pursuant to Title 18 of the U.S. Code, Section 981.

The seizure of a foreign-flag vessel in December 2025 illustrates this model — the motor tanker Skipper was seized on the high seas while carrying 1.8 million barrels of crude oil allegedly supplied by a state-owned oil company of Venezuela and benefiting the Islamic Revolutionary Guard Corps, a designated foreign terrorist organization.

Once seized, the U.S. Department of Justice filed an in rem complaint against both the vessel and the oil in the U.S. District Court for the District of Columbia, which is currently being challenged on jurisdictional grounds.

This model carries meaningful procedural safeguards familiar to maritime counsel. The Civil Asset Forfeiture Reform Act imposes notice deadlines, places the burden on the government to prove forfeitability by a preponderance of the evidence, and preserves an innocent-owner defense. The government proceeds as a civil litigant, must establish jurisdiction and a statutory nexus, and obtain a judgment of forfeiture. Ownership remains with the registered owner throughout proceedings and does not transfer until a final decree of forfeiture.

If U.S. Department of Defense personnel conduct the initial seizure, the vessel may remain in military custody for only 96 hours before transfer to civilian law enforcement. Third-party claimants, including charterers, lenders and cargo interests, may petition the court to assert liability claims. These claims remain in rem, are not barred by sovereign immunity, and preserve the claimant's ability to recover from vessel insurance or eventual sale proceeds.

For vessel owners and their counsel, these protections matter. The civil forfeiture model treats seizure as a law enforcement action governed by the Fifth Amendment's due process guarantees. The vessel owner retains constitutional rights, courts exercise supervisory authority over the property, and the government must satisfy burdens of proof and establish jurisdiction before obtaining forfeiture.

The Prize Framework: What Revival Would Mean

A historical alternative exists, however, in the form of prize law — a doctrine that most maritime professionals have never encountered in practice. Prize law is among the oldest bodies of international jurisprudence, rooted in European maritime practice dating to the era of fighting sail.

In the U.S., the ability to capture vessels as prizes during wartime is embedded directly into Article 1, Section 8 of the Constitution, linking the regulation of captures to Congress' broader war powers. During its early years, Congress exercised this power aggressively, enacting Prize Acts during the Quasi-War with France, the War of 1812 and the Civil War, which defined how captured property would be adjudicated and how the proceeds would be distributed among commanders, officers and crew.

The U.S. Supreme Court developed a substantial body of prize jurisprudence in the process, holding that presidential blockade authority did not require a formal declaration of war, recognizing the doctrine of "imperfect war" authorizing limited hostilities, and establishing that international law operates as a judicially enforceable constraint on the lawfulness of captures.

The Spanish-American War proved to be the last conflict to generate a substantial body of prize cases. The Prize Act was reorganized under Title 10 in 1956 without substantive change, but no prizes have been adjudicated under the reorganized statute, leaving the doctrine largely dormant for over a century even as its statutory and constitutional infrastructure remains fully intact.

Unlike civil forfeiture, which proceeds from domestic law enforcement authority and asks whether property is connected to a statutory violation, prize law operates on fundamentally different premises, with differences that matter for anyone with a stake in a seized vessel.

Prize law begins from the premise of belligerency: A vessel or cargo has been captured as enemy property, contraband, blockade-running property or property otherwise subject to capture under the law of war. Under prize law precedent, if a state of hostilities exists, even absent a formal declaration of war, the U.S. Navy may use force to capture belligerent vessels.

The legality of the capture and the passing of title are then adjudicated in prize courts — a U.S. district court designated for that purpose — under rules set by Congress and informed by international law. Once condemned, ownership transfers immediately to the capturing nation which then may appropriate the property for government use or sell it for proceeds deposited into the U.S. Treasury.

The Constitutional Reckoning: What Changes When the Framework Shifts

The choice of framework is not academic; It has real consequences for claimants. It determines which constitutional regime governs, which statutes apply, which tribunal sits, and what standards govern the capture and condemnation decision.

Congressional Authority and Separation of Powers

In 1871 in *The Siren*, and in 1903 in *U.S. v. Dewey*, the Supreme Court held that Congress' power over captures is plenary: No one can have any right or interest in any prize unless sanctioned by Congress, and captures in war inure to the government exclusively. Executive action under the prize framework must therefore derive from congressional authorization.

The prize cases of 1863 and the imperfect war doctrine, established by the Supreme Court in 1800 in *Bas v. Tingy*, confirm that a formal declaration of war is not required, but they presuppose some identifiable congressional authorization for the hostilities giving rise to the captures. Whether existing authorities satisfy that threshold remains an open question.

Due Process and Procedural Differences

Under the prize regime, several protections familiar under civil forfeiture disappear. The 96-hour military custody limitation no longer applies. Ownership transfers upon condemnation, rather than remaining with the vessel owner pending adjudication. And the vessel may be converted to government service before any court has ruled on the legality of the capture.

The government's burden shifts from probable cause under forfeiture statutes to demonstrating lawful capture under the law of war — a standard governed by international norms that federal courts must ascertain and apply.

International Law as Judicially Enforceable Constraint

Prize proceedings activate international law in a manner that civil forfeiture does not. This distinction may cut both ways for claimants. The Supreme Court has consistently applied international norms in prize cases.

Under prize law, customary international law renders the capture of neutral vessels lawful only in specific circumstances, principally when the neutral is carrying contraband or attempting to breach a blockade. The capturing power bears the burden of establishing those predicates before a prize court, potentially giving neutral vessel owners and cargo interests a meaningful defense.

Industry and Litigation Consequences

Vessel Owners, Charterers and Operators

Under the prize regime, a vessel owner's legal position is reduced from that of a claimant with due process rights to a party whose remedy is contesting the lawfulness of capture before the prize court. Standing difficulties already present in the forfeiture context, where counsel must demonstrate clear ownership of vessels that often operate without proper registrations, would be compounded by the prize regime's presumption that enemy property is subject to condemnation unless the claimant establishes neutral status.

Time charterers and bareboat charterers face additional uncertainty, as the prize framework does not clearly preserve the contractual interests that charterers hold under charter party agreements. Operators managing vessels on behalf of third-party owners may likewise find their positions unrecognized in prize proceedings.

Insurers and Cargo Interests

A shift to the prize regime would directly implicate war risk coverage, potentially triggering policy exclusions or conditions that do not apply under the civil forfeiture model. Protection and indemnity clubs, and hull and machinery underwriters, will need to evaluate whether current policy language adequately addresses seizures characterized as prize captures rather than law enforcement actions.

Cargo interests face heightened exposure: Cargo aboard a condemned prize may be treated as enemy property or contraband regardless of the shipper's neutral status unless the cargo owner can separately establish entitlement before the prize court. Recovery avenues against the government face significant barriers due to carveouts in existing recovery statutes for combat operations. The discretionary function exception doctrine, for example, bars recovery where the government's conduct involved policy-laden judgment.

Litigation Theories

If the government were to proceed under the Prize Act rather than the civil forfeiture framework, several potential avenues for challenge would arise. Constitutional challenges may contest the sufficiency of existing congressional authorization for prize proceedings in the absence of a declared war or conflict-specific authorization for use of military force.

Due process claims may argue that the elimination of forfeiture-model safeguards, particularly the retention of ownership pending adjudication, violates the Fifth Amendment as applied to property owners with no connection to hostilities. International law defenses may argue that specific captures violate international customary protections for neutral shipping or civilian property. And forum disputes may multiply as claimants challenge the designation of particular district courts as prize courts, contest the geographic scope of prize jurisdiction, and argue that the Prize Act's procedural requirements have not been satisfied.

Practical Considerations for Maritime Stakeholders

Maritime industry participants should consider reviewing charter party force majeure and war risk allocation provisions, confirming the scope and triggers of war risk insurance coverage, evaluating exposure for vessels trading in or near affected waters and monitoring governmental statements for signals that a shift to prize proceedings may be imminent.

Evaluating sanctions and the prize framework early can help stakeholders position themselves before the legal landscape shifts further.

Conclusion

In recent vessel seizures, the line between sanctions enforcement and wartime capture is becoming harder to ignore. Civil forfeiture keeps seizures in the familiar world of peacetime process; prize law moves them into a constitutional and international law framework built for wartime hostilities.

If the U.S. invokes the dormant but still operative prize-law framework, the consequences for the maritime industry would be substantial. Congress, prize courts, international law and war-risk exposure would all move to the center of the analysis. For vessel owners, charterers, operators, cargo interests and insurers, the takeaway is clear: Prize law may be old, but it is not obsolete — and the time to assess exposure under this framework is now.

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