# SUA CONVENTION 1988

### Article 3(1)

United States

United States of America v. Lei Shi, U.S. Court of Appeals for the IX Circuit, 24 April 2008

On March 14, 2002, the Full Means No. 2, a Taiwanese fishing vessel registered in the Republic of the Seychelles, was sailing in international waters off the coast of Hawaii. The Captain of the vessel was Taiwanese, while its 29 crewmembers, including Lei Shi, the ship’s cook, were mainland Chinese. According to Shi, the Captain and First Mate beat and harassed him repeatedly and, on this date, demoted Shi from the position of cook to deck hand, punctuating the decision with a beating that was particularly severe. A few hours later, Shi responded. He retrieved two large knives from the kitchen, ascended to the deck of the ship, and fatally stabbed both men.

According to the government, Shi then ordered the Second Mate to “drive the ship” and ordered the other crewmembers to throw the captain’s body overboard. Shi stated he would kill anyone who disobeyed him and refused to let his fellow crewmates use the radio. Shi retained control of the ship for two days, setting a course for China and threatening to scuttle the vessel if his instructions were not obeyed.

On March 16, 2002, the crew overpowered Shi and imprisoned him in a storage compartment on the ship. The crew then set a course for Hawaii.

On March 19, 2002, a Coast Guard cutter intercepted the ship approximately 60 miles from Hilo, Hawaii.

On March 21 at approximately 3:00 pm, FBI agents boarded the vessel and arrested Shi for violating 18 U.S.C. § 2280, which prohibits acts of violence that endanger maritime navigation.

The government filed an indictment charging Shi with several violations of § 2280, which proscribes certain acts of violence that endanger maritime navigation. The statute codifies the United States’ obligations under the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA), which authorizes any signatory state to extradite or prosecute offenders, regardless of where the offender’s acts occurred. Accordingly, § 2280 authorizes federal jurisdiction over any offender “later found” in the United States after a prohibited act is committed. 18 U.S.C. § 2280(b)(1)(C). In a published order, the district court concluded that it had jurisdiction under the statute. United States v. Shi, 396 F. Supp. 2d 1132 (D. Haw. 2003).

Shi initially pled guilty, but soon withdrew the plea, and the government filed a superseding indictment. The new indictment charged Shi with one count of seizing control over a ship by force, in violation of § 2280(a)(1)(A), and two counts of performing an act of violence likely to endanger the safety of the ship, in violation of § 2280(a)(1)(B). The indictment alleged that the acts charged in all three counts “resulted in death,” elevating the maximum statutory penalty for each from 20 years to life in prison. The jury convicted Shi on all counts, and the district court sentenced him to 36 years in prison.

Shi filed an appeal.

Held, by the U.S. Court of Appeals for the IX Circ., that:

[1] Section 2280 codifies the United States’ obligations under the Maritime Safety Convention to extradite or to prosecute those who commit acts of maritime violence. Section 2280 is an exercise of Congress’s constitutional authority to define and punish “Felonies on the high Seas” because it proscribes felony offenses and expressly applies to international waters.. In addition, §§ 2280(a)(1)(A) and (B), the provisions under which Shi was charged, proscribe offenses which meet the definition of piracy.

All three acts require the use of force. Section 2280(a)(1)(A) prohibits “seiz[ing] or exercis[ing] control over a ship by force or threat thereof,” and § 2280(a)(1)(B) prohibits “act[s] of violence against a person on board a ship” that are “likely to endanger the safe navigation of that ship.”