
WAVES OF PLUNDER: THE ECONOMIC IMPACTS AND LEGISLATIVE RESPONSES TO MARITIME PIRACY

Parvathi Rajagopal & Fatimath Musskan, School of Legal Studies, Cochin University of
Science and Technology

ABSTRACT

Despite the phenomenon of extensive globalization, the swift economic growth and closely-knit international trade, which has effectively transformed the world into a unified marketplace, it is pertinent to note that maritime piracy is getting infectious in the global economy. From legendary attacks like Henry Avery's sacking of the Ganj-i-Sawai to modern incidents such as the hijacking of the MV Ruen, Maritime piracy continues to pose a formidable challenge to international trade, resulting in significant disruptions to supply chains, escalating insurance premiums, and considerable economic instability in regions affected by these criminal activities. Studies show a sharp decline in exports along piracy-affected shipping lanes, directly correlating with increased pirate incidents, despite seemingly minor financial repercussions of individual attacks. The majority of piracy incidents are concentrated in critical areas such as the Somalia, the Indian Ocean, the Gulf of Guinea, and Southeast Asia, where weak governance, economic difficulties, and adaptation to novel criminal tactics contribute to the prevalence of piracy. Given that the majority of global trade is relying on maritime routes, piracy not only jeopardizes the safety of cargo and crew but also imposes a huge economic toll. This paper delves into the historical development, primary factors, economic ramifications, and legal frameworks associated with maritime piracy. It evaluates international legal instruments, including the UNCLOS and the Convention for the SUA, analyzing their effectiveness in addressing piracy. Furthermore, the study emphasizes India's pivotal role in maritime security through its naval initiatives and legislative measures, such as the Maritime Anti-Piracy Act 2022. The results underscore the pressing necessity for improved law enforcement, enhanced international cooperation, and sustainable economic strategies to address the enduring challenges posed by piracy and to safeguard the stability of global trade.

INTRODUCTION

Astonishing the entire humanity, 18 April 2010 marked the pinnacle in the history of modern piracy with the nerve breaking incident of hijacking FV Prantalay-12 from about 1900km east of Somalia. The Taiwan-flagged commercial fishing vessel has been kept captive and used as the mother ship by the Somali pirates till its collapse in July 2011. Among the 24 captives, six died due to ill-health and 14 crewmen from Myanmar were released through negotiations and repatriated by the UNODC Hostage Support Programme in May 2011. The remaining four Thai crewmembers, held in hostage for almost five years, were released on 25 February 2015, costing an undisclosed sum allegedly paid as ransom. The release of the four Thai fishermen was achieved through international and private collaboration, with Key support came from the UNODC Hostage Support Programme, funded by *Oceans Beyond Piracy*, which provided medical aid and food. The rescue mission was financed by the Trust Fund of the Contact Group on Piracy off the Coast of Somalia. Pro bono assistance came from London-based law firm Holman Fenwick Willan, negotiators Compass Risk Management, and a private charity facilitated negotiations, showcasing the importance of coordinated efforts and funding in addressing piracy-related humanitarian crises. Moreover, Ninety percent of the world's international trade is carried out by sea. The global maritime community has a particular interest in the protection of maritime traffic from the dangers of the sea, the risk of pirate attacks on merchant ships has always existed and in the last two decades there has been an unprecedented increase in these attacks. The widespread large-scale piracy attacks along the Somali Coast during 2007 to 2011 together with expanding threats across West African and Southeast Asian and Straits of Malacca waterways have sparked immediate action by maritime companies as well as International Organizations to combat piracy. Pirates practice sophisticated criminal operations combining GPS devices with sonar systems and rapid speedboats with modern weaponry which they use to adopt hostage ransom as their main activity and build well-connected crime networks. Managing piracy within maritime areas become difficult due to unclear points within International Maritime law coordinated naval operations can't fully solve the problem. This paper evaluates impact of piracy on worldwide trade operations and solutions to combat these security threats.

Maritime Law: An Overview

Maritime law, also known as admiralty law, governs navigation and shipping activities,

encompassing both inland and oceanic waters. It comprises a comprehensive set of laws, regulations, legal principles, and procedures that pertain to the utilization of marine resources, maritime trade, and navigation. The origins of maritime law can be traced back to the practical requirements of Mediterranean nations engaged in maritime trade, dating as far back as 900 B.C. These nations sought legal frameworks that were not applicable on land. Additionally, the practices of ancient Egyptians, Phoenicians, and Greeks significantly contributed to the formation and evolution of maritime law. Currently, it is regulated by a range of international conventions and agreements, with the United Nations Convention on the Law of the Sea (UNCLOS) being the most significant.

Maritime law covers:

- **Shipping Regulations:** they consist of a framework of guidelines and standards that oversee the transportation of goods via sea, air, or land. These regulations are established to safeguard individuals, preserve the environment, and promote international commerce.
- **Jurisdiction and Dispute Resolution:** The selection of an arbitration forum typically involves negotiation between the involved parties. Agreement on jurisdiction is a vital component of maritime law. Factors such as the intricacy of the legal matters, the parties' preferences, and the specific regulations pertaining to the dispute all play a significant role.
- **Protection of Marine Resources:** The objective of modern marine environmental conservation is to protect marine ecosystems and resources, reduce marine pollution and damage, and promote sustainable use of marine resources.

MARITIME PIRACY AND SECURITY

The phenomenon of piracy was closely associated with maritime trade, as seafaring civilizations such as the Phoenicians, Greeks, Romans, and Carthaginians participated in both commerce and acts of piracy. During the Middle Ages, significant pirate factions emerged, notably the Vikings from the north and the Moors from the south. In the aftermath of wars in Europe, many sailors found themselves unemployed and turned to piracy. Privateers, which were civilian vessels armed and sanctioned to attack enemy ships, created ambiguity between

legitimate military actions and piracy, particularly evident in the conflicts between England and Spain during the late 16th century. This era, primarily located in the Caribbean and American colonies, was marked by notorious pirates such as Blackbeard, Captain Kidd, and Jean-François Duclerc. The romanticized portrayal of pirate culture in literature later led to its examination as a radical social movement. During the early 19th century American, British and French military forces suppressed piracy controlling North African regions of Morocco, Algiers, Tunis and Tripoli after the Ottomans lost their power in those areas. Piracy evolved during the late 20th century to become ship and aircraft hijacking so the hijacking of Achille Lauro demonstrated this shift and the events of September 11 showed how piracy intersects with terrorism. Pirate activities reemerged throughout the late 1900s to early 2000s in East African Somalia waters while organized crime groups used local authorities for support in Southeast Asia.

During the early years of the 21st century piracy experienced explosive growth at the exact moment when modern technology reached its full potential. Maritime piracy exists as a worldwide concern which impacts countries around the globe. Pirates mainly operate around vital maritime trade paths thus creating major barriers to international commercial operations. Financial benefit stands as one of the main causes which lead pirates to launch their attacks.

However, political agendas and black market interests also play a crucial role. In contemporary discussions, maritime experts identify several key regions of heightened pirate activity, referred to as hot spots which includes The Gulf of Guinea, the Red Sea, Somalia, the Horn of Africa, the Gulf of Aden; South and Central America, along with the Caribbean; the coastline of the Gulf of Mexico and the Indian Ocean, the Indian subcontinent and Southeast Asia, including Indonesia, Bangladesh, Malaysia, the Malay Strait, the South China Sea, and the Singapore Strait.

KEY DRIVERS BEHIND THE RISE OF PIRACY

Maritime piracy poses a significant risk to the safety of cargo, vessels, and crews, leading to substantial financial losses for stakeholders. Annual economic losses caused by piracy amount to around \$25 billion according to International Maritime Bureau estimates. These costs mainly originate from stolen property value and ransom payments and insurance premium costs. Global trade running through maritime routes maintains more than 90% of its worldwide operations yet piracy attacks decrease bilateral trade volume by 1.5% for each ten recorded

incidents. Pirates conducted 195 attacks whereas 229 incidents and 135 crew abductions took place in 2020 which resulted in injuries to over 100 hostages according to statistics from 2020. In Western Africa piracy reached its peak while South China Sea recorded more incidents than Malacca Strait and Arabian Sea together with the Indian coast. Piracy incidents on major trade routes cause a 2.3% export decrease in European routes since ships experience twenty-six attacks on average every month. Regarding pirate attacks Chinese corporations adjust their shipment dimensions by expanding their shipments because of the multiple pirate incidents which show how piracy shapes trade operations. To prevent and minimize piracy attacks the maritime industry together with international trade needs to create preventive strategies which require a comprehensive analysis of both pirate factors and predictive assessment of risks.

1. Loss of livelihood of fishermen

Achieving an annual cost projection of \$16 billion for maritime piracy includes expenses dedicated to both ransom payments and theft alongside security costs which indicate Somali pirates obtained \$340 million through ransom activities from 2005 to 2015. Pirates operating in Indonesia take home a substantial amount of financial gain from each operation ranging from \$900 to \$4,000 due to the limited job prospects in the region. Fishermen engage in piracy because of economic misfortunes they undergo because of illegal foreign fishing and overfishing and environmental degradation and climate change reduce fish supplies and ruin coastal populations. The problems driving small-scale fishers into deep poverty drive approximately 20% of them to survive on \$1 or less in a day thereby making them susceptible to joining pirate groups because of their maritime abilities.

2. Fragile states

Piracy incidents throughout 758 geographical areas reached 3,221 during the period spanning from 2005 to 2014 as per recorded data. Nearly 50% of global illegal transactions take place in fragile states, where criminal organizations can severely weaken governmental authority. The instability and potential disintegration of these states are often seen as contributing factors to the rise of piracy, as the lack of effective security forces allows pirates to operate with impunity, sometimes positioning themselves as de facto authorities in regions lacking maritime law enforcement.

3. Large-scale trade through Oceans

Global trade heavily depends on maritime transport, with approximately 80-90% of goods moved via sea routes, which include critical passages such as the Strait of Malacca, the Suez Canal, and the Panama Canal. The economic advantages of maritime transportation have increased the sector's vulnerability to crimes like piracy and armed robbery, particularly in areas such as the Gulf of Aden, Gulf of Guinea, and Southeast Asia. The locations known as hotspots create hazards for seafarers while causing considerable financial loss. The threat of armed robbery primarily affects smaller maritime vessels although human trafficking and smuggling and illegal fishing operations take advantage of unprotected maritime regions.

Balanced maritime law enforcement together with corruption and additional factors create an environment where piracy can flourish without major consequences. The fight against piracy faces persistent challenges to global maritime security because political turmoil and insufficient international collaboration exists alongside each other.

IMPACT OF PIRACY ON GLOBAL ECONOMY

The Piracy Reporting Centre of the International Maritime Bureau undertakes active piracy incident tracking together with the International Maritime Organization. The increasing occurrences of piracy have negatively influenced worldwide economic operations and maritime transportation specifically targeting navigation areas in East Africa along with the Gulf of Guinea and parts of Asia. The dangerous piracy incidents occurring particularly in Somalia and Gulf of Guinea regions resulted in severe operational interruptions that caused substantial economic damage. The disruption offers negative consequences for transportation systems and trade processes and it affects the economic development of fisheries sectors and energy production operations which in turn threatens both coastal and landlocked economies in the affected regions.

➤ *Global Piracy Statistics (2003–2013):*

Various piracy statistics emerge from the reporting activities of the International Maritime Bureau Piracy Reporting Centre and International Maritime Organization. Records indicate that 3,436 piracy incidents occurred worldwide from 2003 until 2012. The highest recorded piracy incidents reached 249 in 2010 while the numbers dropped to 202 in 2012. Thousands of seafarers have been taken hostage, with others injured or killed. Reports indicate that between

2005 and 2012, piracy resulted in 61 fatalities and 5,420 individuals taken hostage across 279 hijacked vessels. In 2013, piracy incidents continued to decline, with only 188 incidents reported in the first nine months, marking the third-lowest total since 2006. However, there had been 140 actual attacks, including ten hijackings, 266 crew members taken hostage, 34 kidnappings, 20 injuries, and one fatality in the month of September alone. While there was a general decrease in East African waters, incidents surged in other regions, particularly in Asia waters and the Gulf of Guinea since 2010. In 2012, East Africa saw 26 attacks, the Gulf of Guinea 55, and Asia 130. By the first three quarters of 2013, the Gulf of Guinea alone reported 43 incidents, including seven hijackings and the abduction of 132 crew members. By September 2013, there were six hijacked tankers and one offshore supply vessel. This trend is concerning, particularly in regions facing issues like oil cargo theft. Tankers, containerships, and bulk carriers are highly vulnerable due to their economic significance and role in global trade.

➤ ***Economic Costs of Piracy:***

Piracy activities have substantial economic impact on the world economy. OEF Foundation calculated the Somali piracy cost at a minimum value of \$7 billion and maximum value of \$12 billion for 2010 maritime operations in this region. The financial strain of piracy remained substantial even though total losses decreased in the following years. The 2012 piracy incidents triggered an average monetary loss of US\$82.7 million that stood as a triple figure increase from 2011 even while piracy incidents decreased by 70 percent. According to World Bank calculations piracy operations near the Somali coast cost the global economy about US\$18 billion in 2013. The Gulf of Guinea piracy sector generated economic losses between US\$740 million and US\$950 million for West Africa during 2012 according to OEF data showing the necessity to evaluate both government expenses and shipping losses together with foreign investment decline and commodity price elevation to grasp excessive economic pressure.

➤ ***Ransom Payments and Their Economic Impact:***

A defining feature of Somali piracy has been the 'hijack-for-ransom' model. Captured vessels, along with their crews and passengers, are often held for extended periods to secure substantial ransom payments. Between 2005 and 2012, pirates received ransoms ranging from US\$339 million to US\$413 million. The ransom amounts escalated over time, peaking at US\$176 million in 2010 before declining to US\$31.75 million in 2012. One of the notable cases include

the Samho Dream tanker, which was released for US\$9.5 million in 2010, and the Irene SL, which commanded a ransom of US\$13.5 million in 2011. The actual costs associated with hijackings far exceed the ransom itself due to extended captivity periods, negotiation costs, and expenses related to the release of vessels. In total, these ransom-related costs have been estimated at around US\$830 million, factoring in additional expenses for ship repairs, crew healthcare, and delivery of ransom payments. These payments serve as a financial incentive for pirates and represent the primary source of funding for their operations. The proceeds from ransoms contribute to criminal networks, foster corrupt practices, and further aids in eroding the rule of law.

➤ ***Maritime Insurance and Security Costs:***

The increase in maritime insurance costs because of piracy has hit vessels that cross high-risk maritime locations especially hard especially those traveling through the Gulf of Aden. The insurance requirements for these ships comprise War Risk Insurance together with Kidnap and Ransom Insurance and Cargo and Hull Insurance. War Risk Insurance premiums soared to US\$150,000 per voyage by 2010 and Kidnap and Ransom Insurance premiums increased tenfold since they added vessel and cargo coverage to their standards. Additionally, Cargo and Hull insurance premiums saw significant hikes, with Cargo insurance premium escalating from \$25 to \$100 along with a doubling in the Hull insurance premium. Efforts to mitigate piracy risks, such as rerouting ships or employing armed security personnel, have led to further economic costs. For instance, the attempts made by companies like A.P. Moller-Maersk to escape piracy-risks by diverting from the conventional Suez canal sea-lane & rerouting via the Cape of Good Hope, has doubles transport time. Furthermore, this rerouting ended up in costing the shipping industry an estimated \$2.3 to \$3 billion annually, for rerouting even 33% of cargo through the Cape could cost shipowners an additional \$7.5 billion per year. The expansion of piracy into the Indian Ocean added another US\$290.5 million in rerouting costs.

➤ ***Investments in Anti-Piracy Measures:***

To combat piracy, investments in deterrent measures have increased significantly. In 2012, the cost of anti-piracy measures, including private security personnel, rose to between US\$1.65 billion and US\$2.06 billion. Additionally, shipowners have had to pay higher hazard pay to crew members operating in high-risk piracy zones, which led to an increase in crew compensation from US\$195.1 million in 2011 to US\$471.6 million in 2012. Anti-piracy naval

operations were also costly, with governments allocating funds up to US\$1.09 billion by 2012, while prosecution costs reached US\$14.89 million. This period even though saw a 24% reduction in prosecution costs, the expenses related to imprisonment rose by 26.7% due to longer sentencing durations. Additionally, organisations such as the UN and various NGOs contributed approximately \$24.08 million in 2012 to bolster anti-piracy initiatives, further increasing the economic costs of maritime piracy.

➤ ***Secondary Economic Effects of Piracy:***

Beyond the direct costs, piracy also causes significant secondary economic impacts, such as disruptions in regional trade, inflation in food prices, and declines in foreign revenue. Increased shipping risks and insurance premiums raise transportation costs, affecting the competitiveness of regional trade. In areas heavily reliant on imports and exports, such as food, piracy-related delays and rerouting exacerbate food price inflation, particularly in poorer regions. Furthermore, piracy deters foreign investment and tourism, leading to substantial economic losses for affected countries. For example, Egypt saw an estimated loss of US\$642 million annually due to reduced traffic through the Suez Canal. Ships held captive faced considerable expenses, averaging \$3 million for two months of captivity for cargo ships and \$3.15 million for six months for bulk carriers, thus to avoid pirate encounters, ships began traveling at speeds exceeding optimal levels but this in turn resulted in incurring additional costs of \$1.53 billion in 2012.

Piracy continues to pose a significant threat to global trade and economic stability, with both direct and indirect costs that extend far beyond the immediate impacts on shipping and cargo.

COMBATING PIRACY

Piracy and International waters has been causing a lot of concern it has a growing impact on International Security, trade shipping and ofcourse on seafarers life attacks have continued despite patrols and protection by Foreign navies off The Horn of Africa Monsoon rains have mitigated the attacks but there are fears they will start to pick up again piracy is a global threat which needs a robust and effective global action. This is mainly due to the popular Roman notion of considering pirates as *hostis humani generis* – enemies of all mankind from the past onwards. This Universal jurisdiction, however, is only applicable to allegations on piracy or

robbery at sea, not to other associated crimes, like hostage & other act on sea.¹ In the case of *United States v. Smith*², the court, by approving the above definition and upholding the views of various jurists, declared that Piracy is *animo furandi*, ie, robbery, or forcible depredations upon the sea. The primary international agreement addressing piracy control is the United Nations Convention on the Law of the Sea (UNCLOS) established in 1982. Ratified by 162 UN member states, the convention defines piracy as “any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft... on the high seas against another ship or aircraft.”³

Various international organizations, such as the United Nations Security Council (UNSC), the General Assembly, NATO, and the International Maritime Organization (IMO), along with regional entities like the European Union (EU) and the African Union (AU), have been actively involved in tackling this serious issue. They have implemented a range of strong measures aimed at combating piracy. The UNSC has urged Member States to criminalize piracy within their national legislation and to seriously consider the prosecution and incarceration of individuals suspected of piracy. “The General Assembly also urges States to actively combat piracy in cooperation with the IMO by adopting measures to bring the alleged perpetrators to justice.”⁴

1. Modern Piracy Threat

Pirate activities are primarily concentrated in four key regions: the Gulf of Aden, adjacent to Somalia and the southern access to the Red Sea; the Gulf of Guinea, close to Nigeria and the Niger River delta; the Malacca Strait, situated between Indonesia and Malaysia; and the waters off the Indian subcontinent, especially between India and Sri Lanka.

“Somali pirates have moved into the areas of Indian Ocean, Maldives, Kenya, Madagascar as per the report of IMB 2011.”⁵ The International Maritime Security Construct is a coalition task force SENTINEL (CTF SENTINEL).

¹ *Rex v. Dawson*, (1695) 13 St. Tr. 451 (Eng.).

² *United States v. Smith*, 18 U.S. (5 Wheat.) 153 (1820).

³ United Nations Convention on the Law of the Sea art. 101, Dec. 10, 1982, 1833 U.N.T.S. 397.

⁴ Maritime Piracy and Security, Bimal N. Patel

⁵ COUNCIL ON FOREIGN RELATIONS, <https://www.cfr.org/background/combating-maritime-piracy>. (last visited Dec 13, 2024)

a) Combined Task Force 153 (CTF 153)

It mainly focuses on maritime security and capacity in the Red Sea, Bab Al Mandab, and Gulf of Aden.

b) Operation Prosperity Guardian

Established in December 2023, the United States initiated this response to counter Houthi-led assaults on maritime activities in the Red Sea.

c) Combined Maritime Forces

A-46 nation naval partnership

2. Regional Cooperation

It is essential in fighting maritime piracy especially in Africa and Southeast Asia

a) Djibouti code of conduct: The document is commonly referred to as the Code of Conduct regarding the Suppression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden. It was officially adopted on January 29, 2009, and was created under the auspices of the International Maritime Organization (IMO).

b) The blue economy is a pivotal aspect of the Jeddah Amendment, emphasizing the sustainable utilization of ocean resources to drive economic growth, enhance livelihoods, create jobs, and maintain the health of marine ecosystems. India is committed to advancing the blue economy through its engagement with the Indian Ocean Rim Association, and the DCOC may represent a further step in this endeavor.

Regarding India-China relations, China's territorial assertions in the South China Sea and East China Sea, along with its aggressive expansion into the Indian Ocean via initiatives such as the String of Pearls and the Belt and Road Initiative, present potential challenges for India. Additionally, China's military base modernization in Djibouti raises further concerns.

3. ReCAAP

The inaugural Government-to-Government structure of ReCAAP enables Asia to

address piracy alongside armed robbery at sea across the region. The agreement was established in November 2006 with participation of 14 Asian contracting parties who operate from North through Southeast Asia up to South Asia. ReCAAP started in November 2006 with 14 Asian contracting nations including North Asian countries and is now supported by 20 total members that add European nations such as Norway, the Netherlands, Denmark, and the United Kingdom and Australia and the United States. The ReCAAP agreement builds its cooperation structure from three essential components that include information sharing together with capacity building and mutual legal assistance.

4. Private Sector Involvement

The private sector plays a significant role in counter-piracy initiatives. It has proven its effectiveness in combating maritime piracy by implementing Best Management Practices, collaborating with law enforcement and military forces, deploying private security teams, and developing operational guidelines for these teams. Such advancements have been vital in the ongoing battle against piracy. However, these efforts face limitations.

INTERNATIONAL LEGAL PROVISIONS ON PIRACY

1. United Nations Convention on the Law of the Sea (UNCLOS), 1982:

UN Convention on the Law Of the Sea, which came into force in 1982 after the Conference, at Montego Bay, Jamaica, primarily focuses on combating acts of Piracy on High seas. UNCLOS enforces a Duty upon the member states to cooperate in the repression of piracy, by stating that “All States shall cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State”⁶. It provides for a wide range of powers to all the nations states so that acts of piracy can be effectively carved out of the oceans. For this the convention defines piracy to include a vast variety of criminal acts, as follows:

(a) any illegal acts of violence or detention, or any act of depredation, committed for private

⁶ United Nations Convention on the Law of the Sea art. 100, Dec. 10, 1982, 1833 U.N.T.S. 397.

ends by the crew or the passengers of a private ship or a private aircraft, and directed:

- (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
- (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
- (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
- (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).⁷

The definition characterizes piracy as violent acts, unlawful detention, or theft conducted for personal profit by the crew or passengers of a private ship or aircraft, aimed at other vessels, aircraft, or individuals in international waters or regions beyond any nation's authority. It further encompasses the wilful participation in the operation of a vessel or aircraft recognized as a pirate entity, as well as behaviours that provoke or deliberately support such actions. This thorough definition establishes responsibility for both direct and indirect participation in piracy. Article 110⁸, inter alia, allows States to exercise a right of visit those ships suspected of being engaged in acts of piracy. Every State has the authority to confiscate a pirate ship or aircraft, as well as any vessel or aircraft that has been hijacked and is currently under the control of pirates, based on the satisfaction of the relevant facts. In such instances, the State may detain individuals involved and seize any property found on board. The judicial system of the State that executed the seizure is responsible for determining the appropriate penalties and deciding the course of action concerning the seized property, considering the rights of third parties acting with bona fide intentions.⁹ Even though, the acts of piracy, as defined in article 101, is committed by a warship, government ship or government aircraft whose crew has been mutinied and taken control of the ship or aircraft, such acts can be assimilated to acts of piracy committed by private parties¹⁰. These provisions undoubtedly confers huge powers upon the member states to deal with acts of piracy, enabling them to be suppressed effectively.

⁷ United Nations Convention on the Law of the Sea art. 101, Dec. 10, 1982, 1833 U.N.T.S. 397.

⁸ United Nations Convention on the Law of the Sea art. 110, Dec. 10, 1982, 1833 U.N.T.S. 397.

⁹ United Nations Convention on the Law of the Sea art. 105, Dec. 10, 1982, 1833 U.N.T.S. 397.

¹⁰ United Nations Convention on the Law of the Sea art. 102, Dec. 10, 1982, 1833 U.N.T.S. 397.

But there is a legal lacuna in the provisions of UNCLOS, as evident from article.58(2)¹¹, which states that “Articles 88 to 115 and other pertinent rules of international law apply to the exclusive economic zone in so far as they are not incompatible with this Part”. Which means that the powers conferred by these provisions can be only exercised with respect to those acts of crime taking place solely in high sea areas and not otherwise. Hence those illegal acts taking place anywhere within the territorial waters or within the territories of any states, whether member state or not, does not fall under the ambit of this convention. Also, those illegal acts cannot be even termed as piracy since they are outside the scope of art.101 of the convention. However, apart from this the Convention on law of the seas have been very effective in combating acts of piracy to a very larger extend worldwide.

2. Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA), 1988:

The lacunas found in UNCLOS has urged for the adoption of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA) in March 1988 at a conference held in Rome. This multilateral treaty mainly speaks about the ways to suppress acts maritime piracy both in high seas and in territorial waters. The Convention describes a "ship" as any kind of vessel that isn't permanently in contact with the sea-bed, including everything from dynamically supported crafts and submarines to all other types of floating vehicles¹², excluding warships and government ships used for policing and other non-commercial activities¹³. Thus SUA convention covers the acts of piracy committed in any ship in navigation, comprising piracy in both high seas and territorial waters. The definition for piracy is given under article 3¹⁴ of the convention. Article 3(1) outlines a range of criminal offenses, which include the unlawful and intentional takeover of a vessel through the use of force, threats, or intimidation; perpetrating acts of violence against individuals on board a ship that compromise its safe operation; causing destruction or damage to a vessel or its cargo in a manner that threatens its navigational safety; placing harmful devices or substances on a ship that could lead to damage or destruction, thereby endangering its safe navigation; interfering

¹¹ United Nations Convention on the Law of the Sea art. 58(2), Dec. 10, 1982, 1833 U.N.T.S. 397.

¹² Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, art. 1, Mar. 10, 1988, 1678 U.N.T.S. 221.

¹³ Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, art. 2, Mar. 10, 1988, 1678 U.N.T.S. 221.

¹⁴ Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, art. 3, Mar. 10, 1988, 1678 U.N.T.S. 221.

with maritime navigation infrastructure that poses risks to safe navigation; disseminating false information that endangers a ship's safety; and causing injury or death in relation to these offenses. According to Article 3(2) it is illegal to strive toward executing these acts or to help others carry them out. The convention mandates that if a State Party determines that the circumstances justify any of the mentioned acts in art.3 has actually being taking place or had taken place, the state must, in accordance with its laws, detain the offender or take other steps to ensure their presence for the duration required to initiate criminal or extradition proceedings¹⁵. Also, article 5¹⁶ empowers each State Party shall make the offences set forth in article 3 punishable by appropriate penalties which take into account the grave nature of those offences. Article 10(1)¹⁷ of the convention stipulates that if the State Party housing the offender or alleged offender opts against extradition, it is required to swiftly submit the case to its appropriate authorities for prosecution, irrespective of the location of the offense. These authorities are to manage the case in accordance with the procedures applicable to any other serious crime under the laws of the state. Thus, accordingly, the convention delegates the nation states with enormous powers to combat acts of piracy and at the same time rectifies the vacuum created by previous legislations.

INDIA'S ROLE IN COMBATING MARITIME PIRACY

The Indian Navy has been instrumental in addressing maritime piracy in the Indian Ocean Region (IOR). Frequently, it has acted as the initial responder to attacks on commercial ships. For example, on December 14, 2023, Somali pirates hijacked a commercial vessel named MV RUEN, holding it captive in the Puntland region of Somalia. "The anti-piracy operation occurred 260 nautical miles east of Somalia and 1,400 nautical miles from the Indian coastline. During this mission, elite commandos from the Indian Navy, known as MARCOS PRAHARS, were air-dropped by a C-17 aircraft, successfully rescuing the crew and apprehending 35 pirates."¹⁸

¹⁵ Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, art. 7(1), Mar. 10, 1988, 1678 U.N.T.S. 221.

¹⁶ Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, art. 5, Mar. 10, 1988, 1678 U.N.T.S. 221.

¹⁷ Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, art. 10(1), Mar. 10, 1988, 1678 U.N.T.S. 221.

¹⁸ HELLENICS SHIPPING NEWS, <https://www.hellenicshippingnews.com/indias-evolution-in-preventing-and-combatting-maritime-piracy-at-high-seas/> (last visited Dec 14, 2024)

In recent years, India has made significant strides in enhancing its maritime strategy. Aiming to establish itself as a global maritime powerhouse, India has rolled out the Maritime India Vision 2030, which lays out a promising plan for swift growth in the maritime arena over the next decade. On top of that, the Indian Navy is fully committed towards complete self-reliance (Atmanirbhar) by the time we celebrate centenary of Indian independence in 2047. The launch of the country's first National Maritime Security Coordinator (NMSC) in February 2022 is a clear sign of India's dedication to strengthening its presence in the marine world.

The Indian government has launched several initiatives aimed at fostering the development of the maritime sector and enhancing Maritime Domain Awareness. “Among these is the Indo-Pacific Oceans Initiative (IPOI), which builds upon India's vision of "Security and Growth for All in the Region" (SAGAR).”¹⁹

Additionally, India has adopted a comprehensive maritime cooperation strategy that not only focuses on maritime safety and security but also emphasizes the conservation and sustainable use of marine resources. The Information Fusion Centre for the Indian Ocean Region (IFC-IOR) was established in december 2018, to facilitate the sharing of information related to piracy, illegal fishing, drug trafficking, maritime terrorism, and environmental threats, with particular attention to the Gulf of Aden.

The Maritime Anti-Piracy Act enacted by the Government of India in 2022, in par with the international legislations, empowers the government authorities to actively suppress the act of piracy in the high seas. For this purpose, Sec.2(1)(h) of the act defines piracy as “(i) any illegal act of violence or detention or any act of depredation committed for private ends by any person or by the crew or any passenger of a private ship and directed on the high seas against another ship or any person or property on board such ship;(ii) any act of voluntary participation in the operation of a ship with knowledge of facts, making it a pirate ship;(iii) any act of inciting or of intentionally facilitating an act described in sub-clause (i) or sub-clause (ii); or(iv) any act which is deemed piratical under the international law including customary international law”.²⁰ Section 3²¹ of the act specifies the penalties associated with acts of piracy, indicating that the government can make individuals found guilty subjected to imprisonment for a term of up to

¹⁹ MARITIME INDIA, <https://maritimeindia.org/revisiting-sagar-indias-template-for-cooperation-in-the-indian-ocean-region/> (last visited Dec 14, 2024)

²⁰ The Maritime Anti-Piracy Act, 2022, § 2(1)(h).

²¹ The Maritime Anti-Piracy Act, 2022, § 3.

life, monetary fines, or a combination of both. In cases where piracy leads to a fatality or an attempt to kill, the perpetrator could face the death penalty or life imprisonment. Furthermore, beyond these severe consequences, the offender may also be mandated to provide restitution or forfeit any assets that were utilized in the execution of the crime. Also, the act under article 4²² provides that individuals who attempt to commit piracy, aid, abet, conspire, or procure the commission of such an offense with imprisonment for up to ten years, a fine, or both and under article 5²³ imposes a penalty on those who organize, direct, or participate in an act of piracy, with imprisonment for up to fourteen years, a fine, or both. Article 7²⁴ empowers that authorized government personnel may board a ship on the high seas if there is suspicion that it is involved in piracy, arrest those aboard, and seize the pirate ship and its property. Any seized ship or property may only be disposed of by a court order. With these provisions the Government machineries are empowered to take appropriate steps to prevent acts of piracy both in high seas and in territorial waters of the nations.

One of India's most significant efforts to tackle regional piracy is evident in its coordinated operations and regional initiatives aimed at creating a cohesive response. Since January 2024, the Indian Navy kept a close eye on the movements of the MV Ruen, a vessel that pirates used to carry out attacks in the Indian Ocean Region. This ship was ultimately recaptured in mid-March by the INS Kolkata. Additionally, there were other noteworthy rescue missions, such as the successful retrieval of 21 crew members from the Liberian-flagged bulk carrier MV Lila Norfolk in the North Arabian Sea.

The revival of maritime piracy, particularly in the Indian Ocean and the Gulf of Aden, poses significant threats to global maritime security, trade and economic stability. Piracy rates have increased because security forces have changed priorities simultaneously with changing climates and economic issues in relevant nations. The current lack of intervention may lead to an exponential increase of piracy occurrences. As a response India created a comprehensive maritime strategy which both improves its naval power and works toward united efforts across the region. The Indian Navy carries out proactive naval missions through Operation Sankalp and vessel hijacking recovery programs to show their dedication for regional water security. The MAP Act of 2022 has become a key legislative tool for India to enhance its existing legal

²² The Maritime Anti-Piracy Act, 2022, § 4

²³ The Maritime Anti-Piracy Act, 2022, § 5

²⁴ The Maritime Anti-Piracy Act, 2022, § 7

framework when dealing with piracy events. The Indo-Pacific Oceans Initiative initiative alongside maritime domain awareness promotion drills India into being a vital component for global maritime stability as well as regional maritime security.

CONCLUSION

The establishment of maritime law provides legal guidelines for piracy solutions that influence both international economic operations. Piracy disrupts the world economy because it keeps spreading even after many regional and international initiatives have been developed particularly in areas with weak political conditions. Multiple collaborations between countries and regional bodies and the private sector remain crucial because pirates continue to develop new strategies and jurisdictional issues persist.

REFERENCES

Statutes

- Suppression of unlawful acts against the Safety of Maritime Navigation (SUA Convention)
- Maritime Anti-Piracy Act 2022
- United Nations Convention on the Law of the Sea (UNCLOS)

Books

- Shrikant Hathi and Binitha Hathi, Maritime Practice in India (6 Edn., Brus Chambers, Mumbai 2010)
- Maritime Security and Piracy (Global Issues, Challenges and Solutions) Editor Bimal N.Patel, Hitesh Thakkar

Case Laws:

- Rex v. Dawson (1985) 81 Cr App R 150
- United States v. Smith 18 U.S. 153 (1820)

Research Articles:

- “Ocean Policy Statement”, Department of Ocean Development (Nov 1982)
- P.K Ghosh, “India’s Coastal Security Challenges and Policy Recommendations”, Observer Research Foundation (August 2010)
- R. Chuck Mason, “Piracy: A legal Definition “
- Karen K.Clark, “Maritime Piracy: Nature, Impact and Legal Frameworks for Prosecution”, (2009) 4(1) International Journal of Criminal Justice Sciences 13-22
- Roger Middleton, “Piracy in Somalia: Threatening Global Trade, Feeding Local Wars”

- Anna Bowden, The Economic Cost Of Maritime Piracy 8-20, One Earth Foundation Working Paper 2010
- Maritime Piracy-An Overview Of Trends, Costs And Trade Related Implications (Part 1), United Nations Conference On Trade And Development (Unctad), 2014
- Desai RM, Shambaugh GE. Measuring the global impact of destructive and illegal fishing on maritime piracy: A spatial analysis. PLoS One. 2021 Feb 24
- Vincent Stamer, Shuyao Yang & Alexander Sandkamp, The rum is gone! The impact of maritime piracy on trade and transport, VoxEU.org, 24 Jan 2022

Websites:

<https://www.csis.org/analysis/combating-piracy-challenges-and-opportunities-regional-and-private-sector-involvement>

<https://www.unodc.org/unodc/en/press/releases/2015/February/longest-held-hostages-in-somalia-s-history-released.html>

<https://www.aljazeera.com/news/2015/2/27/somali-pirates-release-fishermen-held-for-five-years>

<https://www.bbc.com/news/world-asia-31664266>

<https://www.hellenicshippingnews.com/last-bi-weekly-wpsp-barometer-confirms-overall-improvements-in-hinterland-transport-capacity-utilization-and-port-worker-availability>

<https://www.imo.org/en/OurWork/Security/Pages/PiracyArmedRobberydefault.aspx>

<https://www.chathamhouse.org.uk>

<https://ssrn.com/abstract=1482044>

<http://www.lexisnexis.com>

<http://untreaty.un.org>

<http://www.thehindubusinessline.com>

<http://www.forbes.com>

<http://www.economist.com>

http://Indiannavy.nic.in?maritime_history.htm

www.ministryofdefence.nic.in

www.imi.org

http://www.observerindia.com/cms/sites/orfonline/modules/issuebrief/attachments/Ib_22_1283150948708

<http://www.idsa.in/node/8057/3473>