PIRACY, HIJACKING AND ARMED ROBBERY AGAINST SHIPS: UNITED NATIONS AND IMO MEASURES, AND THE INVESTIGATION OF MARITIME CRIMES

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ABSTRACT

The acts of piracy, hijackings and armed robbery of vessels still pose a risk to the security of the sea, international trade and lives of seamen. This paper considers international laws concerning the suppression of the abovementioned crimes, namely the UNCLOS of 1982, UN Security Council and the International Maritime Organisation (IMO) actions. In doing so, it will consider the differences between the definitions of piracy, hijackings, and armed robberies of ships by international law, the principle of universal jurisdiction and powers of seizure, investigation, and prosecution. Moreover, it will discuss how evidential integrity, international cooperation and effective criminal justice system may help to prosecute the maritime crimes. Finally, it will address the Indian legal system in particular and the Maritime Anti-Piracy Act, 2022 and Merchant Shipping Act, 2025 in particular.

INTRODUCTION

Piracy is one of the oldest offenses relating to the freedom of the seas, but piracy today continues to pose a significant threat to maritime security, international trade, and seafarers' safety. The significance of the issue derives from the key role played by shipping in the global economy. The majority of global trade is carried out on the seas, and a disturbance in important sea lanes could have repercussions much wider than the direct loss suffered by shipowners or crews. Piracy may lead to death, injuries, hostage situations, destruction of ships, theft of cargoes, ransom payments, higher insurance rates, rerouting of ships, and the interference with humanitarian and commercial deliveries.[1] The response to piracy cannot then be limited to the criminal law of the coastal state alone, but will need cooperation among flag states, coastal states, port states, navies, international organizations, and prosecution authorities.

The contemporary international legal system is mainly based on the United Nations Convention on the Law of the Sea, 1982 (UNCLOS). Articles 100-107 create a regime for the repression of piracy on the high seas. This regime is further supported by the International Maritime Organization (IMO), whose work mainly focuses on prevention, reporting, ship and port security, investigations and capacity building for governments and the shipping industry.

It complicates the problem further by the fact that the separation of piracy from robbery of vessels and hijacking is done. The principal concern of the UNCLOS is with those cases of piracy which constitute internationally wrongful acts in high seas which are outside the jurisdiction of any State. The armed robbery mostly takes place in internal waters, archipelagic waters, or territorial waters and hence, is basically a question for the jurisdiction of the coastal State. The hijacking, particularly if committed with political or terrorist motives, does not fall within the ambit of piracy under the UNCLOS regime and needs to be dealt with through mechanisms such as the SUA Convention of 1988 and Protocol of 2005.[2]

MEANING AND LEGAL CHARACTER OF PIRACY

However, piracy is not confined to robbery on the high seas. Under Article 101 of UNCLOS, piracy is considered to be all acts of illegal violence, detention or depredation for private ends,

[1] Donald R Rothwell & Tim Stephens, The International Law of the Sea,2nd edition,Bloomsbury, pg 345
[2] International Maritime Organization, *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation*, 1988, and 2005 Protocol.

perpetrated by the crew or passengers of a private ship or aircraft against another ship or aircraft, or against persons or property on board such ship or aircraft, or against persons or property in a place outside the jurisdiction of any State.[3]

One of the most contentious aspects of piracy in academic debate has been the term "private ends." Traditional piracy has always been seen to be private criminal activity rather than political violence. For this reason, politically motivated acts on the high seas cannot be termed acts of piracy, even where there are violent activities and seizures of vessels, as they may yet be considered crimes under the laws of the flag state, the coastal state, or other international conventions.[4] The SUA Convention plays a very important role in regard to acts of piracy due to its provisions for illegal seizure of vessels and violence against persons on board.

International law is well understood by the concept of piracy jure gentium. The traditional conception of piracy is that the pirate is *hostis humani generis* – that is, the pirate is an enemy of all mankind. This gives rise to the doctrine of universal jurisdiction, which suggests that a State different from the flag State can, by virtue of international law, seize the vessel of the pirate in international waters and try the persons accused of committing the crime of piracy.[5] The above rule continues to exist in contemporary international law, but through the UNCLOS Convention. In order for the above rule to work efficiently, there must be supportive domestic law. Despite the navy of a state seizing suspects of piracy, trying the guilty persons can be very difficult.

This modern approach recognizes customary international law, UNCLOS, national criminal law, and cooperation. In fact, International Maritime Organization has clearly drawn the difference between piracy and armed robbery based on the geography of the place where this takes place. Armed robbery at sea is any act of violence, detention, depredation or threat which is committed for personal purposes on board any vessel or against persons or property on board in the internal waters, archipelagic waters or territorial sea of a State.[6] This difference is important for the purposes of investigation because it shows whose task it is.

[3] United Nations Convention on the Law of the Sea, 1982, art. 101.
[4] International Maritime Organization, "SUA Treaties and Unlawful Acts Against the Safety of Maritime Navigation."
[5] R.P. Anand, *Origin and Development of the Law of the Sea: History of International Law Revisited* (Martinus Nijhoff Publishers, The Hague, 1982).
[6] International Maritime Organization, Assembly Resolution A.1025(26), *Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery against Ships*, annex, para. 2.2.

PIRACY, HIJACKING AND ARMED ROBBERY: DISTINCTION

Piracy, hijacking, and robbery all share common characteristics, yet they are distinct from each other in terms of their legal significance. Firstly, piracy is an international crime and its jurisdictional area includes the high seas or any other areas that are not under the jurisdiction of any states as per the United Nations Convention on the Law of the Sea. Robbery of ships is territorial and occurs in the area under the jurisdiction of the coastal state. Hijacking refers to an act where there is an unlawful seizure or control of the ship using force or threats. It may or may not be motivated by the person's personal gain.

It is important from a practical standpoint, since an attack on a merchant vessel in a distance of twenty nautical miles from the shore may be deemed to be piracy in accordance with the UNCLOS definition provided that the other requirements are satisfied. When it occurs within the territorial waters, such criminal activity would not be defined as piracy, and it will be treated as an armed robbery of ships under article 101 of the UNCLOS, and the main burden to combat it will be on the coastal state.[7]

It draws a line between different concepts in order to avoid any conflicts concerning the jurisdiction. Also, it means that maritime crime cannot be addressed by a single treaty. The reason why is because UNCLOS provides the definition of piracy, SUA Convention defines unlawful acts against the ships' navigation as well as seizures of vessels, and SOLAS and ISPS regulate the security issues, whereas national laws provide definitions, arrest and investigation procedures. Furthermore, the IMO code of practice on reporting acts of armed robbery against ships, A.1025(26) provides for a definition of armed robbery against ships.[8]

From an academic perspective, the three concepts should be understood in the broader context of maritime crimes. The concept of piracy has a very high relevance of international law; the concept of armed robbery has a territorial and coastal-state law relevance; whereas the concept of hijacking has treaty jurisdiction, particularly in the case of SUA convention. This is not only an academic discussion, but has a very serious legal relevance as well.

[7] Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988, art. 3.
[8] International Maritime Organization, Assembly Resolution A.1025(26), *Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery against Ships*.

HISTORICAL DEVELOPMENT & CURRENT MARITIME THREAT

Piracy has a rather long history because from the very beginning maritime transportation exposed ships to attacks and acts of violence. With the development of international business and the increasing preference for long range shipping, states started considering the problem of piracy as an offence against the common interests of the entire maritime community. The traditional law of nations further developed the notion of pirates as public enemies who could be prosecuted and punished not only by their own states.[9]

The second wave of piracy emerged particularly vividly in the South East Asian region and also in the areas around Somalia, the Gulf of Aden and the Western part of the Indian Ocean. According to the IMO, anti-piracy operations adjusted themselves to changes in locations of piracy hot spots, and nowadays the new maritime security strategy covers not only South East Asia but West and Central Africa as well.[10] It was proven by the example of Somali piracy that piracy is not just a security issue on board.

The reactions of the international community to the problem of Somali pirates demonstrated how the combination of law enforcement and collective security works. In the resolutions of the Security Council concerning the issue, the first solution was adopted in the form of resolution 1816 (2008). This resolution gave permission for some actions towards Somalia and required cooperation. Resolution 1851 (2008) proposed establishing an international mechanism for cooperation against piracy. This pattern of resolutions continued.[11] However, the problem has evolved. Modern issues of maritime security may range not only from pirate acts, but also from robbery, kidnapping for ransom, terrorism, politically motivated actions, traffic, cyber and armed conflict-related actions. Thus, cooperation is becoming increasingly necessary, and legal response should provide for differentiation between criminal acts and cooperation when there are several of them in one case.

UNITED NATIONS LEGAL FRAMEWORK UNDER UNCLOS

The UNCLOS provides the foundation of the international law regarding piracy. As per Article

[9] Supra 6
[10] International Maritime Organization, "Piracy and Armed Robbery Against Ships" and "Maritime Security and Piracy."
[11] U.N. Security Council, Resolutions 1816 (2008), 1838 (2008), 1846 (2008), 1851 (2008), 1897 (2009), 1918 (2010), 1950 (2010), 1976 (2011), 2015 (2011) and 2020 (2011).

100, there is an obligation to cooperate which is incumbent on all States. The obligation entails all States cooperating to the fullest possible extent in the repression of acts of piracy on the high seas or in any other place outside national jurisdiction. This article is important in defining counter-piracy as both a political issue as well as an area of international responsibility.[12] As per Article 101, there is a substantive definition of piracy. As per Article 102, the regime of piracy is extended to the issue of mutiny of warships, government vessels and government aircrafts. While Article 103 defines pirate ship or aircraft, Article 104 deals with issues of loss and retention of nationality. Articles 105 and 107 are very important in relation to enforcement. As per Article 105, there is authorization to seize a pirate ship or a ship seized by pirates and under their control; persons and property can be seized on the ship as well. Article 107 provides for ships and aircraft that have the authority to seize ships and aircraft because of piracy.[13]

The immunity against wrongful seizure contained in Article 106 presupposes that the State be held accountable for the seizure made in circumstances where there were no grounds for making the seizure. Article 106 is just one of the examples that show the balance struck in international law between the need for efficient suppression of piracy and protection from any arbitrary interference with ships. Therefore, the measures for combating pirates should always be made on reasonable grounds, and only state warships and warplanes should perform them. All evidence collected during the operations should be preserved in case of further prosecution.

The UNCLOS does not deal with all questions connected with the criminal procedure, and cannot be considered as a criminal code either. The UNCLOS just fixes the jurisdiction and duties, while leaving many other problems arising from the investigation, evidence collection, prosecution, punishment, and detention for solving by the national law. This is one of the main difficulties in the prosecution of pirates. While the suspects are arrested by international naval forces outside the jurisdictional limits of the prosecuting state, the trial itself would be conducted in the national court following national rules.

UNIVERSAL JURISDICTION AND THE POWERS OF SEIZURE

Universal jurisdiction is an important aspect in the legal definition of piracy. As compared to other crimes, the act of piracy done in the high seas can be charged against the State which has no geographical or national ties with both the offender and the victim of the crime. The

[12] United Nations Convention on the Law of the Sea, 1982, art. 100.
[13] *Id.*, arts. 103–107.

justification of this is the act itself and the effect of the piracy in the international business of shipping. UNCLOS Article 105 gives an illustration of this principle wherein any state can apprehend pirates in the high seas and arrest the perpetrators.[14]

Universal jurisdiction does not mean the duty of the State to charge all the arrested offenders. The problem here is whether the State can charge the suspect through domestic law on piracy, which means that its court has the power to exercise jurisdiction over the particular suspect. This is the justification for the need of piracy legislation. If there is no piracy law, then the naval force can arrest, but there will be no place for trial. Law also distinguishes seizure from prosecution. A warship may lawfully intervene on the high seas under Article 105, but the subsequent transfer of suspects to another State must comply with applicable domestic and international law. Transfer arrangements should address jurisdiction, evidence, fair-trial guarantees, detention conditions and the treatment of convicted persons. UNODC's counter-piracy work has included assistance to regional prosecution centres and prisoner-transfer arrangements, demonstrating that successful counter-piracy policy requires judicial infrastructure in addition to naval patrols.[15] Universal jurisdiction should therefore be understood as a legal opportunity accompanied by institutional responsibility. The principle prevents piracy from becoming a crime without a forum, but it does not eliminate the need for careful jurisdictional analysis. Modern prosecutions require evidence linking each accused to the conduct alleged, proper identification of suspects, lawful arrest, chain of custody, admissible witness evidence and compliance with fair-trial standards.

UNITED NATIONS SECURITY COUNCIL MEASURES

The Security Council played an extraordinary part in addressing the issue of Somali piracy. Resolution 1816 (2008), which was adopted under Chapter VII of the Charter, allowed the states working with Somalia to enter the territorial waters of the country and take all the measures needed to repress piracy and armed robbery at sea on condition that the criteria stipulated in the resolution were met. The further resolutions extended and renewed such authorization. Resolution 1838 pointed to the importance of deploying naval vessels and aircraft by states, resolution 1846 renewed authorization, and resolution 1851 widened the

[14] Supra 13, art. 105
[15] United Nations Office on Drugs and Crime, *Counter-Piracy Programme: Supporting Regional Prosecutions and Prisoner Transfers*.

scope of activities.[16] Also, the Council resolutions motivated States to establish the relevant laws punishing piracy, developing judicial capacity and cooperation in prosecution. For instance, Resolution 1918 (2010) addressed the need for the relevant procedure in regard to prosecution and punishment of pirates. The following resolutions focused more on the chain of prosecution, namely capture, gathering of evidence, transfer, prosecution, and detention of suspects. Thus, naval deterrence is not sufficient in fighting piracy. The UN response also promoted international coordination through the Contact Group on Piracy off the Coast of Somalia and working groups dealing with operational coordination, judicial issues, financial flows and naval cooperation. The approach was multi-dimensional: maritime patrols were combined with legal capacity-building, financial investigations, prisoner-transfer arrangements and efforts to address the land-based roots of piracy.[17]

The role of the United Nations Security Council in combating piracy became particularly significant when piracy off the coast of Somalia developed from a regional maritime problem into a threat affecting international shipping and the freedom of navigation. The Security Council's involvement was important because the ordinary rules of the law of the sea, although providing a framework for suppressing piracy, did not by themselves provide an adequate mechanism for dealing with the particular circumstances prevailing in Somalia. The absence of effective governmental institutions and maritime law-enforcement capabilities within Somalia created a practical enforcement vacuum. Consequently, the Security Council adopted a series of resolutions under Chapter VII of the United Nations Charter, thereby treating the Somali piracy situation as one requiring collective international action.[18] One of the most important measures was Security Council Resolution 1816 (2008**)**. The resolution recognised the deteriorating situation in Somalia and its consequences for international shipping and humanitarian assistance. It authorised States cooperating with the Transitional Federal Government of Somalia to enter the territorial waters of Somalia for the purpose of repressing piracy and armed robbery at sea, using means consistent with international law. This was significant because the normal principle of coastal-State sovereignty would ordinarily prevent foreign warships from exercising enforcement jurisdiction within another State's territorial sea without consent or another applicable legal basis.[19] The resolution therefore created an

[16] U.N. Security Council, Resolutions 1816 (2008), 1838 (2008), 1846 (2008) and 1851 (2008).
[17] U.N. Security Council, Res. 1851 (2008); United Nations Office on Drugs and Crime, *Counter-Piracy Programme*.
[18] U.N. Security Council, Res. 1816 (2008), S/RES/1816 (2008).
[19] Id

exceptional legal framework specifically directed towards the Somali situation. Resolution 1816 must, however, be understood carefully. It did not amend UNCLOS or establish a general rule permitting foreign States to enter the territorial waters of any State whenever piracy was suspected. Rather, the authorisation was linked to Somalia, depended upon the consent and cooperation of the Somali Government, and was subject to conditions stated in the resolution. The Security Council thereby attempted to reconcile the necessity of effective counter-piracy action with the fundamental principle of State sovereignty. The temporary and situation-specific character of the authorisation is particularly important from the perspective of international law because otherwise an exceptional enforcement mechanism could incorrectly be interpreted as a general exception to the territorial jurisdiction of coastal States.[20]

Resolution 1838 (2008) represented a further strengthening of international efforts. It called upon States with naval vessels and military aircraft operating in the region to use appropriate means for repressing acts of piracy and armed robbery. It also encouraged States to cooperate with one another and with relevant international organisations. The resolution demonstrated that the Security Council regarded naval presence and maritime surveillance as important components of the international response. However, naval deployment alone could not provide a permanent solution because piracy was ultimately connected with deficiencies in governance, criminal justice and economic conditions on land.[21]

IMO MEASURES TO COMBAT PIRACY AND ARMED ROBBERY

The IMO is the specialized international body dealing with the development of the framework for the regulation and technical standards for the safety and security of international shipping. IMO counter-piracy efforts have covered prevention, reporting, shipboard protection, government coordination, regional capability development, and investigations. The IMO guidance acknowledges the need for coordinated response to piracy and armed robbery involving governments, shipowners, ship operators, masters, and crew.[22]A key IMO instrument in this regard is the adoption of recommendations to governments for the prevention and suppression of acts of piracy and armed robbery against ships, and guidance for shipowners, ship operators, masters and crews. These instruments promote risk assessments, voyage planning, watchkeeping, communications, reporting, ship protection, and coordination with

[20] U.N. Security Council, Res. 1816 (2008), paras. 7–9.
[21]U.N. Security Council, Res. 1838 (2008), S/RES/1838 (2008).
[22] International Maritime Organization, "Piracy and Armed Robbery Against Ships."

navies/law enforcement agencies. Though much of this is in the nature of recommendation rather than criminal law, it brings legal and security concepts to the practice on board ships.

Apart from this, there is a reporting system at the international level through the Piracy and Armed Robbery module of the Global Integrated Shipping Information System (GISIS). The reports submitted by the Member Governments as well as other concerned organizations assist in identifying the pattern as well as formulating the way for prevention of these crimes. In regard to this, it may be noted that piracy acts on the high seas and armed robberies in territorial waters are treated differently.[23] Such reporting is necessary both for immediate action and also policy formulation in future due to the fact that proper data will facilitate risk identification.

The IMO has also developed detailed guidance concerning the protection of ships operating in areas where piracy and armed robbery present a heightened risk. Such guidance emphasises the importance of conducting a comprehensive risk assessment before and during a voyage and adopting security measures proportionate to the nature of the threat. Shipowners and masters are encouraged to consider factors such as the location and frequency of previous attacks, the characteristics of the vessel, the vulnerability of the ship's freeboard and access points, the number and competence of crew members, and the availability of external security assistance.[24] The IMO's guidance also stresses the importance of maintaining an effective lookout, controlling access to the vessel, securing vulnerable areas, establishing emergency procedures and ensuring that crew members understand their individual responsibilities during an attempted attack. These measures are particularly significant because piracy prevention often depends upon detecting suspicious activity sufficiently early to permit the crew to activate defensive procedures and seek assistance.

Another important aspect of IMO's counter-piracy strategy is the promotion of cooperation between merchant ships and naval or law-enforcement authorities. Ships are encouraged to report suspicious approaches, attempted attacks and actual incidents promptly through appropriate communication channels. Accurate and timely reporting assists maritime security centres and naval forces in developing a common operational picture and allocating resources to areas of greater risk. The IMO has also encouraged the use of recognised reporting procedures and information-sharing mechanisms so that incidents can be analysed and

[23] International Maritime Organization, "Piracy Reports," Global Integrated Shipping Information System (GISIS).
[24] International Maritime Organization, *Piracy and Armed Robbery Against Ships*, official IMO guidance.

preventive measures can be improved.[25] This cooperative approach recognises that a merchant vessel may be the immediate target of an attack, but the responsibility for maritime security extends beyond the individual ship. Effective prevention requires continuous communication between the master, shipowner, flag State, coastal State, port authorities and relevant naval or law-enforcement agencies.

The IMO's measures further recognise that successful counter-piracy action requires continuous review and adaptation. Piracy patterns are not static; offenders may change their methods, geographical areas of operation, weapons, means of approach and methods of escape in response to improvements in maritime security. Consequently, security measures that are effective in one region or period may not be equally effective in another. The IMO therefore provides a framework within which governments and the shipping industry can periodically reassess risks and modify their procedures.[26] This adaptive character is an important strength of the IMO system. Rather than treating piracy prevention as a single security measure, the IMO approach combines legal standards, reporting systems, shipboard precautions, investigation procedures, training, information exchange and international cooperation. In this sense, the IMO complements the broader United Nations legal framework by converting general obligations relating to maritime security into practical measures capable of implementation by ships and maritime authorities.

The IMO Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery against Ships is another significant contribution towards anti-piracy efforts. The Code is adopted in accordance with the Resolution A.1025(26). In this regard, it may be mentioned that governments should investigate any act within their jurisdiction and submit details relating to the same including investigations and prosecutions[27].

IMO BEST MANAGEMENT PRACTICES AND SHIPBOARD PROTECTION

The counter-piracy measures implemented on the ships presuppose that prevention, detection, delay and response are interconnected. The guidelines suggested by IMO and Best Management Practices of the shipping industry include voyage specific risk assessment,

[25] Supra 26
[26] International Maritime Organization, Assembly Resolution A.1025(26), *Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery Against Ships*
[27] International Maritime Organization, Assembly Resolution A.1025(26), *Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery against Ships*

improved lookout, monitoring radar and communications, planning of emergency actions, securing accesses and readiness of the crew to any attack.[28]

The measures of physical protection include such techniques as barriers, access control, lighting, water-based defensive measures, alarm and surveillance systems. What is to be noted is that the goal of physical protection is not to create a military fortification but to increase the time required for attackers to reach the ship and to provide more time for the crew and other parties involved to act. Citadel or secure muster place may become the last refuge where the crew will be able to secure themselves and maintain contact with other parties. Layered ship protection combining detection, delay and secure places is also highlighted in the scanned documents provided for this task.[29]

The effectiveness of the protection measures will depend on the skill of the crew members on how to recognize the alarm signal, report, mustering and communication in emergency situations. Exercises should be done because stress can affect decision-making. Moreover, there should also be a balance between the security measure and safe navigation because the evasive maneuver could lead to collision or grounding of the vessel. Armed maritime security personnel may also be taken into account under certain circumstances taking into consideration the laws of the flag state, coastal state and the port state and the guidelines that have been set out by the IMO. Licensing, the use of force, storage of weapons, liability and jurisdiction are issues that have arisen with the use of armed guards. Thus, private maritime security personnel should only support a ship security plan but not replace it.[30]Layered defense is the first line of defense. It begins with the detection of the danger as soon as possible, delaying by using physical barriers, communication of the situation to the appropriate authority, providing a safe haven for the crew and finally the response from the law and navy to the threat.

INVESTIGATION OF PIRACY AND ARMED ROBBERY: GENERAL PRINCIPLES

Investigation is the bridge between an attack at sea and a legally sustainable prosecution. The IMO Code of Practice recognizes that effective suppression is impeded where States lack

[28] International Maritime Organization, MSC.1/Circ.1333/Rev.1, *Revised Recommendations to Governments for Preventing and Suppressing Piracy and Armed Robbery against Ships*; MSC.1/Circ.1334,
[29] Michael McNicholas, *Maritime Security: An Introduction* 2nd edn., ch. 11, "Threat Mitigation Strategies" (Butterworth-Heinemann, Oxford, 2016).
[30]International Maritime Organization, MSC.1/Circ.1405, MSC.1/Circ.1406 and MSC.1/Circ.1408, Guidelines concerning Privately Contracted Armed Security Personnel.

legislation and investigative guidelines. It therefore encourages governments to investigate all acts occurring within their jurisdiction and to report information on investigations and prosecutions.[31] The first objective is preservation of life and safety. Once an attack has ended and the vessel is secure, investigators should ensure medical treatment, protect the scene and prevent unnecessary disturbance of physical evidence. The vessel should be treated as a crime scene. Investigators should document the condition of doors, windows, ladders, railings, access points, navigation equipment, communication systems and areas where offenders may have moved. Photographs and video should be taken before objects are moved or cleaned.

The second objective is identification. Investigators should obtain detailed descriptions of offenders, including clothing, weapons, language, physical characteristics, roles and distinguishing features. The statements of the master, officers and crew should also be recorded as soon as reasonably practicable because their recollection may be particularly important where the offenders were masked or where the attack occurred in darkness. The investigation should establish the time and location of the incident, the number and description of the offenders, the method of approach and boarding, weapons used, threats or violence committed, property taken, injuries caused and the subsequent movements of the offenders. Proper documentation of these circumstances is essential because the information collected at the initial stage may subsequently be required by prosecutors and courts in a different jurisdiction.

Witnesses should be interviewed separately where possible so that accounts are not contaminated by discussion. The IMO Code specifically emphasises the value of obtaining information about the actions of each offender rather than relying on a general statement about what 'the pirates' did.[32]

The third objective is evidence preservation. Items potentially carrying fingerprints, biological material, fibres, footprints, tool marks, weapons residue or digital information should be secured. Communications logs, radar tracks, AIS data where available, CCTV recordings, satellite communications and photographs may provide objective corroboration. The chain of custody must be documented from collection through storage and transfer to the laboratory or court. Finally, investigators should establish the jurisdictional framework at the earliest stage.

[31] International Maritime Organization, Assembly Resolution A.1025(26), *Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery against Ships*.
[32] International Maritime Organization, Assembly Resolution A.1025(26), annex, provisions concerning descriptions of offenders and identification of individual roles

The report should record the vessel's position, time, flag, ownership, crew nationality, location of suspects, identity of responding naval forces and any transfer arrangements. These details may later determine which State can prosecute.

The investigation should also establish the jurisdictional basis for criminal proceedings. Authorities must determine whether the incident constitutes piracy under Article 101 of UNCLOS, armed robbery against ships within territorial waters, or another maritime offence covered by national legislation or an applicable international convention. This determination is important because the place of occurrence, location of the vessel, nationality of the ship, nationality of the victims and identity of the suspected offenders may involve several States simultaneously. The IMO Code of Practice therefore places considerable importance on cooperation between States and on the exchange of information necessary for investigation and prosecution.[33] Evidence collected by one State may ultimately have to be transmitted to another State where the suspects are prosecuted. Consequently, investigation should be conducted in a manner that preserves the authenticity, reliability and continuity of evidence and enables it to be used in judicial proceedings. A coordinated investigation involving maritime authorities, police, prosecutors, naval forces and, where appropriate, international organisations can prevent the loss of evidence and reduce disputes concerning jurisdiction. This is particularly important in piracy cases because successful enforcement does not end with the capture of suspected pirates; it ultimately depends upon the ability of the prosecution to establish the offence before a competent court through admissible and properly preserved evidence.

CRIME SCENE, EVIDENCE AND WITNESS INVESTIGATION

A piracy investigation often occurs in a difficult environment. The vessel may continue its voyage, evidence may be exposed to saltwater or weather, crew members may be traumatized and investigators may not be able to board immediately. For that reason, the first report made by the Master and crew can be crucial. Investigators should obtain original logs and preserve contemporaneous records rather than relying only on later recollection. Physical evidence should be collected systematically. Latent fingerprints may exist on surfaces touched by offenders; discarded clothing or equipment may contain biological evidence; spent cartridges may identify weapons; ropes, ladders or hooks may establish methods of boarding; and

[33] International Maritime Organization, Assembly Resolution A.1025(26), *Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery Against Ships*, annex.

electronic devices may reveal communication links. The IMO Code emphasizes detailed forensic examination of the crime scene and securing objects or places where offenders may have left fingerprints or other latent prints.[34] Witness evidence must be approached carefully. Seafarers who have experienced violence or hostage-taking may suffer fear, fatigue or trauma, which can affect memory. Interviews should therefore be conducted professionally and, where necessary, with appropriate psychological support. Investigators should distinguish between what a witness personally observed and what was subsequently inferred or communicated by others. Identification evidence should be handled with particular caution because a mistaken identification can undermine an otherwise strong case.

Digital evidence is increasingly important. VHF communications, satellite-phone records, email, vessel tracking information, CCTV footage and onboard computer systems can establish timelines. Investigators should preserve original data and record the method by which copies are made. The authenticity and integrity of electronic evidence should be demonstrable in court. The final investigative report should connect evidence to elements of the offence. It should not simply describe the attack. It should explain why the conduct satisfies the statutory or treaty definition, identify the role of each accused and specify the evidence supporting each allegation. This approach is especially important in group piracy cases where the prosecution must distinguish principal offenders, organizers, facilitators and persons who may have been present but not criminally involved.

NATIONAL LAW AND INVESTIGATION IN INDIA

India's geographical position and dependence on maritime commerce make counter-piracy a matter of national importance. Indian-flagged vessels may operate across major international sea lanes, while foreign vessels routinely pass through India's maritime zones and ports. The Indian legal framework has therefore developed from general maritime and criminal legislation toward a more specific anti-piracy regime. The Maritime Anti-Piracy Act, 2022 was enacted to give effect to India's obligations under UNCLOS relating to repression of piracy on the high seas. The Act defines piracy, provides punishments, creates powers of arrest and investigation and provides for designated courts.[35] Section 6 permits the Central Government to confer powers of arrest, investigation and prosecution for offences under the Act upon specified

[34] International Maritime Organization, Assembly Resolution A.1025(26), annex, provisions concerning detailed forensic examination and latent fingerprints.
[35] The Maritime Anti-Piracy Act, 2022 (Act No. 3 of 2023), long title and ss. 3–9.

officers. Section 7 authorizes authorized personnel to board a suspected pirate ship on the high seas, arrest persons and seize the pirate ship and property, subject to judicial control over disposal.[36] The Indian framework also has to be read with the wider maritime-security system. The Merchant Shipping Act, 2025 came into force on 15 March 2026 and consolidates modern provisions on safety and security, including requirements concerning security of vessels and port facilities, reporting of incidents, safety and security management and enforcement.[37] The new Act is important because maritime security is not limited to piracy; it also concerns vessel security, port security, emergency response, regulatory compliance and the responsibilities of flag and port States.

MARITIME ANTI-PIRACY ACT, 2022

The Maritime Anti-Piracy Act, 2022 represents a milestone in the area of piracy crime in India's maritime law. Before this Act, India had been applying general criminal laws as well as principles of international law, which did not provide any concrete information on the crime of piracy.[38] This Act provides for punishment for piracy as well as for any action related to it. These actions include any attempt to commit acts of piracy as well as organization and direction of other people in committing acts of piracy. This Act provides for arrest, investigation, seizure and trials for offences of piracy. It is important to mention the fact that the Act provides for investigative power as without the prosecution there will be a void left in the process of enforcement by naval forces of the state. The court system created through this Act enables speed in the trial process. The matter is that the prosecution for piracy may involve special evidential matters as well as foreign witnesses, naval forces' members, ship documents and other special considerations.[39] However, normal criminal law principles apply in this case. The Act should also be interpreted consistently with UNCLOS. Domestic law cannot enlarge India's international rights beyond what international law permits, especially regarding interference with foreign vessels on the high seas. The Act instead provides the domestic legal machinery through which India can exercise rights and discharge responsibilities recognised by international law. This interaction between international and municipal law is central to understanding maritime criminal jurisdiction.

[36] *Id.*, ss. 6–9.
[37] The Merchant Shipping Act, 2025 (Act No. 24 of 2025), provisions concerning vessel and port security, incident reporting, and safety and security management.
[38] The Maritime Anti-Piracy Act, 2022 (Act No. 3 of 2023), India Code.
[39] Michael A McNicholas. Maritime Security and introduction, 2nd edition, pg 468

MERCHANT SHIPPING ACT, 2025 AND INSTITUTIONAL FRAMEWORK

The Merchant Shipping Act, 2025 is another important part of India's maritime legislation. The Act was passed on 18 August 2025 and came into force on 15 March 2026.[40] The purpose of the Act is to consolidate and amend the merchant shipping laws of India with the aim to ensure compliance with India's obligations under the maritime treaties and international instruments. The Act contains institutional arrangements for maritime administration and provides for measures relating to security of ships and ports, safety and security, reporting incidents, safety and security management, and cooperation with other States. The Act thus complements the Maritime Anti-Piracy Act and does not replace the framework of piracy-specific criminal legislation. The importance of the 2025 Act is that it is preventive and regulatory in nature. An investigation of the act of piracy is easier if there are proper records kept by the ship, adherence to the security measures and timely reporting of the incident. Security-related records can be used as evidence of the state of the ship before the attack and actions of the shipmaster and crew during the piracy incident. It also recognizes the relevance of the obligations and roles of the flag state and port states. For an effective maritime security regime to come into being, it must have efficient measures of inspections, certifications and enforcement

CONCLUSION

However, piracy, ship hijackings and maritime robbery are separate crimes from the standpoint of international law. However, in common terms, they can all be considered part of the issue of maritime security. In particular, pirates are mentioned in Article 101 of the UNCLOS and are subjected to universal jurisdiction at sea. In turn, the crime of maritime robbery is territorial in nature and is within the jurisdiction of the coastal state. Meanwhile, hijacking and other acts of crime in maritime navigation are subject to the SUA Convention. Legal differentiation plays a key role in jurisdiction, investigation and prosecution. In this connection, the role of the United Nations in relation to this issue is the establishment of the legal framework through UNCLOS and the addition to this area of law via initiatives of the Security Council, international cooperation and UNODC activities. All these contribute to decreasing the vulnerabilities of the situation and improving the quality of evidence and reporting of incidents. The position of India has been bolstered due to the passage of the Maritime Anti-Piracy Act, 2022 and Merchant Shipping Act, 2025. However, conventions along with the institutional

[40] The Merchant Shipping Act, 2025 (Act No. 24 of 2025), India Code; enforcement date, Mar. 15, 2026.

setup, in conjunction with national legislation provide a more robust platform for prevention, interception, investigation, and prosecution. Nonetheless, legislation alone will not be sufficient to stop piracy incidents. The suppression of piracy requires an effective institution, investigation, evidence, international cooperation and prosecution. Ultimately the most effective counter-piracy strategy is layered and cooperative.