Uganda Pentecostal University Journal of Sustainable Development
Journal DOI Prefix: 10.69612
Journal ISSN: 3078-2384
Issue 1, Volume 1

COMBATING MARITIME PIRACY IN SOMALI WATERS: AN ANALYSIS OF NATIONAL LEGISLATIVE COUNTER-PIRACY MEASURES

Author Name: Abdullahi Ali Omar (a)

(a). Ministry of Foreign Affairs, Somalia

ABSTRACT

This study focused on the framework for combating piracy off the Somali maritime zone. Seas piracy is the crime of robbery of ships or boats on the sea. The threat of piracy attacks against international shipping has increased in various parts of the world, including the South China Sea, the Bay of Bengal, West Africa, and off the Brazilian coast. Thus, the research objectives were to analyze the adherence of Somali Government to international legal frameworks for combating piracy and examine the role of national legal framework in combating piracy along the Somali Maritime Zone. The findings on the implementation of anti-piracy measures off the Somali coast can be helpful to the government of Somalia as well as to both local and foreign investors. The study found that due to civil war, absence of central government, and lack of natural resources, Somalia is presently one of the most underdeveloped and chaotic countries in the world and would require robust legal regime to combat this menace.

ARTICLE INFORMATION

Keywords

National legal Framework, Regulating Piracy

Cite This Article (APA)

Abdullahi A. O. (2025) An Overview Of Organ/Tissue Transplantation And The Role Of Law. Uganda Pentecostal University Journal of Sustainable Development 1(1) 1-26. https://doi.org/10.69612/upujsd-2025-11-004

INTRODUCTION

This paper discusses the national legal framework in Somalia to safeguard ships sailing in the Somali Maritime Zone and the regime for the prevention of the organization, financing, provision of information to and support of any persons engaged in piracy as well as the measures for the prevention of acts of piracy perpetrated against Somali and international commercial enterprises. The national legal frameworks discussed in this study include the Somali Maritime Code (1959); Somaliland Law on Combating Piracy (Piracy Law) Law No. 52/2012; the Penal Code Legislative Decree No. 5 of 16; Somalia Maritime Code and also through establishment of the Puntland Maritime Police Force (PMPF). These legal frameworks have been put in place to address and eliminate piracy and punish any person who has been proved to have committed acts of piracy (Mark, 2010) · The Articles and provisions are discussed below.

THE SOMALI MARITIME CODE (1959)

Piracy is a major concern off the Somali coast (Sanni and Abdulrahman ,2021). The Somali Maritime Code 1959 provides a better and comprehensive provision for anti-piracy activities. Although the Code has 252 Articles, this section brings out the core issues that are more relevant to the issue of piracy. According to the Article 5 of the Code, the Maritime Zone includes the Maritime Boards of Chi-Simaio, with territorial limits from RasChianbone to El Gaschera excluded; of Merca, with territorial limits from El Gaschera to Danane excluded; of Bosaso,: with territorial limits from Eil to Bender Ziada; and the S; Ja-Shore Delegations of Brava, Itala, Obbia, Eil, Bender Beila, Hafun, Bargal, Alula, Habo, Bender Merhagno,'and 'Candala. The duties pertaining to the Maritime Board for the tract of littoral from Danane to Eil excluded are performed directly by the Port Captain's Office of Mogadishu.

Similarly, Article 5 of the Maritime Code provides a comprehensive scope for the maritime domain. These according to the article include beaches, shore, ports, bays, inlets, mouths of rivers flowing into the sea, basins of Saltor Saltish water which directly connect with the sea, Buildings and other works belonging to the maritime administration, existing within the limits of the maritime domain and of the territorial sea, are considered as part of the domain. The maritime administration regulates the use of the maritime demesne and exercises policing on the same. As piracy activities in Somalia are mainly carried out in these outlined Maritime Domain, Article 5 becomes important in understanding piracy off the Somalia Maritime Zone.

Article 25 of the Maritime Code, aims at controlling piracy activities because it sets rules governing ship movements and maneuvers, and port activities are clearly stipulated. This particular article provides for the Harbour Master to regulate and superintend the entry and leaving, shifting, anchorage, and mooring of vessels, use of buoys in ports, loading, unloading and storing of goods, embarking and landing of passengers, operations of the maritime lighthouse and signaling service, fire and measures against fire, taking any step

in connection with security and police of port and adjacent areas, with the power of ordering the mooring, unmooring and any other maneuver of vessels within the port; the same Authority can carry out itself, in case of need, the maneuvers ordered, at the expense of the vessels concerned .

Article 27 gives directions on assistance to be given to vessels in danger and the danger indicated in this article cold also include piracy. The article states that the Harbour Master, if aware of a vessel being in danger or of a shipwreck or other accident must immediately provide for assistance, and, if it has unavailable and cannot find- the necessary means, inform authorities who are in condition to effectively intervene. When the Maritime Authority cannot-intervene in time, the first necessary steps are made by any other government authority on the place. In order to provide assistance, the maritime authority default, any other government authority on the place, can order that vessels in the port or in its neighborhood be put at their disposal together with their crews. Indemnities and regards for assistance given by these vessels are established and paid according to the provisions governing assistance and salvage.

To reduce cases of piracy in Somali Maritime Zone, Article 28 provides supervision of port activities as regards to disorders in ports and on vessels. In this regard, activities carried out by anyone in ports are subject to the supervision of the maritime authority.In case of disorders in ports or on vessel staying therein, the maritime authority, when informed, provides direction to re-establish the order requesting, if necessary, the intervention of police. To strengthen the administration on port labour matters, article 34 makes necessary provision. The Article gives mandate to institute Port Labour Councils. This is in line with the decree of the Minister of Economic Affairs. These Councils assist the Harbour Master on port labour matters and these all are helpful in controlling Maritime Zone and make sure that piracy activities are avoided.

The issue regarding maritime personal is also addressed in Article 35 of the Maritime Code as an approach to control piracy activities. The article relates to the sea-faring people and personnel employed in maritime activities of ports. Thus, it states that maritime personnel, in -relation to the work performed, inclurj.es (a) sea-faring people, and (b) personnel employed in maritime activities of ports. The former category includes people with any rank or position to constitute the crew on ships, dhows, and mechanically propelled craft. The latter category includes port labourers, boatmen, fishers, and people generally working in the maritime industry.

Strong measures regarding fishing have also been addressed so as curb piracy activities off Somali Maritime Zone. Article 66 for example regulates major and minor fishing activities. In terms of the article, sea fishing falls into two classes: major and minor fishing activities. The former class relates to the activities carried out exclusively by means of fixed plants or large nets for catching large sized fish, including trawling on the high sea carried out with any mechanically-propelled vessel. The latter class involves the remaining fishing

activities, including fishing of mother-of-pearl and other industrially exploitable shells. Thus, it makes sure that fishing activities are governed by the following articles, which apply to both Somali and foreign citizens allowed, in accordance with definite agreements; to fish in the waters. Furthermore, Article 67 provides for the concessions and licence. The Article states that: Major fishing activities on the territorial sea and permanent breeding of fish and other aquatic animals in shore areas, in dominical maritime waters or in the territorial seaare permitted only to person holding a concession for this purpose issued upon decree of the Minister of Economic Affairs. Minor fishing activities are permitted only to persons holding a licence for this purpose, issued by the maritime authority upon payment of the relative duty. The normal validity of licences is of one year and they can be renewed annually. Licences are not necessary for fishing with conventional means. In concession acts relative major fishing activities as well as in licences for minor fishing activities, express reservation must be made for uses referred to in the preceding paragraph.

However, the right to major fishing activities does not prejudice that of minor fishing activities; to this end, any means employed in major fishing activities cannot be used within a line 500 meters from the coast.

To ensure that those engaged in fishing do not involve in piracy activities, Article 68 of the Maritime Code was established. The article relates to the concessions for major fishing activities. Thus, the concessions to carry out major fishing activities can be granted by the Administration for a period not exceeding nine years and are renewable upon expiration, for another period of the same length. Concessions according to the article may include one or more sea areas; in any case, these concessions do not involve exclusive rights by the concessionaire upon the sea area covered by the concession, since the Administration has the power to determine for each area the number of concessions which can be granted in relation particularly to the exploitation conditions, safeguard of sea fish and the different species of fish, as well as to fix other special rules necessary to the public interest. When concessions cover trawling on large areas of the territorial sea, the concessionaire must have on land the necessary sea product and by-product preservation and processing plants.

Articles 70, 71 and 72 give guidelines related to prohibition to fish, prohibition of fishing means and supervision of fishing respectively. Article 70 gives a mandate to the Minister of Economic Affairs to prohibit, without paying any indemnity, fishing activities on sea areas conceded or on specific sea zones, for reasons connected with public needs or with sailing or maritime signal requirements. According to Article 71, fishing by means of dynamite or similar materials, as well as the use of electric current as a direct killing or stunning means, or throwing or dissolving substances in water to enervate, stun or kill fish and other aquatic animals, is prohibited. Catching and selling animals thus stunned and killed is likewise prohibited. In this regard, supervision of fishing and enforcement of the rules governing it are entrusted to the maritime authority as stipulated in Article 72 of the Maritime Code.

Another important article under the Maritime Code that refers to crimes against the ships and navigation policy including piracy is Article 187. The article relates to the non-compliance of orders by crew members. It states that any crew member who fails to comply with an order given by a superior concerning a technical service of the vessel is punished by imprisonment up to 3 months. Should not compliance concern a service relating to the maneuver of the vessel, the punishment is imprisonment from I to 6 months. Should this fact cause a remarkable trouble to sailing or a danger to the life and safety of persons or to the security of the vessel, the punishment is imprisonment from 4 months to 2 years. If the order given relates to the safety of the vessel or to assistance to another vessel or persons in danger, the punishment is imprisonment from 1 to 3 years. Thus, effective implementation of this provision could significantly reduce cases of piracy off Somali Maritime Zone. Similarly, Article 188 relates to the non-compliance of orders by passengers. The Article stipulates that any passenger who fails to comply with an order concerning the security of the vessel is punished by imprisonment up to 3 months or by a fine up to Sh.So.160.

Similarly, Article 190 regulates loading of arms, ammunition, and persona for criminal purposes and this is also aimed at reducing cases of piracy off Somalia Maritime Zone. The Master of a vessel, also if foreign, who loads arms, ammunition-, or persons, in order to commit a crime' is punished, if the latter is not committed, by imprisonment from 6 months, to 2 years, save for the case that this fact constitutes a crime subject to other regulations. This article is crucial in this study because pirates are often fond of loading arms and ammunitions for committing piracy activities.

To ensure the security of the Ships authorities and consular authorities, Articles 191 and 194 were established. Article 191 for example warns against committing offence to Master or a superior. Thus, any crew member who offends the honor or prestige of a superior in presence of him, owing to or in the performance of his duties, is punished by imprisonment from 3 months to 2 years. The same punishment is inflicted upon anyone who commits this fact by telegraph or telephone, in writing or by/drawing addressed to a superior and relating to his duties. Punishments are increased up to one third when this fact is committed with violence or menace or when the offence is made in presence of one or more persons.

Article 196 also gives directives on legal measures related to the crimes against safety of navigation. This article is very vital in addressing the threats of piracy because it particularly establishes the issues related to the performance, arbitrary removal, and omission of. In this regard, anyone who arbitrarily orders or makes some of the signals used for sea navigation or removes these signals is punished by imprisonment up to 1 year or by a fine up to Sh. So. 800. The same punishment is inflicted upon anyone who, on being obliged to do so, fails to place the above-mentioned signals or fails to take the measures required for this purpose.

To reduce activities of piracy in regards to the change of direction, Article 198 that relates to the abandonment of command and of place was put in place. The Master who without necessity abandons the nautical direction of the vessel in such conditions that the same must be taken by a person not qualified to replace him, is punished by imprisonment up to 1 year or by a fine from Shs. So. 200 to 800**.** The punishment is increased up to one third if this fact is committed in those cases in which the Master has the obligation of personally directing the maneuver. Crew members, who, during the performance of a service pertaining to the safety of navigations abandon their place, are punished by imprisonment from 3 months to 1 year.

Article 201 of the Maritime Code warns about abusive use of the flag and such practices are commonly done by pirates. Anyone hoisting or using the flag of the Somali Merchant Marine on a foreign vessel is punished by imprisonment up to 1 year or by a fine from Shs. So. 200 to 1,000. This article is also similar to the Article 202 because it also warns about use of false identification mark. Thus, anyone who, with the purpose of obtaining for himself or for others an advantage or of causing to others a damage, affixes on the vessel a false identification mark is punished by imprisonment up to 1 year. The punishment is imprisonment up to 2 years and fine up to Sh.So. 400 if the culprit employs the documents of the vessel the mark of which he has abusively used.

Article 205 directly addresses the issue of Piracy. It stipulates that the Master or officer of Somali or foreign vessels who commit acts of depredation to the damage of a Somali or foreign vessel or its cargo, or for this purpose commit violence against persons on board Somali or foreign vessels are punished by imprisonment from 10 to 20 years.

Article 206 regulates taking possession of the vessel and this also relates to the activities of piracy. In this regard, crew members of a vessel who take possession of the same are punished: by imprisonment from 10 to 20 years if the fact is committed with violence or threat against the Master or the other officers; by imprisonment from 3 to 10 years if the fact is committed clandestinely or by fraudulent means. For promoters and heads the punishment is increased up to one third. If the fact is committed by a person extraneous to the crew the punishment is reduced by one third. Effective application of this article in Somalia Maritime Zone would significantly help to reduce piracy activities especially among the youth.

Article 207 on its part discourages using false routes as an excuse for engaging in criminal activities including piracy activities. Therefore, the Master of a vessel who, in order' to obtain for himself or for others an unfair benefit or to cause to others a damage, take 3 a false route, is punished by imprisonment from 1 to 6 years and a fine up to Sh.So. 800. Furthermore, if the fact causes a danger of fire, shipwreck, or submersion of the vessel, the punishment is increased by one third. If the fact causes fire, shipwreck or submersion, the punishment is imprisonment from 2 to 10 years.

To prevent those in authority from abusing their power and discourage their involvement in promoting piracy activities, crimes against persons were established in Chapter VI and in particular reference to the Article 210 that stipulates on abuse of authority. The article states that the Master who subjects to rigorous measures not permitted by the law a crew member or passenger or a person imprisoned and entrusted to him in custody or for transport, is punished by imprisonment up to 30 months, provided the fact does not constitute a graver crime. The same punishment is inflicted upon those to whom said person has been entrusted. The punishment cannot be less than 6 months when the fact is committed for personal reasons or against an ill person or a minor or a major of seventy or against women. This article restricts those in authority from compromising activities of piracy and considers taking their activities seriously.

Piracy activities can also be encouraged by the Master of a ship if their behaviors related to embankment and dismemberments are not controlled. In this regard, Article 211 was put in place regulate aspects of Dismemberment and arbitrary abandonment of persons. According to the article, the Master of a ship who arbitrarily disembarks a crew member or a passenger out' of the territory, or abandons them avoiding their return on board or anticipating the ship's departure, is punished by imprisonment from 6 months to 3 years' and a fine from Sh.So,80 to 240/-. The article also states that the punishment cannot be less than 1 year if the person disembarked lacks the necessary means of subsistence or to repatriate. The punishment is imprisonment from 1 to 6 years if the fact causes personal injuries; from 3 to 8 years if it causes the death. The above punishments are reduced to two thirds in case of dismemberment or abandonment within their national territory.

To ensure that different parties abide by the laws being established in the Maritime Code, Chapter VII on the Infringement of the Provisions Governing the Maritime Demesne was established. One of the core and important articles in this paper is Article 215 and it relates to the Abusive occupation of domainial areas. In such cases, imprisonment up to 6 months or a fine up to Sh.So.400, if the fact does not constitute a graver crime, are inflicted upon anyone who arbitrarily occupies an area of the maritime demesne, prevents public use, or makes unauthorized innovations on the same.

Chapter X of the Maritime Code warns against the Infringement on the Provisions Governing the Ownership of the Vessel. The Article 221 in this paper is more pronounced on the Noncompliance with the provisions relating to the abandonment of the ship's flag. In this regard, failure to comply with the provisions Sub-Article 43 and 44 is punished by imprisonment up to 6 months or by a fine up to Shs. So. 800/-. This Article regulates the affairs of terrorists because it puts a strong emphasis on the importance of a flag which is often abused by terrorists.

Chapter XI of the Maritime Code is also set to reduce cases of piracy off Somali Maritime Zone because it warns against Infringements of the Provisions Governing Navigation Police. In the Article 223 of this paper for example, non-compliance with the provisions governing the use of flag, identification mark, and ship's documents are more clearly stipulated. Infringement in this regard leads to a fine up to Sh. So. 160 imposed upon the ship's Master who does not hoist the flag when required; the Ship owner or Master who does not comply with the provisions on the use of the name and identification mark of the vessel; and the Master who sails without having the required ship's documents on Board.

Maritime Signal rules are also important features that need to be followed in order to control cases of piracy. It is within this framework that Article 230 of the Maritime Code was set to underpin those who fail to comply with maritime signaling rules. The article stipulates that the Master of Somali or foreign ships, dhows or sea-craft who does not comply with maritime signaling rules, is punished by imprisonment up to 6 months or by a fine from Shs. So. 40 to 800.

THE SOMALILAND LAW ON COMBATING PIRACY- LAW NO. 52/2012

This is one of the powerful legal tools formulated to combat piracy in Somali Maritime Zone. Article 2 of the Law defines the act of piracy. The Article is in line with the Article 101 of the UN Convention on the Law of the Sea as UNCLOS views piracy as:

Any of the following acts: (a) 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, 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)."

In similar way, the Article 2 Sub-section 1 of the Law on Combating Piracy, piracy defines piracy as any illegal act of violence or detention or depredation committed by the crew or the passengers of a private ship or a private aircraft or by armed pirates for the purposes of illegal financial gain and directed – a) on the high seas, against a ship or aircraft, or against persons or property on board such a ship or aircraft; b) against a ship, an aircraft, a person or property on board a ship or an aircraft in a place outside the jurisdiction of any state; c) against a ship, an aircraft, a person or property on board a ship or an aircraft within the territorial waters of the Somaliland.

Sub-section 4 of the Article 2 of the Law on Combating Piracy somewhat expands the definition on piracy. According to the Sub-section 4 of this Article, any act of piracy directed at or by a warship or military aircraft

or a government ship or aircraft whose crew takes over its control by means of a mutiny and commits acts of piracy as defined in (this) Article 2 of this Law3. As per the Article, the term Ship means any sea vessel including ship, boat, speed boat, launch, canoe or any other sea vessels which are used for acts of piracy. This Clause deviates from the corresponding provisions in the UNCLOS Article 101(b) definition of Piracy and which states: "b) any act of voluntary participation in the operation of a ship or an aircraft with knowledge of facts making it a pirate ship or a pirate aircraft. Thus, these give a comprehensive scope of piracy in Somali Maritime Zone and they relate to the Article 101 of the UN Convention on the Law of the Sea.

In the Article 3of the Somaliland Law on Combating Piracy (Piracy Law) Law No. 52/2012, the purpose of the Law is clearly stipulated. The Article states that Sub-section 1 of the Article 3 emphasizes the protection of the security and the preservation of the peace in the Somaliland seas. In the sub-section 2 of the Law, the purpose of the law is to safeguard ships sailing in the Somaliland sea and the high seas while in the Sub-Section 3, Somaliland Law on Combating Piracy is aimed at combating pirates in the Somaliland sea and the high seas. According to the Article 3 Sub-Section 4 of the Law on Combating Piracy, the law is viewed as a tool to prevent the organisation, financing, provision of information to and support of any persons engaged in piracy. Similarly, in the Sub-section 5, the law acts as a way of preventing acts of piracy perpetrated against Somaliland and international commercial enterprises. Lastly, the law gives directions that can be used in the investigation, prosecution and imprisonment of those detained for the offences of piracy. Thus, it can be noted that Somaliland Law on Combating Piracy (Piracy Law) Law No. 52/2012 serves many purposes and if well and effectively implemented, it would help to significantly reduce cases of piracy in Somalia Maritime Zone.

Regards to the Article 4 of the Law, punishment for the crime of piracy is well stated. According to this Article, anyone who commits any act of piracy referred to in Article 2 of this Law shall, unless he has committed murder, be liable to imprisonment from 5 to 20 years. This suggests Piracy is unacceptable activity in the Republic of Somalia thus, the government has taken strong measures to deal with the crime. Nevertheless, this can be achieved well in support and collaboration of other stakeholders and international community.

Article 5 of the Somaliland Law on Combating Piracy (Piracy Law) Law No. 52/2012 talks about the Jurisdiction of Somaliland Courts. According to this Article, an act of piracy at a ship or aircraft owned by Somaliland shall come under the jurisdiction of the Somaliland courts unless the ship or aircraft was, at the time of the commission of the offence, situated in the territorial waters of another country or that act is assigned, under international law, to another jurisdiction.

It also states that notwithstanding the provisions of any other law and regardless of the nationality of the accused persons, the courts of Somaliland shall have jurisdiction to try any offences of piracy committed

within the Somaliland sea or outside the Somaliland sea if committed in an area not falling within the sea of any other country when the Somaliland Coastal Forces detains the accused persons.

The impression from the Article 5 is that the Republic of Somalia abides by the International and Regional Laws regulating Piracy activities and that is why it respects the sovereignty of others countries in trying those suspected of piracy activities in their waters.

Article 6 of the Somaliland Law on Combating Piracy (Piracy Law) Law No. 52/2012 gives description on what can be termed as a Pirate Ship or Aircraft. According to the Article, a ship or an aircraft shall be deemed to be a pirate ship or a pirate aircraft if it is under the control of persons who intend to commit the acts of piracy referred to in Article 2 of this Law. The Article further indicates that a ship or an aircraft used for committing acts of piracy as stated above (Article 2 of this Law) shall be deemed to be a pirate ship or a pirate aircraft so long as it remains under the control of those who committed the acts.

Article 7 of the Somaliland Law on Combating Piracy (Piracy Law) Law No. 52/2012 relates to the ownership or loss of the nationality of a ship or an aircraft. According to this Article, a ship or an aircraft may retain its nationality even though it has become a pirate ship or a pirate aircraft. Furthermore, the article indicates that the retention or loss of nationality shall be determined by the law of the state in which they are registered.

Article 8 lays down regulations relating to the search and seizure of Sea Vessels by the Coastal Guard Force. The Article states that the Coastal Guard Force shall have the same powers as the Police Force when they are protecting the security and the peace of the sea and the coasts. Thus, the Coastal Guards Force of Somaliland shall have the power to seize a ship or an aircraft which is under the control of pirates, or is suspected of being involved in acts of piracy, and is either within the sea of the Somaliland Republic or is outside the sea of the Somaliland but is in a place outside the sea of any other state. They have also the power to arrest any persons caught or are suspected of committing the acts. The Article also grants powers to the Coastal Guards Force Somaliland to institute investigations into cases relating to acts of piracy.

Article 9 provides guidelines for the infringements by a Master or Officer of a Vessel. According to the Article, the master or officer of a Somaliland or foreign owned ship who commits acts of depredation or robbery against a Somaliland or foreign owned ship (or boat) or against the cargo or passengers aboard the ship shall be punished by imprisonment from 10 to 20 years if the act is one of piracy referred to in Article 2 of this Law. It also stipulates that a public officer or a person entrusted with a public service who performs an act, contrary to the duties of his office, of facilitating piracy or participating in the receipt of the benefits accruing from that act for himself or for a third party or accepts promises shall be punished with imprisonment from 10 to 25 years.

Articles 10 and 11 stipulate strong requirements towards the offenders. Article 10 rejects the conversion of punishment of imprisonment for pirates into fine. According to the Article, the punishment of imprisonment for the offences referred to in this Law shall not be converted into a fine. Article 11 provides rules towards the confiscation of a pirate boat. It states that a pirate boat, ship or a pirate aircraft and all the proceeds or the benefits obtained from the commission of the offence referred to in Article 2 of this Law shall be confiscated.

THE SOMALI PENAL CODE LEGISLATIVE DECREE NO. 5 OF 16

This UNCLOS provision has as its centre the participation in the operation of a pirate ship/aircraft with the knowledge of the nature of the enterprise and is a separate and different offence from participation in "an attack" or attempted attack. It is similar to the offence of "going equipped" to commit a crime such as theft, robbery or fraud which constitutes in many jurisdictions a separate crime on its own. Participation in an attack or an attempted attack is already covered by Clause 1 read with Articles 71 of the Penal Code (joint participation in a crime), but there is no parallel provision in the Penal Code to a "going equipped" offence that can be used to deal with the participation in the operation of a pirate ship or aircraft as a separate crime.

Article 76 of the Penal Code covers cases where two or more persons agree to commit an offence but have not yet committed the offence, but the mere agreement would not incur a punishment although the court may order security measures against the persons. These security measures set out in Article 172 are, however, not serious enough to deal with the UNCLOS Article 101 (b) offences. The public order offence under Article 322, of associating to commit more than one crime which is punishable with imprisonment of 3 to 7 years may fill the gap but it is based on proving an intention to commit more than one crime.

In other jurisdictions, cases of conspiracy to commit an offence attract severe punishments. Also Clause 3 of the Law could possibly catch some of the acts of participation in the operation of a ship/aircraft as being acts of aiding or facilitating once the act is committed or attempted (Article 17 and 125 of the Penal Code). Nonetheless, none of these other provisions address adequately the UNCLOS Article 101(b) wording which should be added to this Law as soon as is practicable. This is a poorly drafted Clause.

As **Article 12** of this Law re-confirms the applicability of the Penal Code in matters not specifically dealt with in this special criminal law, crimes of murder arising from acts of piracy shall be dealt with as murder under Article 434 of the Penal Code, which is punishable by death. Registered in Somaliland would have probably been more appropriate.

The powers are set out in various laws, but in respect of the investigation of offences, searches, arrests etc., the principal relevant Law is the Criminal Procedure Code. This is unnecessary as the definition of a ship,

under Article 2, includes a boat. For the definitions of a “public officer” and “a person entrusted with a public service”.

In **Article 240** of the Penal Code, such a public officer shall also be subject to an automatic permanent interdiction from public office if he is sentenced to imprisonment of not less than 5 years and to an interdiction for a period of 5 years if he is sentenced to imprisonment of not less than 3 years. Article 102 of the Penal Code. Such conversion, in any case, was only available, under Article 109 of the Penal Code, for sentences of imprisonment not exceeding one year and in which the factors listed in the Articles 109 and 110 are fulfilled. This Law makes it clear that no such conversions are allowed in any sentences relating to piracy under this Law.

Article 12 of the Penal Code already makes a provision for the supremacy of a special law such as this Law which shall prevail over any Penal Code provisions that address the same issue. However, Article 14 confirms that the provisions of the Penal Code shall still apply to those matters not specifically provided for in this special law. This Article simply reinstates this position. Article 205 dealt with piracy committed by masters and officers of Somaliland or foreign ships and Article 206 with mutiny by ship’s crew.

Piracy is a crime under international law and is conceptualised and defined in several international instruments, chief among which is *UNCLOS*. However, the current influx of piracy off the coast of Somalia has exposed major weakness in the application of the current rules pertaining to that phenomenon all over the world. There is, therefore, an urgent need to fill in the *lacuna* in defining the term piracy and enhancing the enforcement of the relevant rules. With that in mind, confusion between acts of piracy and those of terrorism must be avoided, in spite of the fact that they share some common grounds.

The security council has reacted swiftly to the crisis by passing several resolutions urging the international community to take action to protect vessels transporting humanitarian aid to Somalia; expressing its concern that acts of piracy and armed robbery against vessels pose a threat to the safety of maritime routes; authorizing the States cooperating with the TFG to enter the territorial waters of Somalia and to use all necessary means to repress acts of piracy by deploying naval forces; and to seize and detain vessels and individuals involved in piracy.

The presence of a number of serious collateral constraints, such as the lack of cooperation by ship-owners, the use of ‘mother ships’ by pirates and the enlargement of the pirates’ sphere of operation has diluted the effectiveness of Operation Atlanta. It seems from the recent surge in piracy attacks that this operation cannot by itself alone stamp out piracy and a more comprehensive approach to the problem is required.

While the act of arresting suspected pirates is relatively not an onerous task, dealing with them thereafter can be quite daunting. This is because many States have not updated their national legislation to support

prosecution of suspected pirates. Moreover, States are not actively pursuing such prosecution because they lack either the political will or the technical capacity. Until recently, Kenya and Seychelles were the only countries in the region that had actually accepted to prosecute pirates captured by other States in their courts. However, Kenya has threatened to pull out of this scheme, which could render the MoU more or less dysfunctional. No wonder, therefore, that the Security Council is considering the possibility of creating international/regional tribunals to assume jurisdiction over Somali piracy. The expected tribunals would become operational and effective is a matter of speculation at this stage.

The existing measures of preventative or retributive nature that are aimed at combating Somali piracy, such as naval patrols, or freezing the assets of the pirates, or imposing sanctions on ship- owners who yield to ransom, do not provide a long-term solution to the problem. Thus, there is an urgent need for a comprehensive strategy to tackle the problem at its root causes. In this context, capacity-building initiatives such as the International Maritime Organization (IMOs) Djibouti Code of Conduct should be encouraged.

THE ROLE OF THE SECURITY COUNCIL IN COMBATING SOMALI PIRACY

Over the past two and a half years, the Security Council has passed seven resolutions relating to Somali piracy, more than on any other subject on its agenda. It is noteworthy that all seven resolutions had been passed under Chapter VII of the UN Charter, under which the Council could authorise the use of force against threats to international peace and security. These resolutions have clearly enhanced the authority of the armada far beyond what is permitted by UNCLOS and customary international rules pertaining to piracy. It would be recalled that, without further authorisation from the Security Council, existing international Law of the Sea is very restrictive. Thus, as has been stated previously, UNCLOS defines acts as piracy only when committed on the high seas.38 Moreover, the same Convention authorises seizure of pirate ships only on high seas (UNCLOS.1982). Somali pirates have figured out that as international shipping must pass through the narrow corridor of the Gulf of Aden, that provides them with the opportunity to launch their attacks in international waters and within no time enter Somali territorial waters. This was a major gap in the Law of the Sea, to which the Security Council responded by passing Resolution 1816. The relevant part of the Resolution reads as follows.

Decides that for a period of six months from the date of this resolution, States cooperating with the TFG in the fight against piracy and armed robbery at sea off the coast of Somalia, for which advance notification has been provided by the TFG to the Secretary General, may:

(a) Enter the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea, in a manner consistent with such action permitted on the high seas with respect to piracy under relevant international law; and

(b) Use, within the territorial waters of Somalia, in a manner consistent with action permitted on the high seas with respect to piracy under relevant international law, all necessary means to repress acts of piracy and armed robbery;

Affirms that the authorization provided in this resolution applies only with respect to the situation in Somalia and shall not affect the rights or obligations or responsibilities of Member States under international law, including any rights or obligations under the Convention, with respect to any other situation, and underscores in particular that it shall not be considered as establishing customary international law, and affirms further that this authorization has been provided only following receipt of the letter from the Permanent Representative of the Somalia Republic to the United Nations to the President of the Security Council dated 27 February 2008 (S/2008/XXX) conveying the consent of the TFG;

What may be gleaned from the above two provisions is that, States have been empowered to take action against pirates even in Somali territorial waters. Secondly, this authorisation has been expressly based on the consent of the Somali government. Thus, notwithstanding the fact that Somalia is a failed State, it continues to retain the right as a sovereign State to preclude foreign ships and aircrafts from entering its territorial zones.

Thirdly, and more significantly, the resolution has been ruled out as laying the foundation for a customary rule of hot pursuit in the territorial waters of other nations. This is certainly a novel way for determining how an evolving norm should or should not crystallise into customary international law:

On 16 December 2008, the Security Council passed Resolution 1851. This resolution is broader than Resolution 1816. It could be viewed as the main contribution by the Bush Administration towards combating the phenomenon of piracy. This was because the resolution had been drafted and sponsored by that Administration. Of special significance is paragraph:

In response to the letter from the TFG of 9 December 2008[the security council], encourages Member States to continue to cooperate with the TFG in the fight against piracy and armed robbery at sea, notes the primary role of the TFG in rooting out piracy and armed robbery at sea, and decides that for a period of twelvemonths from the date of adoption of resolution 1846, States and regional organizations cooperating in the fight against piracy and armed robbery at sea off the coast of Somalia for which advance notification has-been provided by the TFG to the Secretary-General may undertake all necessary measures that are appropriate in Somalia, for the purpose of suppressing acts of piracy and armed robbery at sea, pursuant to the request of the TFG, provided, however, that any measures undertaken pursuant to the authority of this paragraph shall be undertaken consistent with applicable international humanitarian and human rights law;

As can be readily seen, this resolution has a life span of one year, i.e. to run for an extra six months more than Resolution 1816. Secondly, it extends the authorisation on the use of force to military incursions right into mainland Somalia. This is a compromise formula, as some members of the Council viewed with suspicion the original proposal by the United States which, in an unprecedented manner, called for authority to launch air strikes on Somali airspace in pursuit of pirates. Indeed, the majority of States which had a history of piracy problems were quite apprehensive about the erosion of their national sovereignty. This fear has been reflected in the statements made by Councilmember which emphasised that the aforesaid resolutions applied exclusively to the situation in Somalia. And, as has been mentioned, parallel with that, the resolutions have stated expressly that their content do not constitute a precedent in customary international law.

It is noteworthy that the resolution subjects the use of force in Somali territory to further scrutiny in the form of prior approval by the provisional government of that country. Additionally, there solution requires that the measure to be taken must adhere to international humanitarian law. This latter condition comes with its own difficulties as pirates, by definition, are non-combatant civilians and as such should not be fired at as lawful targets, unless in clear situations of self- defence with all the attending preconditions. Be that as it may, it appears that the forces taking action against pirates are content to confine themselves to the high seas and the territorial waters of Somalia, without chasing the pirates all the way onto dry land.

The SC became increasingly aware of the fact that States have invariably distanced themselves from anything to do with the prosecution of suspected Somali pirates. It has, therefore, become manifestly clear to the SC that the prosecution of pirates is a problem independent of that of capturing them. In fact, it comes with many perplexing and intricate questions, as will be shown in the next section. In order to ensure that States play their roles in combating Somali piracy, the Council also addressed the question of prosecution in Resolution 1897,whichmay be summarised as follows:

i. States and regional organizations are invited to conclude agreements with countries willing to take custody of pirates for law enforcement with the aim of facilitating investigation and prosecution of detained pirates; and to enhance cooperation among themselves in determining jurisdiction and in investigating and prosecuting suspected pirates

ii. States are called upon to help Somalia strengthen its prosecution capacity and urged to fully implement their obligations under the *UNCLOS* and the*1988 SUA Convention* by building judicial capacity for prosecution of suspected pirates.

Inviting States and institutions to conclude transfer and prosecution agreements is a sound idea; however, lessons ought to be heeded from the experience of MoU concluded with Kenya before embarking on new agreements. Moreover, calling upon the contracting States of *UNCLOS* and the *SUA Convention* to carry out

their duties under these conventions and to enhance their judicial capabilities to cope with Somali piracy is not going to achieve much result. This is because the interests of the preponderant majority of the contracting States are not affected by it and are therefore not willing to act.

The most recent Security Council Resolution on Somali Piracy was adopted on 27 April 2010. Like its predecessor, this resolution has reaffirmed in its preamble that, the authorization renewed in Resolution 1897 (2009) is to be applied only to the situation in Somalia and that it should not be considered as establishing customary international law. However, as mentioned earlier, the formation of customary international law is dependent on other criteria and not merely at the whimsical wishes of the SC. Be that as it may, the resolution has clearly recognised again the problems caused by the limited capacity of the judicial system of Somalia and other States in the region to effectively prosecute suspected pirates.

Accordingly, the SC has gone further by asking the Secretary-General to report to it within three months on ways and means for ending international legal ambiguities that have hampered effective prosecution of suspected Somali pirates. Paragraph 4 of the resolution refers in particular to 'options for creating special domestic chambers possibly with international components, a regional tribunal or an international tribunal and corresponding imprisonment arrangements'. Although the idea is a sound one, the proposed tribunal will be affected in a negative way by the limitation of judicial institutions in the region, and hence, it is unlikely that due process would be observed in prosecuting suspected pirates. Moreover, the present writer is acutely aware that the setting up of the proposed tribunals can be very complicated and costly (Omer, 2004) . In addition, it is unlikely that it would deter impoverished Somalis from engaging in acts of piracy.

SOMALI PROSECUTION OF SUSPECTED PIRATES

This section will deal with specific issues relating to the prosecution of suspected pirates in the courts of a third State. While it is clear under international law that any state may prosecute pirates under universal jurisdiction, many States have not actively pursued the issue of prosecuting suspected pirates in their domestic courts. This is because their national laws do not outlaw the crime of piracy and/or they do not have the capacity or political will to deal with this matter.

The language of Article 105 of UNCLOS is a clear codification of universal jurisdiction as it applies to piracy. Thus, it stipulates that, 'every State may seize a pirate ship' on the high seas, but that the prosecution may be by 'the Courts of the State which carried out the seizure'. Applying the rules of interpretation from the Vienna Convention on the Law of Treaties, opened for signature 23 May 1969, 1155 UNTS 331 (entered into force 27 January 1980), it becomes clear that the use of the word 'may' rather than 'shall' is indicative of the fact that the seizing State does not have exclusive jurisdiction on the putative pirate. This conclusion also

finds support under Article 32 of the Vienna Convention on the Law of Treaties, which allows recourse to the legislative history of the provision under scrutiny.

Therefore, the study found that Article 105 of UNCLOS was lifted verbatim from Article 18 of the Geneva Convention drafted by the International Law Commission in 1958 (Omer, 2004). The piracy provision in the latter has been taken directly from the draft treaty in the Harvard Research publication of 1932 (International Law Commission, 1956). This recognizes the jurisdiction of any State having lawful custody of a pirate to prosecute and punish him. The commentary also recognises that, although the legality of seizure depended primarily on international law, the power to deal with the alleged pirate could be enlarged or restricted by agreement between States. Accordingly, Article 105, properly interpreted provides for permissive rather than exclusive jurisdiction of the State of the flag. This means that it does not create an impediment to the transfer of suspected pirates to a third State which is willing to prosecute them.

In the context of Somali piracy, the TFG seems to have very little control over Somalia, and hence it has not involved itself in the prosecution of pirates. On the other hand, it should be noted that the Government of Somaliland appears to have more effective control over its territory. As a result, it has on numerous occasions captured and prosecuted pirates in its own courts, thereby adhering to the text of Article 105 of *UNCLOS*. In a similar vein, Somali pirates have been arrested in the high seas by French Naval forces in April 2008, for holding hostage a French yacht and its occupants. The pirates are still in French custody and they are almost certain to be prosecuted in French courts.

For further illustration, Somali pirates seized the *MV Maersk Alabama*, a US flagged ship, and detained its captain, some 250 nautical miles off the coast of Somalia in April 2009. The US Navy responded by dispatching two warships to the vicinity, with a view to securing the release of the captain. When it became apparent that his life was in imminent danger, a rescue mission was launched. This resulted in the release of the captain, the demise of three pirates and the detention of a fourth pirate. The latter is currently being indicted before a US District Court.

In contrast to that, there are situations in which the State of the flag which had captured the pirates handed them over to other States to deal with them. The handing over by the UK government of arrested suspected pirates for prosecution in Kenya in the year 2006 comes to mind. More recent examples include first, the handing over at the beginning of January 2009, of Somali pirates by Danish authorities to the Dutch government for prosecution in the Netherlands under Dutch domestic law. In fact, their trial has already commenced and it is the first European trial of Somali pirates.

Secondly, in April 2009 pirates who had attacked a German supply vessel were arrested by Spanish and German naval forces and handed over for prosecution in Kenya. A third example relates to the fate of eight

suspected Somali pirates who had been captured by the British Royal Navy in the high seas and thereafter handed over to Kenyan authorities for prosecution. More recently, the French Navy handed over twenty-two suspected Somali pirates to Puntland's authorities with a view to prosecuting them in local courts.

A thorny question is on what grounds can Kenya assume jurisdiction to prosecute suspected pirates who committed their wrongful act on the high seas? As a general rule, a State may exercise such jurisdiction if either the perpetrator or the victim is one of its nationals. This can be done under the passive personality principle.58 Likewise, if the effects of the criminal act in question reach the State, it can extend its jurisdiction over the assailant. Pertinent to this, President Guillermo stated in his separate opinion in the *Arrest Warrant Case* that: under the law classically formulated, a State normally has jurisdiction over the offence committed abroad only if the offender, or at very least the victim, has the nationality of that State or if the crime threatens its internal or external security'.

Applying these rules to the question of prosecuting Somali pirates in Kenya, it is difficult to see how Kenya can assume jurisdiction under this heading not least because neither victims, nor assailants were Kenyans. Of course, there are other possible grounds for asserting jurisdiction of Kenyan courts over Somali pirates, such as universal jurisdiction. Customary international law certainly supports such a notion, as piracy is the oldest international crime that attracted universal jurisdiction (Rosalyn, 2001) .

In addition to the aforementioned grounds of jurisdiction, it is arguable that Kenyan courts have acquired jurisdictional competence by agreement.

These agreements which Kenya has entered into with the US, EU, UK and several other countries, are known as MoU. According to these agreements, Kenya is under a legal obligation to prosecute in its national courts suspected pirates captured in the high seas by EU, UK or US Naval forces.

This means that the MoU will be used to facilitate the attendance of the pirates who are non- nationals suspected of committing offence on the high seas. The legal status of the MoU is not contentious under international law as they are nothing more and nothing less than international agreements in accordance with the provisions of the Vienna Convention on the Law of Treaties. However, MoU do not constitute an open-ended responsibility to prosecute all suspects captured on the high seas. In this context, Kenya's Foreign Minister has declared that, the MOU were not 'an open door for dumping pirates onto Kenyan soil because it will not be acceptable'. It must be noted, however, that without a domestic statute establishing jurisdiction over piracy on the high seas by non-nationals, Kenyan courts would be hard pressed to prosecute, as their subject matter jurisdiction would be open to challenge. This has been overcome by the passage of a new Merchant Shipping Act in Kenya (Lori, 2009) .

As a matter of efficacy, some credit should be given to the MoU as the situation was really chaotic before they came into force. It was indeed a perplexing question what to do with the pirates after they had been captured, due to the immense legal hurdles in the face of their prosecution. For instance, some suspected pirates had been released by some members of the international naval coalition, despite being found with weapons and grappling hooks. Presumably, their release must have been motivated by a desire to prevent repetition of the case in which a suspected pirate was kept on board a US naval ship for several months as it could not be determined during that time where to prosecute him.

It is noteworthy that, the MoU between Kenya and other States have not confined them to jurisdictional arrangements as they have complied with human rights standards. Thus, they have stipulated that suspects should be treated humanely and in accordance with international human rights obligations. Therefore, they should never be subjected to torture, cruel, inhuman or degrading treatment or punishment. Moreover, they should not be subjected to unfair trial or arbitrary punishment. However, serious doubts may be expressed about the propriety of trials taking place in Kenya on the basis of the MoU. It would appear that these trials are tarnished by disparities in the legal standards of the States involved, and lack of credible evidence. In addition, further constraints are produced by language barriers and the unavailability of prosecution witnesses.

Finally, at the time of writing this article, serious doubt had been expressed about the capacity of the Kenyan legal system to cope with these trials, including the financial burden. As events are unfolding, the MoU with Kenya are now under serious threat of becoming defunct. One can only assume that the financial costs and other legal and practical difficulties in holding these trials outweigh any legal interest Kenya may have on the matter.

HOW SOMALI PIRACY COMBATED THROUGH NAVAL DEPLOYMENT

As mentioned above, in the year 2008, the European Union and the UN Security Council expressed serious concerns with regard to piracy off the east coast of Africa and around the Gulf of Aden. It is a well-known fact that a sizable number of trading vessels pass through these trade routes. Somali pirates took advantage of that, and its most notable victim was the World Food Programme (WFP, 2007). It became a regular pattern for the pirates to launch attacks on ships carrying WFP's vital humanitarian aid to Somalia. Thus, in demanding for help, the WFP appealed to the world community for international protection. The concern about the threat posed by Somali piracy had also been expressed by shipping companies, the safety of whose vessels, cargo and crew had been compromised by the aforesaid piracy.

In response to repeated calls by the UN Security Council to combat piracy, the Council of the EU had, on 26 May 2008, reiterated its concern at the upsurge of Somali piracy and the effect of that on safety of maritime

traffic and the humanitarian efforts. Accordingly, the EU Council decided on November 2008 to launch Operation EUNAVFOR Somalia (otherwise known as Operation Atlanta) for one year at an estimated cost of 8.3 million Euros (WFP, 2007).

The main strength of Operation Atlanta is the clarity of its mandate, namely, offering support to WFP in its efforts to transport humanitarian aid to Somalia, to protect the shipping of the African Union (AU) mission providing supplies to the TFG of Somalia, to protect vulnerable shipping and to liaise with shipping companies as to how to avoid high-risk zones, and to cause deterrence, disruption and breakup of private gangs.

Although Operation Atlanta has been generally praised, its successes have been more apparent in protecting WFP and AU shipping more than in deterring and disrupting piracy. Moreover, the presence of military forces and cooperation by some ship operators seem to have thwarted to a great extent the number of attempted pirate attacks.

There have been, however, some collateral constraints which have reduced by far the efficacy of Operation Atlanta. To begin with, it has to be remembered that Atlanta has been designed to work hand in hand with transiting ships and in cooperation with the Maritime Security Centre Horn of Africa (MSHOA). This liaison, however, has thus far proved to be an impediment in the face of naval protection. This is due to the fact that a significant proportion of transiting ships have not been co-operating as required in the spirit mentioned above.

Another reason which militates against successful naval protection is the sheer vastness of the waters to be patrolled, namely, south of the Red Sea, the Gulf of Aden, the Somali Basin and part of the Indian Ocean. In addition to the above, the pirates are continuously expanding their sphere of operation further and further away from Somali and Yemeni coasts, well over 1000 nautical miles into the Indian Ocean and Kenyan Waters. This is all a direct result of the pirates now using more sophisticated ‘mother ships’ as a base for launching minor skiff attacks.

In addition to the foregoing, notwithstanding the clarity of the mandate with which Atlanta is endowed, many of the naval forces present have not been provided with unequivocal rules of engagement. As a result, there appears to be a total lack of coordination amongst the present naval forces, including the methods of processing alleged captured pirates.

It is axiomatic that the lack of clear rules of engagement should not provide naval forces with the right to commit unnecessary or unlawful killing of alleged pirates. Naval commanders should always remember that Atlanta remains a law-enforcement operation and should not be seen as war as such against pirates. Thus, like any situation in which the use of force is in issue, Atlanta must abide by notions of proportionality and

reasonableness, with the inference that naval forces should resort to lethal force against pirates only when they pose a threat to life.

In spite of any impact that Atlanta may have had, piracy in the Gulf of Aden and the Indian Ocean remains a serious and continuous threat not only to EU interests but general maritime trade. Nevertheless, the fact that Operation Atlanta has been launched in a short space of time constitutes a good precedent for how the EU can successfully conduct its foreign and security policy. It may, however, be mentioned in passing that fifteen of the EU member States have as yet to make a permanent operational contribution to Atlanta. On the other hand, there are a number of non-EU Member States that participate in the operation, namely Norway, Croatia, Montenegro and Ukraine. There are also several States that have sent naval forces to protect shipping from Somali piracy, such as China, Japan, Russia, the United States.

CONCLUSION

The impression from this paper is that the government of Somalia has made significant efforts in establishing legal framework to curb piracy activities off Somalia Maritime Zone. This effort can be witnessed by the establishment of the 1959 Somalia Maritime Code; the Somaliland Law on Combating Piracy (Piracy Law) Law No. 52/2012; and the Penal Code Legislative Decree No. 5 of 16 among others. However, significant setbacks have been witnessed in the implementation of these laws as a result piracy activities keep increasing in the Maritime Zone (Pharand and Anderson, 1992).

Due to the nature and magnitude of the piracy problem, the Somali government requires assistance in its own efforts to contain and reverse this phenomenon. Through international assistance and greater collaboration, Somalia would be able to reconstitute an effective national coast guard to conduct counter-piracy operations alongside other missions that are related to the root causes of piracy, such as countering illegal fishing activities, criminal gangs active in drugs smuggling and human trafficking, as well as waste dumping (Pharand and Anderson, 1992). Before its collapse, the Somali Army Naval Forces were regarded as a professional and effective force in the region. Building on this history, through international support Somalia can once again bring its territorial waters under jurisdiction and control to the benefit of itself, the region, and the wider international community suffering from Somali piracy.

Finally, in the concluding paper the editors will use the insights provided by the various contributors to address the two main questions that are central to this volume and highlight the challenges and opportunities that lie ahead in the fight against Somali piracy.

FUNDING OF THE RESEARCH.

This research has not been funded by any institution. The Authors conducted the research utilizing their own funds.

REFERENCES

Damrosch, L. F., Henkin, L., & Murphy, S. D. (2009). *International law: Cases and materials* (5th ed.). West Group.

Elagab, O. (2004). The Special Court for Sierra Leone: Some constraints. *International Journal of Human Rights, 8*(3), 249–274.Higgins, R. (1994). *Problems and process: International law and how we use it.* Oxford University Press.

International Law Commission. (1956). Articles concerning the law of the sea with commentaries. *UN GAOR, 11th sess, Supp No 9, UN Doc A/3159*, 282 (Draft Article 38).

Mazzetti, M. (2010, November 30). Blackwater aimed to hunt pirates. *The New York Times.* https://www.nytimes.com/2010/12/01/world/africa/01wikileaks-blackwater.html

Pharand, D., & Anderson, L. D. H. (1992). The Strait of Dover and the southern North Sea: Some recent legal developments. *International Journal of Estuarine and Coastal Law, 7*, 85–98.

Sadat, L. (2001). Redefining universal jurisdiction. *New England Law Review, 35*, 241–246.

Sanni, T. & Abdurrahman, S. (2021). International and regional responses in combating maritime security threats in Somalia. KIU Interdisciplinary Journal of Humanities and Social Sciences, 2(1), 115-129

United Nations. (1982). *United Nations Convention on the Law of the Sea (UNCLOS)*. 1833 UNTS 3. Opened for signature 10 December 1982, entered into force 14 November 1994.

World Food Program. (2007, October 7). Coordinated action urged: Piracy threatens UN lifeline to Somalia. *World Food Program.* http://www.wfp.org/node/328

UPU Journal of Sustainable Development (UPUJSD) Open Access

UPUJSD is a peer-reviewed academic journal dedicated to advancing research and dialogue on sustainability across diverse disciplines. Published by Uganda Pentecostal University, the journal provides a platform for scholars, practitioners, and policymakers to share innovative ideas, empirical research, and critical analyses that contribute to achieving sustainable development goals.

Journal Themes

- Sustainable agriculture and food security
- Artificial intelligence in sustainable development
- Renewable energy and environmental sustainability
- Community development and social entrepreneurship
- Climate change adaptation and mitigation strategies
- Sustainable urban planning and infrastructure development
- Gender equality and social inclusion
- Legal frameworks supporting sustainable development
- Any aspects of the Sustainable Development Goals (SDGs)

Submit your Article here