High Seas and High Stakes: Legal and Strategic Challenges of Indian Ocean Piracy

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ABSTRACT

Maritime piracy in the Indian Ocean, one of the world's most important trade corridors, has transformed from isolated acts of theft into a highly organized form of transnational crime, threatening international shipping and regional stability. The region's strategic chokepoints, particularly the Gulf of Aden and the Somali coastline, have become epicentres of piracy, with recent spikes in incidents reigniting global concern.

This paper traces the historical evolution of piracy in the Indian Ocean, examining how colonial trade, socio-economic inequality, and political instability have shaped its persistence. Contemporary piracy thrives on poverty, weak governance, and environmental pressures such as overfishing, which together create fertile ground for maritime crime.

The hotspots from the Gulf of Aden to Somali waters, are marked by hijackings, ransom demands, and violence, bringing not only economic losses but also humanitarian crises for seafarers. Combating these threats involves a wide cast of actors, including affected coastal states, private shipping companies, multinational coalitions like the Combined Maritime Forces (CMF), and global bodies such as the United Nations.

Legal frameworks such as the United Nations Convention on the Law of the Sea (UNCLOS) and the Djibouti Code of Conduct form the backbone of current anti-piracy measures. Yet, jurisdictional gaps, uneven enforcement, and evolving pirate tactics limit their impact. Although international naval patrols have reduced attacks in some zones, political instability and adaptable criminal networks keep the threat alive.

Addressing piracy in this region calls for an integrated strategy: stronger and more harmonized legal regimes, technological tools like satellite tracking, closer regional collaboration, and

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long-term investment in coastal development. Only through such a multifaceted approach can the Indian Ocean remain secure and global trade flow uninterrupted.

Keywords: Maritime Piracy, Indian Ocean, UNCLOS, Naval Cooperation, Regional Security.

INTRODUCTION

Maritime piracy in the Indian Ocean remains one of the most enduring threats to global commerce, the safety of seafarers, and the stability of coastal states. Once intertwined with colonial trade rivalries, piracy in the modern era, especially off Somalia's coast, has evolved into a highly organized, transnational crime. It is sustained by a mix of political instability, chronic poverty, and weak maritime governance, creating an environment where criminal networks can operate with alarming effectiveness.

International naval patrols and legal frameworks have reduced some incidents, yet attacks continue to resurface. This persistence exposes the gaps in current approaches and underscores the need for strategies that go beyond short-term military deterrence, focusing instead on long-term stability and governance at sea and onshore.

This paper offers a comprehensive examination of piracy in the Indian Ocean, tracing its historical roots, analysing current trends, and assessing the effectiveness of legal and enforcement measures. It also considers the socio-economic conditions that allow piracy to thrive, ultimately aiming to inform more coherent, sustainable, and collaborative anti-piracy strategies for the region.

RESEARCH QUESTIONS

- What are the major legal and operational challenges faced in combating maritime piracy in the Indian Ocean region?
- How effective are international legal frameworks such as UNCLOS and the SUA Convention in addressing modern piracy threats?
- What loopholes within these legal instruments limit their applicability, especially in territorial waters and politically motivated acts of piracy?
- To what extent are coastal and flag states enforcing anti-piracy laws, and what barriers hinder consistent prosecution and punishment of pirates?

- How can regional cooperation and domestic legal reforms bridge the gap between international obligations and actual enforcement on the ground?

OBJECTIVES

- To critically examine the major legal and operational challenges in combating maritime piracy in the Indian Ocean.
- To evaluate the effectiveness and limitations of international legal frameworks like UNCLOS and the SUA Convention in addressing piracy.
- To identify key loopholes and jurisdictional barriers that hinder enforcement and prosecution.
- To assess the role of coastal and flag states in implementing anti-piracy laws and the challenges they face in doing so.
- To explore how regional cooperation, legal reform, and institutional capacity-building can bridge enforcement gaps and ensure maritime security.

MARITIME PIRACY

The history of maritime piracy stretches back to the earliest days of seafaring, when such acts were dealt with through customary norms and informal practices at sea. As shipping and naval operations became more sophisticated, however, these unwritten conventions proved inadequate, creating the need for formalized legal frameworks. By the 20th century, this shift materialized in the codification of anti-piracy laws, marking a move away from tradition and toward modern regulation.

The recurring resurgence of piracy, amplified by faster boats and advanced weaponry, has been a key driver in shaping maritime law. These technological changes expanded pirates' reach and effectiveness, making merchant vessels far more vulnerable. In response, anti-piracy operations have become a cornerstone of global maritime security, requiring extensive coordination between national governments, international organizations, and regional coalitions. The sharing of intelligence, resources, and strategies is now indispensable in combating piracy at sea.

There have been notable improvements, particularly in piracy-prone regions like the Somali coast, where incident rates have declined. Yet, piracy has not disappeared. Its opportunistic and

mobile nature allows it to thrive in areas with weak governance and limited enforcement capacity. Pirates have also proven highly adaptive, often staying a step ahead of evolving security measures, which complicates law enforcement.

A major sticking point remains the legal framework. Article 101 of the United Nations Convention on the Law of the Sea (UNCLOS) defines piracy, but the definition has drawn considerable criticism. By excluding acts within territorial waters ,labeling them instead as "armed robbery", UNCLOS creates jurisdictional complications and leaves gaps in enforcement. The requirement that piracy be committed for "private ends" has also raised questions, as it excludes politically motivated violence or state-sponsored acts, making the definition narrower than many scholars believe is practical. Similarly, the "two-ship" requirement omits incidents like mutinies or hijackings carried out onboard.

The Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA) was designed to fill some of these gaps, extending coverage to territorial waters and offering clearer avenues for prosecution. Nonetheless, many states have not incorporated SUA provisions into their domestic laws, which undermines consistency and slows down prosecution efforts.

Beyond legal complexities, practical obstacles persist. Many of the states most affected by piracy lack the infrastructure, personnel, or naval capacity to conduct effective surveillance and pursue prosecutions. While the United Nations and other international actors continue to emphasize capacity-building and collective action, political frictions and logistical challenges often dilute these efforts.

Regional and international cooperation through joint patrols, coordinated naval responses, and intelligence-sharing remains essential. However, unresolved territorial disputes and competing national interests frequently limit the effectiveness of such collaboration. Non-binding "soft law" instruments provide flexibility and encourage cooperation, but their lack of enforceability makes compliance uneven.

Ultimately, tackling maritime piracy requires more than just legal reform. It demands effective enforcement mechanisms, strong institutional support, and long-term international

commitment. The persistence of piracy, despite real progress, underscores the importance of addressing its underlying causes while simultaneously strengthening global and regional frameworks. Only through this dual approach can the resilience of piracy be countered in a lasting way.[949]

HISTORICAL AND CONTEMPORARY CONTEXT

The history of maritime piracy in the Indian Ocean reflects a complex interplay of colonial expansion, economic exploitation, and local resistance. Piracy thrived along major trade routes, feeding on the region's commercial vitality. William H. McNeill's description of pirates as "macro parasites" captures how their predatory practices mirrored broader exploitative structures in trade and imperial politics.

Resistance movements such as the Angria naval clan and the Mapillah community of Malabar were frequently branded as pirates by colonial powers, illustrating how piracy was often a political label rather than a clear-cut crime. With the arrival of European powers in the 15th century, Indian Ocean commerce was redefined, and piracy became a tool through which imperial powers justified military interventions and asserted control over maritime spaces.

The economic costs of piracy were significant. Beyond direct losses of cargo and vessels, indirect expenses such as higher insurance premiums and expanded naval defense strained commercial growth. Episodes of piracy often coincided with political instability, particularly in the aftermath of wars, when weakened state authority created openings for maritime predation.

Geopolitical dynamics also shaped suppression efforts. British campaigns in the Persian Gulf, often backed by Oman, combined imperial ambition with the practical need to secure shipping lanes. Similar patterns appeared in Southeast Asia, where naval interventions curbed piracy but simultaneously entrenched colonial authority. While suppression raised ethical debates, its

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[949] Masood Ahmad, 'Maritime Piracy Operations: Some Legal Issues' (2020) 4 *Journal of International Maritime Safety, Environmental Affairs, and Shipping* 62 https://doi.org/10.1080/25725084.2020.1788200 accessed 16 April 2025.

impact on stabilizing trade routes underscored piracy's central role in shaping the history of Indian Ocean commerce and empire.[950][951]

The transition from early piracy to modern maritime piracy marks a significant evolution. While earlier forms were intertwined with colonial politics and fragmented governance, post-1991 Somalia gave rise to a new, transnational, and highly organized criminal threat. The Indian Ocean, a critical trade artery linking Asia, Africa, and Europe, remains deeply vulnerable to such threats, particularly at chokepoints like the Strait of Hormuz, Bab-el-Mandeb, and the Malacca Strait.

Somali piracy exemplifies this transformation. Emerging in the 1990s as a response to illegal fishing and toxic waste dumping in Somali waters, it escalated during the mid-2000s as state collapse, poverty, and foreign exploitation fuelled pirate networks. Their operations soon extended well beyond Somali waters, reaching as far as the Lakshadweep Islands. Between 2009 and 2011, attacks peaked at more than 170 incidents annually, before international responses led to a steep decline.[952]

The piracy crisis prompted one of the largest multinational naval efforts in history. NATO, the EU, and major naval powers such as India, China, and the United States coordinated patrols and deployed advanced surveillance systems. Pirates, in turn, adapted their tactics by launching skiffs from "mother ships" and targeting large commercial vessels for ransom, inflicting billions of dollars in economic losses while placing seafarers at grave humanitarian risk.

Although international naval coalitions succeeded in reducing piracy after 2012, the threat never fully disappeared. Studies using Long Range Identification and Tracking (LRIT) data revealed that as attacks declined, shipping gradually returned to more economical routes highlighting the fragility of deterrence. Weak governance, poverty, and the absence of local enforcement structures ensured that piracy networks retained the capacity to resurge.

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[950] Gwyn Campbell, 'Piracy in the Indian Ocean World' (2014) 16 *Interventions* 775 https://doi.org/10.1080/1369801X.2014.936958 accessed 21 April 2025.

[951] JL Anderson, 'Piracy and World History: An Economic Perspective on Maritime Predation' (1995) 6 *Journal of World History* 175 http://www.jstor.org/stable/20078637 accessed 21 April 2025.

[952] Michele Vespe, Harm Greidanus and Marlene Alvarez Alvarez, 'The Declining Impact of Piracy on Maritime Transport in the Indian Ocean: Statistical Analysis of 5-Year Vessel Tracking Data' (2015) 59 *Marine Policy* 9 https://doi.org/10.1016/j.marpol.2015.04.018 accessed 22 April 2025.

Recent events illustrate this persistence. In late 2023 and early 2024, several hijackings occurred off Somalia and in the Gulf of Aden, reviving concerns over maritime insecurity. Indian naval operations played a key role in intercepting and rescuing hijacked vessels, yet the resurgence underscored how quickly piracy can rebound when vigilance weakens.[953]

Even as attention shifts toward the Gulf of Guinea, the Indian Ocean's chokepoints remain critical to global trade. Operations like the EU's Operation Atalanta and NATO's Task Force 151, combined with private security measures and advanced tracking systems, continue to provide layered protection. Regional cooperation initiatives and capacity-building programs have also contributed to the decline of Somali piracy, fostering local ownership. However, the absence of binding mechanisms and limited enforcement capacity still impede long-term success.

Real-time monitoring tools such as LRIT and Automatic Identification Systems (AIS), supported by coordination centers like UKMTO and MSCHOA, now form the backbone of surveillance. Yet, piracy in the Indian Ocean remains an evolving challenge. Without sustained international cooperation, socioeconomic development, and meaningful legal reform, the conditions that enable piracy are likely to persist. The history and resurgence of piracy thus demonstrate both the resilience of maritime predation and the ongoing vulnerabilities of global trade.[954][955]

Parties Involved:

Somalia: Origin of Most Pirate Groups

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[953] International Maritime Organization, *Reports on Acts of Piracy and Armed Robbery Against Ships: Annual Report – 2023* MSC.4/Circ.268 (7 June 2024) https://wwwcdn.imo.org/localresources/en/OurWork/Security/Documents/MSC.4-Circ.268_Annual%202023%20(1).pdf accessed 22 April 2025; *The Economic Times*, 'Indian Navy Rescues 23 Pakistani Crew from Hijacked Iranian Ship in Arabian Sea' (30 March 2024) https://economictimes.indiatimes.com/news/defence/indian-navy-rescues-23-pakistani-crew-from-hijacked-iranian-ship-in-arabian-sea/videoshow/108892304.cms accessed 22 April 2025.

[954] Xiaowen Fu, Adolf KY Ng and Yui-Yip Lau, 'The Impacts of Maritime Piracy on Global Economic Development: The Case of Somalia' (2010) 37 *Marine Policy and Management* 677 https://doi.org/10.1080/03088839.2010.524736 accessed 18 April 2025.

[955] Peter Lehr, 'Piracy and Maritime Governance in the Indian Ocean' (2013) 9 *Journal of the Indian Ocean Region* 104 https://doi.org/10.1080/19480881.2013.793912 accessed 18 April 2025.

Somalia's extensive coastline turned into a pirate refuge as a result of decades of political unrest, poor government, and ineffective law enforcement. Due to the lack of official oversight and the high profit margins associated with hijacking merchant ships, many of these pirate organizations emerged as a result of poor coastal communities using piracy as a means of surviving financially.

Affected Countries: India, the United States, China, Japan, South Korea, and European nations have faced attacks on their merchant vessels

India, a vital participant in international trade, has been under attack, particularly because of its closeness to areas that are rife with piracy. Attacks on ships have disrupted global supply chains in countries that depend largely on marine trade for the transportation of products, including the United States, China, Japan, South Korea, and several European countries and the security of international shipping waterways.

Naval Participants: The US, EU, NATO, India, China, Russia, and others contribute to naval patrols

In order to safeguard crucial maritime lanes, the United States, European Union (EU), and NATO have played a key role in assembling and deploying naval troops. Furthermore, nations like China, Russia, and India have pledged resources to safeguard their own ships and guarantee the security of global marine commerce. By keeping a visible military presence and raising the stakes for pirates operating in the area, these naval patrols aid in the deterrence of piracy. For the region to remain secure and stable, their concerted efforts are crucial.

International Organizations: The International Maritime Organization (IMO) and the United Nations play key roles in coordinating responses

The IMO (International Maritime Organization) has offered a platform for global collaboration, by creating rules and guidelines for anti-piracy efforts. Through its Security Council, the UN has passed resolutions supporting military actions, penalties, and the fortification of regional legal frameworks in an effort to combat piracy off the coast of Somalia.

LEGAL PRINCIPLES AND THE ENFORCEMENT GAP IN MARITIME PIRACY LAW

Definition of Piracy in International Law

Piracy under international law is defined in Article 101 of the United Nations Convention on the Law of the Sea (UNCLOS):

Piracy refers to:

1. Illegal acts of violence, detention, or theft for private gain by those on a private vessel or aircraft, directed:

    a. Against another vessel, aircraft, or those on board, on the high seas; or

    b. In areas beyond any state's jurisdiction.

2. Knowingly operating a pirate vessel or aircraft.

3. Aiding, inciting, or facilitating such acts.[956]

However, its scope is limited to acts committed on the high seas "for private ends," excluding politically motivated violence and attacks within territorial waters; a loophole exploited by modern pirate groups operating close to coasts.

Jurisdiction under International Law

Piracy is treated under international law as a *hostis humani generis* which is a crime against all humanity, granting every state the authority to exercise jurisdiction over those engaged in it. This universality principle applies regardless of the pirates' nationality, the victims' citizenship, or the flag the targeted ship flies. Article 105 of the United Nations Convention on the Law of the Sea (UNCLOS) captures this by allowing any state to seize pirate vessels or aircraft on the high seas or outside the jurisdiction of any single nation, even if such vessels have already been captured and are under pirate control. [957]States undertaking such seizures may prosecute the offenders and decide how to manage the seized property, while remaining mindful of the rights of legitimate third parties. Yet, despite this sweeping jurisdictional power, very few states actively prosecute pirates, often deterred by the practical burdens of transferring suspects, the challenges of securing admissible evidence, or broader political hesitations.

To fill some of these gaps, the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) popularly known as the Achille Lauro Convention which created a clearer legal framework for addressing maritime crimes. It obliges

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[956] United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3, art 101.

[957] ibid, art 105.

states to criminalize specified acts threatening maritime safety, assert jurisdiction over them, and cooperate in transferring suspects involved in violent seizures or ship takeovers. It also encourages collaboration with the International Maritime Organization (IMO) and regional bodies to improve both security at sea and judicial mechanisms onshore, with particular attention to East African coastal states. While the SUA Convention goes further than UNCLOS by covering acts within territorial waters, its effectiveness remains diluted since many Indian Ocean states have either not ratified it or failed to fully integrate its provisions into domestic law.

Complementing these frameworks, United Nations Security Council Resolution 1816 calls for greater cooperation in combating piracy and armed robbery off the coast of Somalia. The resolution stresses joint responsibility for determining jurisdiction, investigating incidents, and prosecuting offenders, while also emphasizing the importance of providing logistical and disposition support. This includes not only the humane treatment of detainees but also assistance to victims and witnesses, ensuring a more holistic approach to justice. By promoting inter-state collaboration and shared responsibility, Resolution 1816 reflects the recognition that piracy cannot be effectively tackled by isolated national efforts but requires coordinated international action to ensure accountability and protection for all affected parties.[958]

Duty to Cooperate

Article 100 of the United Nations Convention on the Law of the Sea (UNCLOS) places a clear duty on all states to work together in suppressing piracy on the high seas and in areas beyond national jurisdiction.[959] This duty goes beyond mere statements of intent as it calls for the active sharing of information, pooling of resources, and coordinated operations to address piracy as a crime that transcends borders. Since no single state has authority over international waters, collective action becomes indispensable. States are therefore expected to assist one another through intelligence exchange, joint patrols, surveillance efforts, and concrete steps such as intercepting vessels, arresting pirates, and detaining suspects. This cooperative framework strengthens maritime law enforcement and helps safeguard the security of international navigation.

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[958] Brian Wilson, 'Naval Diplomacy and Maritime Security in the Western Indian Ocean' (2009) 33 *Strategic Analysis* 488 https://doi.org/10.1080/09700160902907043 accessed 20 April 2025.
[959] United Nations Convention on the Law of the Sea (n 9) art 100.

Regional and bilateral partnerships have proven particularly valuable in making this duty a reality. In Asia, for instance, the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) has played a major role in reducing piracy by facilitating closer coordination among member states. Likewise, the Maritime Organization of West and Central Africa (MOWCA) has reinvigorated regional efforts by fostering stability and collaborative action, while West Africa's emerging coast guard network promises a more unified approach to maritime threats. In East Africa, the Djibouti Code of Conduct, brokered under the auspices of the International Maritime Organization (IMO), has created a platform for cooperation in ship boarding, handling of suspected pirates, and managing seized assets. Yet, the Code is not without its flaws: its non-binding nature and the requirement of prior consent for operations in territorial waters have often allowed pirates to evade capture by retreating into national jurisdictions.

These gaps highlight the continuing need for stronger regional cooperation, especially in the Horn of Africa, where piracy remains an ongoing challenge. Off the coast of Somalia, pirate activity threatens not only national and regional security but also the smooth functioning of global trade and the safety of thousands of seafarers. Combating this threat effectively requires more than just warships, Security Council resolutions, or formal legal instruments. It also demands political will, trust, and a sustained commitment from both coastal and affected states. Lasting success against piracy will ultimately depend on whether these states can move beyond short-term responses and invest in a durable, cooperative security framework.[960]

Protection of Freedom of Navigation

Freedom of navigation is one of the cornerstones of the United Nations Convention on the Law of the Sea (UNCLOS). It ensures that ships can move freely across international waters without undue interference, allowing the global flow of goods, energy, and services to continue uninterrupted. Piracy, however, poses a direct challenge to this principle. By threatening the safety of vessels, their crews, and cargo, acts of piracy create insecurity along vital maritime routes and disrupt the smooth passage of trade. When these routes are compromised, the impact

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[960] Andrew C Winner, Peter Schneider and Awet T Weldemichael, 'Maritime Terrorism and Piracy in the Indian Ocean Region' (2012) 8 *Journal of the Indian Ocean Region* 107 https://doi.org/10.1080/19480881.2012.730746 accessed 23 April 2025.

is felt not only by individual ships but across the global economy, as delays and risks ripple through international supply chains.

Because of this, the protection of sea lanes cannot be viewed as the responsibility of any single state. It is a shared global concern, rooted in the recognition that freedom of navigation underpins both maritime security and economic stability. Collective action through intelligence-sharing, coordinated patrols, and cooperative legal frameworks becomes essential to safeguarding this principle. Ensuring the safety of maritime routes is, therefore, not only about protecting ships at sea but also about preserving the stability and growth of international commerce as a whole.

Prohibition of Hostage-Taking

The International Convention against the Taking of Hostages (1979) firmly establishes hostage-taking as a crime under international law, condemning it as both a violation of human rights and a breach of international legal standards. Its core objective is to prevent situations where individuals are seized and held for coercive purposes, such as demanding ransom which are acts recognized as grave international crimes. In the context of piracy, hostage-taking has become a recurring tactic, with pirates frequently detaining seafarers to pressure shipowners, governments, or other stakeholders into meeting ransom demands.

Such practices not only contravene the principles enshrined in the Convention but also intensify the humanitarian crisis linked to piracy. Hostages endure profound risks to their physical safety and psychological well-being, while their fundamental rights are systematically violated. The use of hostages in maritime piracy serves as a stark reminder that the consequences of these crimes go far beyond commercial disruption. They carry devastating human costs, underscoring the urgent need for robust international cooperation to suppress piracy and safeguard the dignity and lives of those affected. Ultimately, piracy must be understood not only as a threat to global trade but also as a pressing humanitarian challenge demanding sustained global attention.

Role of International Organizations

The United Nations Security Council (UNSC) has been central in responding to the surge of piracy off Somalia, using its Chapter VII powers to authorize action. Through Resolutions 1816

and 1851, the Council gave states the legal backing to take robust measures, even military ones against pirates, but with a key safeguard: Somalia's consent. This ensured that international operations were not seen as an infringement on Somali sovereignty, but as support for the country's struggle to restore stability.

What made these resolutions especially significant was their call for a collective response. Piracy off Somalia was not just a regional issue; it threatened global trade and security. By creating a legal framework for foreign navies to patrol Somali waters, the UNSC enabled a coordinated international effort that helped push piracy into decline. Still, lasting success depends on more than naval patrols. It requires ongoing cooperation with Somalia and, critically, tackling the deeper political and economic conditions on land that allowed piracy to flourish in the first place.

EXISTING DISPUTE SETTLEMENT MECHANISMS FOR MARITIME PIRACY IN THE INDIAN OCEAN

UNCLOS (United Nations Convention on the Law of the Sea)

UNCLOS is the backbone of international maritime law, and it equips states with a broad set of legal tools to deal with piracy. Article 105 gives states the authority to seize pirate ships on the high seas, arrest those on board, and prosecute them under domestic law. Article 111 even extends this power through the doctrine of "hot pursuit," allowing a naval vessel to continue chasing a suspected pirate ship into another state's waters so long as the pursuit began lawfully on the high seas. [961]Together, these provisions were meant to ensure that pirates, long considered *hostis humani generis* or enemies of all mankind could never escape justice simply by slipping across maritime boundaries.

When disagreements arise over how these powers are used, UNCLOS also provides a menu of peaceful dispute settlement mechanisms. States can turn to negotiation or mediation, submit matters to arbitration, or take them before the International Tribunal for the Law of the Sea (ITLOS). While ITLOS has yet to directly rule on piracy cases, its authority in clarifying broader questions of maritime law gives it real influence. The mere possibility of resorting to ITLOS lends weight to UNCLOS as a stabilizing framework.

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[961] United Nations Convention on the Law of the Sea (n 9) art 111.

That said, the convention has limits. The Indian Ocean is vast, governance in many coastal states is fragmented, and UNCLOS cannot anticipate every scenario. Piracy rarely fits neatly into its definitions, especially when attacks occur in territorial waters or involve politically motivated actors. As a result, states often have to supplement UNCLOS with regional frameworks such as the Djibouti Code of Conduct and with United Nations Security Council resolutions that provide more flexible enforcement powers. In practice, it is this patchwork of legal regimes, rather than UNCLOS alone, that sustains today's fight against piracy in the Indian Ocean.

Domestic Courts with Universal Jurisdiction

Piracy is one of the very few crimes in international law that falls under *universal jurisdiction*. This means that any state, even one with no direct link to the crime, is legally entitled to prosecute pirates. In theory, this universality ensures that pirates can never find a safe haven. In practice, however, only a small circle of states, mainly those near piracy hotspots have taken up the burden of prosecution.

Kenya, Seychelles, and Mauritius have become the most prominent hubs for piracy trials in the Western Indian Ocean. Each has established specialized courts or dedicated procedures to handle the cases of suspected pirates handed over by international navies. For example, Kenya's courts have tried numerous Somali piracy cases after suspects were captured by EU or NATO forces, while Seychelles and Mauritius, with logistical and financial support from partners like the U.S. and U.K., have also shouldered significant caseloads. These states play an indispensable role in closing the enforcement gap created when major naval powers capture pirates but prefer not to prosecute them at home.

Despite these efforts, serious challenges remain. Gathering admissible evidence from incidents that occur hundreds of miles offshore is notoriously difficult, and ensuring the protection of witnesses who are often seafarers from diverse countries places additional strain on limited judicial resources. Questions of due process also loom large, as human rights advocates have warned against shortcuts in trials conducted under heavy political and international pressure. Compounding these hurdles, not every coastal or flag state has enacted the necessary domestic

legislation to criminalize piracy in line with UNCLOS or the SUA Convention. This patchy legal landscape weakens the promise of universality, leaving room for impunity.

Ultimately, the willingness of a handful of regional states to act as piracy prosecution centers has kept the system functioning, but the arrangement is fragile. Without broader burden-sharing, more consistent domestic implementation of international obligations, and sustained international support, the principle of universal jurisdiction risks remaining more symbolic than truly effective.

UN Security Council Resolutions

The United Nations Security Council (UNSC) has played an unusually active role in the fight against Somali piracy, treating it not just as a regional nuisance but as a matter of international peace and security. Starting in 2008, the Council passed a series of resolutions that fundamentally reshaped how states could respond to piracy.

Resolution 1816 (2008) was a watershed. It authorized foreign navies, with Somalia's consent, to pursue pirates into Somali territorial waters, a move that temporarily lifted one of the strictest barriers in the law of the sea. Later that year, Resolution 1851 went further, allowing states to take "all necessary measures," including operations on Somali soil against pirate bases and logistics networks. These steps gave unprecedented international legitimacy to actions that might otherwise have been viewed as violations of sovereignty.

The effect of these resolutions was not merely symbolic. They provided the legal and political foundation for multinational task forces such as Combined Task Force 151 and the European Union's Operation Atalanta. These coalitions coordinated patrols, shared intelligence, and safeguarded shipping lanes that carry a significant share of global trade. The message was clear: piracy in the Western Indian Ocean was a global security threat requiring collective action.

Yet, the UNSC's approach also raises difficult questions. The resolutions were framed as exceptional measures tied specifically to Somali piracy, meaning they cannot be easily transplanted to other regions. They also rely on the consent of fragile which may not always be reliable or durable. Moreover, authorizations under Chapter VII are, by design, temporary.

When international attention shifts, or political will wanes, the effectiveness of these resolutions diminishes.

In short, the UNSC played a decisive role in mobilizing the international community against Somali piracy, but its interventions are best understood as emergency measures. They provide breathing space and legitimacy for naval operations, but they do not solve the deeper enforcement gaps or socio-economic drivers that allow piracy to resurface once global vigilance recedes.

Regional Mechanisms

If UNCLOS provides the backbone and the UNSC offers emergency muscle, regional frameworks are the connective tissue that keep anti-piracy efforts grounded in local ownership. The Djibouti Code of Conduct, adopted in 2009 by East African and Gulf states with IMO support, represents one of the most important of these regional instruments. While non-binding, it has created habits of cooperation by encouraging information-sharing, joint patrols, and training programs. It also laid the foundation for regional information centers and capacity-building projects that directly support coastal states.

Seychelles' Regional Anti-Piracy Prosecution and Intelligence Coordination Centre (RAPPICC) is another example of regional innovation. By pooling intelligence, assisting prosecutions, and facilitating communication across borders, it helps to bridge the gaps between naval operations at sea and judicial processes on land. Though modest in scale, such efforts illustrate how regional actors can carve out practical solutions to the enforcement gap. Lessons have also been drawn from Asia. The Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) has been widely studied as a model for building maritime security architectures. Its success in fostering trust and operational coordination among Asian states has inspired adaptations in the Indian Ocean context, though political and resource constraints have limited replication.

Still, the regional picture is uneven. Cooperation depends on the willingness and capacity of states that often face their own security and governance challenges. Differences in resources, priorities, and even unresolved territorial disputes sometimes blunt the effectiveness of regional

initiatives. The result is a patchwork system: encouraging progress in places, but fragile and inconsistent overall.

Ultimately, regional frameworks like the Djibouti Code and RAPPICC show that piracy cannot be tackled by distant powers alone. While global navies and the UNSC can suppress piracy in the short term, long-term resilience depends on empowering coastal states and embedding cooperation in the region itself. Without that sense of ownership, piracy is likely to resurface as soon as international attention drifts elsewhere.

International Courts and Tribunals

Unlike domestic courts, which directly try pirates, international courts and tribunals play a quieter but no less important role in the legal architecture against piracy. Their primary contribution lies not in prosecution but in interpretation and coordination.

The International Tribunal for the Law of the Sea (ITLOS), created under UNCLOS, has never directly ruled on a piracy case. Yet its jurisprudence on issues such as jurisdiction, flag state rights, and the use of force at sea has shaped how states apply the convention in practice. Even the possibility of turning to ITLOS lends weight to UNCLOS provisions, reinforcing the idea that disputes over enforcement can be managed within a predictable legal framework rather than escalating into political conflict.

The International Court of Justice (ICJ) also provides a backstop. Although it has not been called upon to settle piracy disputes specifically, it has clarified principles of state responsibility and jurisdiction that underpin maritime enforcement more broadly. Its advisory role ensures that states have a neutral forum to resolve overlapping claims which is essential when piracy incidents involve ships, victims, and suspects from multiple jurisdictions.

These bodies do not replace domestic courts, but they help prevent the enforcement of piracy law from degenerating into a jurisdictional free-for-all. By offering authoritative interpretations and serving as neutral arbiters, ITLOS and the ICJ promote consistency and predictability in international practice. Their role may be indirect, but it is indispensable: without such institutions, the already fragile fight against piracy would risk becoming fragmented and contested, undermining the very cooperation that makes suppression possible.

CONCLUSION

The international legal regime against piracy is robust on paper but fragile in practice. At its foundation lies UNCLOS, which defines piracy and grants all states the authority to seize vessels, prosecute offenders, and even conduct "hot pursuit." These provisions enshrine the idea that pirates are *hostis humani generis*, enemies of all mankind. Yet the limits of UNCLOS are equally clear: its definition excludes politically motivated acts and those committed in territorial waters, creating gaps that modern pirates exploit.

Domestic prosecutions illustrate both the promise and the limits of universal jurisdiction. Kenya, Seychelles, and Mauritius have taken on the bulk of piracy trials, often supported by international partners. Their willingness has been vital, but it also exposes the imbalance of burden-sharing. Many states remain reluctant to prosecute, citing evidentiary hurdles, human rights concerns, or political costs. Without broader domestic incorporation of UNCLOS and the SUA Convention, the principle of universality risks remaining more symbolic than real.

The UNSC filled some of these gaps at the height of the Somali piracy crisis. Through Resolutions 1816 and 1851, it authorized foreign navies to operate in Somali waters and even conduct limited actions onshore. These measures legitimized unprecedented multinational naval campaigns and significantly reduced hijackings. Yet they were temporary and exceptional, tied to a specific crisis. Once political attention wanes, such authorizations lapse, leaving enforcement to the same patchwork of national and regional measures.
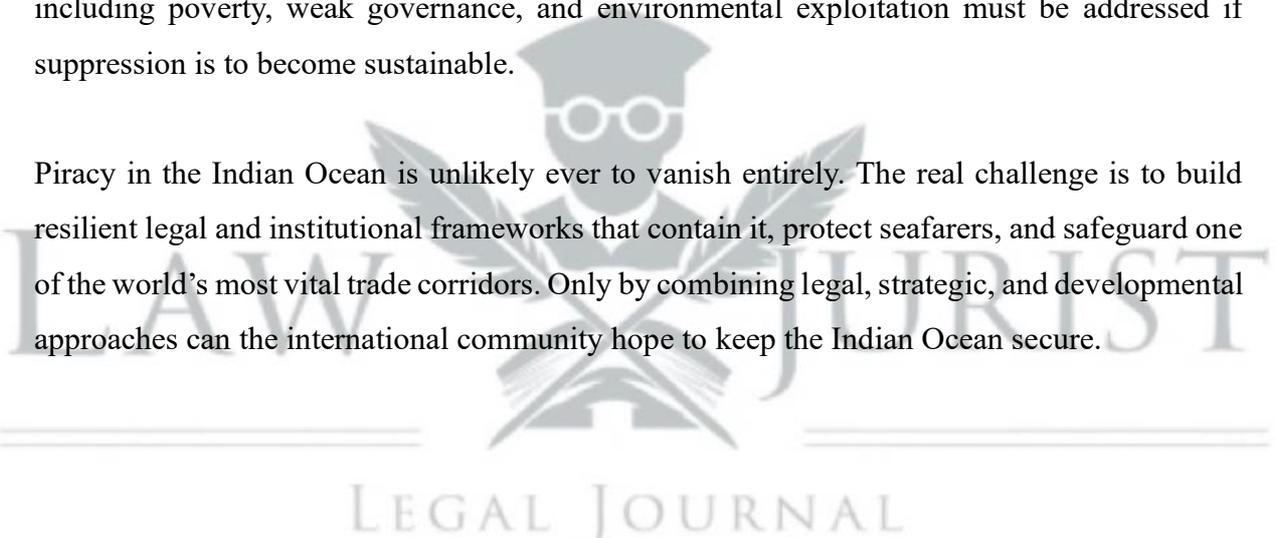
Regional frameworks attempt to provide longer-term continuity. The Djibouti Code of Conduct fostered information-sharing and cooperation, while RAPPICC in Seychelles linked naval operations to prosecutions. Lessons from Asia's ReCAAP further demonstrate the value of trust-building and coordination. Still, these mechanisms remain uneven, hampered by limited resources and fragile political will.

International tribunals such as ITLOS and the ICJ play a quieter but stabilizing role. By interpreting maritime law and offering neutral venues for disputes, they prevent piracy enforcement from degenerating into unilateral or inconsistent practices. Their role may be indirect, but it reinforces predictability and legitimacy in the global response.

Taken together, these layers of response, that is, UNCLOS, domestic courts, UNSC resolutions, regional frameworks, and tribunals have achieved measurable success. Piracy incidents fell sharply after 2012, showing what coordinated action can deliver. But recent hijackings in 2023–25 reveal how fragile those gains are. Piracy adapts quickly, and without constant vigilance the cycle of resurgence resumes.

The way forward must therefore be integrated. At sea, continued naval patrols and intelligence-sharing are essential. Onshore, greater domestic implementation of international obligations and stronger regional institutions are needed. Most importantly, the root causes of piracy including poverty, weak governance, and environmental exploitation must be addressed if suppression is to become sustainable.

Piracy in the Indian Ocean is unlikely ever to vanish entirely. The real challenge is to build resilient legal and institutional frameworks that contain it, protect seafarers, and safeguard one of the world's most vital trade corridors. Only by combining legal, strategic, and developmental approaches can the international community hope to keep the Indian Ocean secure.