JOURNAL OF JURISPRUSDENCE, INTERNATIONAL LAW AND CONTEMPORARY LEGAL ISSUES
Rivers State University, Faculty of Law *ISSN: 1115 5167 Vol.20 Issue.1, 2025*

APPRAISAL OF THE SUPPRESSION OF PIRACY AND OTHER MARITIME OFFENCES ACT 2019 OF NIGERIA ON THE PROBLEM OF DEFINITION OF PIRACY AND ITS ELEMENTS

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Abstract

The World has been described as a global village, linked by trade, transportation, computers and the internet, people, and international law, with the oceans and seas playing a critical role in its security and survival. The communality of States foisted by the laws of the sea underscores the fact that coastal States generally are susceptible to the same maritime threats of piracy and armed robbery at sea, hence the need to commonly adopt the measures in combating them, amid cooperation under international law, and implement these mechanisms in their domestic laws. However, the definition of piracy and its constituent elements under United Nation Convention on the Laws of the Sea 1982, has been criticized for being restrictive concerning it restriction of piracy to the illegal act of violence, detention or depredation, the high seas or a place outside the jurisdiction of any State, private motives as intent, and the two-ship requirement; and is a challenge on its applicability and enforcement under domestic law by States, including Nigeria that has domesticated it in the Suppression of Piracy and Other Maritime Offences Act 2019. This article is therefore an analysis of Nigeria's anti-piracy legislation adoption of the definition of piracy under international law the limitations inherent in its implementation in international waters and the nation's Exclusive Economic Zone (EEZ) and Territorial Waters, and recommendations towards the effective implementation of the Act by Nigeria in the repression of piracy, armed robbery at sea and other unlawful acts in the maritime domain.

Keywords: *Piracy, Armed Robbery at Sea, Maritime Threats, Definition, Domestic Laws*

Introduction

International law has provided mechanisms for combating the threats posed by piracy and armed robbery at sea against the safety of navigation in the high seas and territorial waters, the security of the territorial integrity of States and global peace and order, and fostered cooperation amongst coastal and non-coastal States, through the United Nations Convention on the Laws of the Seas 1982 (UNCLOS III), and the Suppression of Unlawful Acts against the Safety of Navigation 1988 and its Protocols (SUA Convention), while also encouraging States to take actions against these maritime threats, by arresting, seizing, detaining, and prosecuting offenders, and domesticating the legal regime on their suppressing in their national legal system. The Gulf of Guinea[1] is known for being home to piracy and other maritime crimes, such as kidnapping, hijacking, and oil theft, that are traceable, majorly to Nigeria and its internal agitations and instability in the Niger Delta region.[2] Nigeria's response to criminality in

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[1] International Maritime Bureau (IMB), 'Annual piracy report 2020.' [2021] IMB. <https://www.icc-ccs.org/reports/2021_Annual_IMB_Piracy_Report.pdf>accessed 6 June 2025.
[2] J Abimiku and Others, 'Effect of Piracy on Maritime Insecurity in South-South Nigeria.' [2023] 11(1) *International Journal of Strategic Research in Education, Technology and Humanities*, 132-133. <https://internationalpolicybrief.org/wp-content/uploads/2023/12/ARTICLE12-7.pdf>accessed 6 June 2025.

the maritime domain is its Suppression of Piracy and Other Offences Act 2019, while Mauritius has the Piracy and Maritime Violence Act 2011, and Seychelles' Penal Code (Amendment) Act 2010.

Nigeria

Piracy and other maritime crimes, such as armed robbery at sea, kidnapping, and slave trade in Nigeria's maritime domain, have evolved through various epochs, with diversity in nature and depending on factors that are peculiar to the times under review, and the threats that they pose to its maritime security and territorial integrity. Before the enactment of the nation's current anti-piracy law[13] as the legal regime on the repression of maritime crimes in Nigeria, there was a lacuna in the legal regime of Nigeria, as its domestic laws did not expressly criminalise piracy and other maritime offences such as armed robbery at sea concerning the security of its maritime domain, but there were laws that created offences and penalties on some acts that are elements or constituents of the crime of piracy and armed robbery at sea, such as the Criminal Code 2004 on being armed as to cause fear,[4] threats of violence,[5]and unlawful killing of a human being,[6] and the Penal Code 2004 on offences relating to ships such as the obstruction of members of the crew in the navigation or management of a ship.[7]

Other domestic laws in existence also contain offences but are mainly for the regulation and implementation of mechanisms to enhance safety and security through the establishment of various institutions on the management and enforcement of relevant laws in Nigeria's territorial waters, and these include the Nigerian Maritime Administration and Safety Agency Act 2007, which contains offences and empowers the agency to detain any ship, in any port of place in Nigeria, where there are reasonable grounds to believe that the ship is unfit to sail, unsafe or poses serious security threats,[8] and also empowers the agency to administer the Cabotage Act 2003, which prohibits the domestic coastal carriage of cargo and passengers within the Coastal, Territorial, Inland Waters, Island or any point within the waters of the Exclusive Economic Zone of Nigeria by vessels not wholly owned and manned by a Nigerian citizen, built and registered in Nigeria, and other acts.[9]Additionally, there is the Nigerian Ports Authority Act 2004 that established the Nigerian Ports Authority (NPA), and offences on the safety of navigation, such as damage to lighthouses, buoys and beacons, and pilot or endangering a ship,[10] and the Merchant Shipping Act 2007 deals with ships and crew members, registration, their safety, conditions of service and the provisions of international treaties such as the Convention on the Suppression of Unlawful Acts against Safety of Maritime Navigation 1988 and its Protocols,[11] and creates offences on the willful obstruction of navigation, or damage to ships and injury to the crew.[12]

[3] Suppression of Piracy and Other Maritime Offences Act 2019.
[4] Criminal Code Act, Cap C38 Laws of the Federation of Nigeria 2004, s 80.
[5] *Ibid*, s 86
[6] *Ibid*, ss 315, 316.
[7] Penal Code Act Cap P3 LFN 2004, ss 428, 429.
[8] Nigerian Maritime Administration and Safety Agency Act 2007, s 41,42.
[9] Coastal and Inland Shipping (Cabotage) Act Cap C51 LFN 2004, ss 3-6, 35-39.
[10] Nigerian Ports Authority Act Cap. 126 LFN 2004, ss 97-102.
[11] Merchant Shipping Act 2007, s 216(a)-(l).
[12] *Ibid*, s 335.

The Armed Forces of Nigeria comprising of the Army, Navy and Airforce are to secure the territorial integrity of the country,[13] along with the Nigerian Police Force[14] and other security agencies, with the management of the internal waters placed on the National Inland Waterways Authority 2004,[15] and prohibits and punishes the obstruction of waterways, removal of sand, placement of objects and construction of permanent structures on waterways.[16]These domestic laws including the Suppression of Piracy and Other Maritime Offences Act 2019, are derived from and made in furtherance of the provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended).[17]

Suppression of Piracy and Other Maritime Offences Act 2019

The Suppression of Piracy and Other Maritime Offences Act 2019 domesticated the United Nations Convention on the Laws of the Sea 1982, and the Convention on the Suppression of Unlawful Acts against Safety of Maritime Navigation 1988 and its Protocols, respectively[18], as a condition precedent required by the Constitution for the enforcement of the treaties in Nigeria,[19]an judicially stamped by the courts in *Abacha v Fawehinmi*[20] and *Registered Trustees of National Association of Community Health Practitioners of Nigeria and 2 Others v Medical Health Workers Union of Nigeria (MHWUN)*,[21] and also filled the gap wherein a person can only be convicted of a crime that is explicitly defined and penalized by a written law in Nigeria[22] by providing the legislation on the repression and criminalization of acts of piracy and other maritime crimes under the legal system of Nigeria. The Act provided for mechanisms such as the definition of terms, territorial jurisdiction, offences and punishments, arrest of ships, prosecution, enforcement and implementation, to address acts of piracy and armed robbery at sea against ships, aircraft, fixed and floating platforms or installations, and other forms of transportation, human and material carriers, crew members and passengers, goods and services on the sea.

The Act domesticated the UNCLOS III and the SUA Convention as indicated in the Explanatory Memorandum that:

> 'This Act provides for the Suppression of Piracy and other Maritime Offences, give effect to the provision of the United Nations Convention on the Law of the Sea (UNCLOS), 1982, the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) 1988 and its Protocols and related matters.'

[13] Armed Forces Act Cap A20 LFN 2004.
[14] Nigeria Police Act 2020
[15] National Inland Waterways Authority Cap N47 LFN 2004, s 2.
[16] *Ibid*, s 23.
[17] Constitution of the Federal Republic of Nigeria 1999 (as amended), preamble, ss 1,2,4,5,6, Chapter II.
[18] SPOMO Act 2019 (n3), preamble
[19] CFRN 1999 (n20) s 12.
[20] *Abacha v Fawehinmi* (2000) FWLR (pt.4) 553 at 586.
[21] *Registered Trustees of National Association of Community Health Practitioners of Nigeria and 2 Others v Medical Health Workers Union of Nigeria (MHWUN)* (2008) LCN/3648(SC).
[22] CFRN 1999 (n17) s 36(12), *Aoko v Fagbemi* (1961) 1 ANLR 400.

The Act, in section 3, defines 'Piracy' as consisting of any:

(a) illegal act of violence, detention or depredation committed for private ends by the crew or any passenger of a private ship or aircraft and directed -
  (i) in international waters against another ship or aircraft or against a person or property on board the ship or aircraft, or
  (ii) against a ship, aircraft, person or property in a place outside the jurisdiction of any State;
(b) 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; and
(c) act of inciting or intentionally facilitating an act described in subparagraph (a) or (b).

This definition of piracy is the same as contained in article 101 of UNCLOS III, and the following notable elements that constitute the offence of piracy: an illegal act of violence or detention or depredation; committed for private ends; on the high seas; by one ship on another ship, or one aircraft on another aircraft. These constituent elements of piracy have been subjects of debate on the implications of their application and limitations both under international and domestic laws.

An Illegal Act of Violence, Detention, or Depredation

The SPOMO Act did not define or state the acts that amount to 'violence', 'detention' or 'depredation. The meaning of the terms will be considered or derived from their general or literal meaning, and as given by other statutes in Nigeria. Literarily, violence is said to be the use of physical force, usually accompanied by fury, vehemence, or outrage, especially physical force unlawfully exercised with the intent to harm,[23] while the World Health Organization[24] defines violence as the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation. The Violence Against Persons (Prohibition) Act 2015 defines violence to mean any act or attempted act which causes or may cause any person physical, sexual, psychological, verbal, emotional or economic harm, whether this occurs in private or public life, in peacetime and conflict situations.[25]

The Criminal Code Act in defining 'Assault' states that a person who strikes, touches, or moves, or otherwise c, either directly or indirectly, without his consent, or with his consent, if the consent is obtained by fraud, or who by any bodily act or gesture attempts or threatens to apply force of any kind to the person of another without his consent, in such circumstances that the person making the attempt

[23] B A Garner(ed), *Black's Law Dictionary* (10th edn, Thomson Reuters 2014) 1801.
[24] World Health Organisation, *World Report on Violence and Health: Summary.* (Geneva, World Health Organization 2002) 4.
[25] Violence Against Persons (Prohibition) Act 2015, s 46.

or threat has actually or apparently a present ability to effect his purpose, is said to assault that other person, and the act is called an assault. It further provides that the term "applies force" includes the case of applying heat, light, electrical force, gas, odour, or any other substance of thing whatever, if applied in such a degree as to cause injury or personal discomfort.[26]Detention is defined as the act or an instance of holding a person in custody, confinement or compulsory delay,[27]while depredation is the act of taking or destroying something, or similarly, to plunder and pillage.[28]

The use of the word 'illegal' in qualifying the acts can ordinarily be interpreted to mean that there are acts of violence, detention and depredation that are legal or lawful, thereby creating exceptions to the acts. The Constitution provides that a person shall be deprived of personal liberty in execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty, failure to fulfill an order of court, to bring the person before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonably necessary to prevent his committing a criminal offence, in the case of a person who has not attained the age of eighteen years, for the purpose of his education or welfare, in the case of persons suffering from infectious or contagious disease, persons of unsound mind, persons addicted to drugs or alcohol or vagrants, for the purpose of their care or treatment or the protection of the community, or for the purpose of preventing the unlawful entry of any person into Nigeria or of effecting the expulsion, extradition or other lawful removal from Nigeria of any person or the taking of proceedings relating thereto.[29] Same exception is created under the Criminal Code Act, wherein acts of assault on a person are excused.[30] This means that acts of violence and detention can be effected lawfully on a person, but there is no provision under the law on the legality of the act of depredation, in Nigeria.

The lawful use of acts of violence and detention in effecting the arrest of a person under the Administration of Criminal Justice Act 2015 permits the physical touching of the person[31], but prohibits unnecessary restraint unless there is a threat of violence on the part of the person to be arrested, or when the arrest is being done as a result of a court order, or for the safety of the person being arrested,[32]based on the constitutional provisions on the dignity of a person and the presumption of innocence.[33] The Supreme Court in *Akpakpan v The State*[34] held that an agent (s) / agency(ies) of government which is found to have been excessive in the use of the power of arrest can be held liable.

a. Illegal Violence

The kind of illegal acts of violence and their severity that would qualify as piratical is not stated in the law, but based on the earlier given definitions of violence, it would include both physical and

[26] Criminal Code (n4) s 252.
[27] B A Garner(ed)(n23) 543.
[28] *Ibid*, s 536.
[29] CFRN 1999(n17), s 35(1)(a)-(f).
[30] Criminal Code (n4) ss 253, 254, 255, 256.
[31] Administration of Criminal Justice Act 2015, ss 3,4.
[32] *Ibid*, s 5.
[33] CFRN 1999(n17) ss 34(1), 36(5).
[34] *Akpakpan v The State* (2021) 17 NWLR (PART 1805) 231 at 242.

psychological harm, particularly, where there is the use of physical force with the likelihood of or the intent to cause physical injury or harm to a person, acts such as rape,[35] murder,[36] or the threat or application of force of any kind to the person of another either by touching[37] or using a substance or arms,[38] would amount to illegal acts of violence. These violent acts can also be carried out against property on a ship or aircraft, or the ship[39] or aircraft[40] itself. It is therefore safe to state that 'violence' is a very wide word and covers any and several illegal act(s) of force and does not have to be of a particular severity or result in a particular level of physical injury or damage,[41]and despite the reference to 'acts', a single prohibited act can constitute piracy.[42] However, violent acts in an altercation or fight between two fishermen at sea cannot be termed piracy,[43] except the acts also constitute a menace or threat (s) to maritime security[44].

b. **Illegal Detention**

The act or an instance of holding a person in custody, confinement or compulsory delay against his or her will, is authorized in law under certain law circumstances[45] where it is done by the relevant person(s) or agency, but where such authority is lacking, it becomes an unlawful arrest or detention and shall entitle the victim or person so detained or arrested to compensation and a public apology from the appropriate authority or person (the appropriate authority or person" being an authority or person specified by law).[46] The SPOMO Act did not define 'detention'. It will be assumed that the word is used to indicate the unlawful confinement or deprivation of a person's constitutional right to personal liberty,[47] in furtherance of a crime (for private ends)[48] or as a crime in itself such as kidnapping and deprivation of personal liberty,[49] slave dealing,[50] and hostage taking.[51] While these acts of detention are crimes, the act of false imprisonment is a civil wrong which is actionable as a tort. False imprisonment according to Muntaka-Coomassie, J.C.A. in *Abdullahi v Raji* is the act of imprisoning or restraining or detaining a person falsely or unlawfully or wrongly, and the imprisonment is false or unlawful or wrong

[35] Criminal Code (n4) s 357, VAPA 2015 (n25), s 1.
[36] Criminal Code (n4) ss 315, 316(1)-(6).
[37] *Ibid*, ss 315, 316(1)-(6), s 252, Civil Aviation Act 2022, s 85(1)(2).
[38] CAA 2022, s 84.
[39] *Ibid*, s 451(1)(a)(b).
[40] *Ibid*, s 82, 84.
[41] D Guilfoyle and R McLaughlin, 'The Crime of Piracy'. In: CC Jalloh, KM Clarke and V O Nmehielle (eds.) *The African Court of Justice and Human and Peoples' Rights in Context: Development and Challenges* (Cambridge University Press 2019) 393.
[42] R Geiß and A Petrig, *Piracy and Armed Robbery at Sea: The Legal Framework for CounterPiracy Operations in Somalia and the Gulf of Aden* (Oxford University Press 2011) 149–51.
[43] O E Nkomadu, 'Maritime Piracy Law of Kenya - Gaps and Remedy.' [2020] *Kenya Law Review Journal*, 3. <https://kenyalaw.org/kl/fileadmin/pdfdownloads/KLReviewJournal/Maritime-Piracy-Law-of-Kenya-Gaps-and-Remedy_BY_Dr_Obinna_Emmanuel_Nkomadu.pdf>accessed 13 June 2025.
[44] S Roseenne (ed), 'League of Nations Report of 1920s on the Legal Framework for the Suppression of Piracy', in *League of Nations: Committee of Experts for the Progressive Codification of International Law* (1925-1928) (Dobbs Ferry, N.Y., Oceana Publications 1972) 143.
[45] CFRN 1999(n17) s 35(1)(a)-(f), ACJA 2015(n31) 3,4, Criminal Code Act (n4) ss 253, 254, 255, 256.
[46] CFRN 1999(n56) s 35(6).
[47] *Ibid*, s 35(1).
[48] SPOMO Act 2019(n3) s 3.
[49] Criminal Code (n4) ss 364, 365.
[50] *Ibid*, s 369.
[51] Terrorism (Prevention and Prohibition) Act 2022, ss 2(3)(g)(ii), 24.

if the person doing or causing the imprisonment has not the right in law to imprison that other,[52] and unlike wrongful arrest or detention under the Constitution,[53]an action on false imprisonment will not lie against a party who physically commits the tort, but against a party who is directly or actively instrumental to the commission of the tort, and the plaintiff must show that it was the defendant who was actively instrumental in setting the law in motion against him, *Per* Tobi, J.C.A. in *Onyedinma v Nnite*.[54]

The act of illegal detention in maritime piracy may not require physical force or acts of violence to be operational, such as where the crew or passengers do not resist and there is no physical violence by the pirates, but the crew or passengers are locked up in a compartment of the ship or aircraft.[55] Nevertheless, the psychological effect or trauma of the ongoing crime on the crew is enough to relieve them of any act of resistance. Apart from crew members or passengers, the ship, aircraft, property or goods aboard are capable of being detained by pirates by seizing control of the ship or aircraft, and the property or goods and interfering with the navigation (change of course or preventing movement) to achieve their aims. Detention in this case will constitute elements of the crime of hijacking,[56] stealing or theft,[57] or robbery[58], depending on the intent of the offenders. The detention or seizure of a ship, aircraft, property or goods under international law[59] and in Nigeria[60] is lawful in cases such as piracy or other maritime offences, contravention of customs and excise regulations.[61] The enforcement of these lawful activities includes the boarding, inspection, seizure, and detention by officials authorized by laws to safeguard national security, protect sovereign rights, or uphold the common interests of humanity.[62]

c. Illegal Depredation

The term is not defined under the anti-piracy law of Nigeria, but by its literal meaning of being the act of taking, damaging or destroying, plundering or pillaging a thing or property, it can only be carried out against a ship, aircraft, property or goods aboard in international waters during the commission of the crime of piracy. Though it is a constituent of the crime of piracy, it is also an element of criminal offences as acts of fraud,[63] theft, malicious damage to property,[64] and other acts of destruction, particularly to interfere with navigation,[65] under domestic law, depending on the specific circumstances and applicable laws. However, the defence of bona fide claim of right,[66] states that whenever a man honestly believes that he has a lawful claim over a property, even though it may be completely

[52] *Abdullahi v Raji* (1998)1 N.W.L.R. (Pt. 534) 481 at 492.
[53] CFRN 1999(n17) s 35(6).
[54] *Onyedinma v Nnite* (1997) 3 N.W.L.R. (Pt. 493) 333 at 346.
[55] D Guilfoyle and R McLaughlin (n41) 393.
[56] Terrorism Act (n51) s 24, CAA 2022(n37) s 83.
[57] Criminal Code (n4) ss 382, 383.
[58] *Ibid*, s 401
[59] United Nations Convention on the Laws of the Seas, art 105.
[60] Harmonised Standard Operating Procedure for Arrest, Detention, and Prosecution of Vessels and Persons (HSOP-AD) 2016.
[61] Nigeria Customs Service Act, 2023, ss 221, 222, 245.
[62] Y C Chang, 'The Use of Force during Law Enforcement in Disputed Maritime Areas.' [2021] *Marine Policy, 124*, 104382. <https://doi.org/10.1016/j.marpol.2020.104382.>accessed 14 June 2025.
[63] Criminal Code(n4) s 441.
[64] *Ibid*, ss 440, 451.
[65] *Ibid*, s 454.
[66] *Ibid*, s 23.

unfounded in law or in fact, he is excused of criminal liability on injury caused to the property, as held in *R v Skivington*,[67] also where a person is acting in self-defence.[68]

In the historical evolution of piracy, acts of depredation were authorized by governments through the issue of Letters of marque to recipients (called 'Privateers') to attack and seize ships and goods without the hazard of being condemned as a robber or pirate.[69] This practice by nations was abolished in the early Twentieth century with a call to abandon commerce raiding of private property on the ocean[70] and the making of the 1856 Paris Declaration.[71] The fact that acts of depredation were once legitimized may have influenced the use of the word 'illegal' in qualifying acts of depredation in the definition of piracy under international law, which was copied directly in the definition of piracy under the SPOMO Act. However, it is doubtful if acts of depredation can still be considered illegal when depredation alone means a negative or criminal act.

The use of the terms 'illegal violence', 'illegal detention' and 'illegal depredation' seem to have created some ambiguity in the definition of piracy, as it has been argued as correlating terms, that it is not necessary to refer to illegal detention and illegal depredation as parallel to illegal violence, as illegal violence in its wider meaning includes physical and psychological harm, and maldevelopment, therefore, while illegal detention may include illegal violence, the later may not include the former.[72]As with UNCLOS III, the use of these words is said to be both tautologous and imprecise, particularly on illegal acts of violence, because there is no guidance as to what types of violence constitute piracy.[73] It is believed that these terms will connote different meanings in different jurisdictions, though the phrase might have been employed to emphasize that such acts are prohibited hence, to minimize ambiguity and redundancy, the word 'illegal' should be removed from this section[74], as States under national laws can introduce modifications, and the courts of a State that seize a pirate ship can also give it interpretations to suit their jurisdiction,[75] since UNCLOS III[76] provides States with the powers to

[67] *R v Skivington* (1967) 2 W.L.R. 665.
[68] Criminal Code(n4) s 440, para 2.
[69] T T Richard, 'Reconsidering the Letter of Marque: Utilizing Private Security Providers Against Piracy.' [2010] 39(3) *Public Contract Law Journal, 423-426,* <https://papers.ssrn.com/sol3/papers.cfm?abstract_id =1591039> accessed 14 June 2025.
[70] R C Ritchie, 'Government Measures Against Piracy and Privateering in the Atlantic Area, 1750 1850', in *Pirates and Privateers, 10, 18-19* (David J. Starkey et al. eds., 1997) 23.
[71] Paris Declaration Respecting Maritime Law, Apr. 15, 1856.
[72] A Logina, 'The International Law related to Maritime Security: An Analysis of its Effectiveness in Combating Piracy and Armed Robbery Against Ships.' [2009] The Maritime Commons, 13. <https://commons.wmu.se/cgi/viewcontent.cgi?article=1143&context=all_dissertations> accessed 14 June 2025.
[73] D P O'Connell, *The International Law of the Sea* (*Vol. 2*. Oxford: Oxford University Press 1982) 369.
[74] N Nilasari and L Steele, 'UNCLOS Definition of Piracy: Is it Still Relevant for Modern Piracy?'. [2022] 7(2) *Mulawarman Law Review*, 93. <https://doi.org/10.30872/mulrev.v7i2.943> accessed 14 June 2025.
[75] S N Nandan and S Rosenne (eds), *United Nations Convention on the Law of the Sea 1982: A Commentary* (Vol. III, The Hague: Martinus Nijhoff 1995) 201.
[76] UNCLOS III (n59) art 101(a)(i).

prescribe and enforce a national criminal law on piracy, and also take action to suppress and prosecute piratical acts of violence on the high seas.[77]

Private Ends

According to section 3(a) of the SPOMO Act, any illegal act(s) in furtherance of the crime of piracy must be conducted for 'Private End' or gain. It does not provide further explanation for clarity or significance for comprehension, as with the same provision in UNCLOS III[78]. A literal interpretation of the word 'private' is of, relating to or involving an individual or person, as opposed to the public or government,[79]while 'end' means an objective, goal or purpose.[80] The ordinary meaning of the criterion 'for private ends' therefrom indicates that the act must have a personal objective or goal, or a private motive of one or more specific persons, and something that is not shared or intended to be shared with a wider or general population; but this does not indicate the exact line of demarcation regarding what motives, if any, that are not purely public, can be regarded as private.

The provision in the Act, being the duplication of a treaty, should also be subject to the interpretation of the provisions of treaties under international law. The Vienna Convention of the Law of Treaties states that a treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.[81] The fact that a treaty shall be interpreted in 'good faith' entails that the interpretation shall be conducted in a loyal manner, and that the conclusion of the interpretation shall coincide with the common intentions of the parties.[82] However, where there is the likelihood of ambiguity or absurdity in interpretation by the ordinary meaning, it is provided that recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 31.[83]

The preparatory work on piracy under the United Nations Convention on the Laws of the Sea began with the Harvard Draft Convention on Piracy[84]as an academic exercise and greatly impacted customary international law on piracy development throughout the 20th century, forming the basis of the International Law Commission's work,[85] which adopted the Harvard Draft including the 'private ends'

[77] R Middleton, 'Piracy and Legal Issues: Reconciling Public and Private Interests.' [2009] 29. Conference Report, Chatham House, October 2009. <https://www.chathamhouse.org/sites/default/files/public/Research/Africa/011009piracy_law.pdf>accessed 14 June 2025.
[78] UNCLOS III (n59) art101(a).
[79] B A Garner (ed)(n23)1389.
[80] *Ibid*, 644.
[81] Vienna Convention of the Law of Treaties 1969, s 31(1).
[82] M Ruud and G Ulfstein, *Innføring i folkerett* (4th edn, Universitetsforlaget 2011) 89.
[83] VCLT 1969(n81) art 32.
[84] Draft Convention on Piracy, with Comment, Harvard Research in International Law 1932, American Journal of International Law Supplement 26: 739.
[85] R C Beckman, 'The Piracy Regime Under UNCLOS: Problems and Prospects for Cooperation' in R C Beckman and J A Roach (eds), *Piracy and International Maritime Crimes in ASEAN: Prospects for Cooperation* (Edward Elgar Publishing 2012) 17.

requirement, and equally concluded that intent to rob (*animus furandi*) was unnecessary.[86] This was relied on and followed in the 1958 High Sea Convention (HSC)[87] and the subsequent UNCLOS III definition.[88] Apart from supplementary means of interpretation such as the preparatory work of a treaty and the circumstances of its conclusion, State practice or the subsequent conduct of the parties to the treaty, is also a means of determining the meaning of terms and phrases or intent in the drafting of international treaties, and weight of this practice, depends amongst others, on its clarity and specificity.[89] It is believed that the use of the phrase 'Private ends' was intended for the sole purpose of excluding those 'acts by unrecognized insurgents who limited their attacks to the state from which they were seeking independence,[90]and also to distinguish between piracy and privateering[91](that earlier had government backing), and to enable courts (and States) differentiate between piracy and acts of maritime depredation carried out by insurgents or rebels.[92]

Acts of piracy may also be prompted by emotions such as hatred or revenge, not merely by the desire for gain alone. It does not include terrorism and politically motivated acts, as was the case of the 1985 seizure of the *Achille Lauro* by the Palestinian Liberation Front, adjudged to have been carried out for political reasons and not personal objectives[93,] which does not amount to piracy, while the court in *Castle John v NV Mabeco*[94] held that a Greenpeace vessel that claimed to have acted politically in the interest of the State in a matter of environmental pollution by a Dutch vessel, committed piracy, as the acts of violence perpetrated against the polluting vessel were based on personal beliefs. In determining what amounts to 'private ends' there is a thin line in knowing when an intent is private, or public /political, or whether such acts are being taken for the private or public advantage because it is possible to have mixed motives where at inception an offender is motivated by politics but ends up plundering a ship for personal benefit.[95] This is usually the case in Nigeria, where militant groups such as the Movement for the Emancipation of the Niger Delta (MEND) in the Niger Delta claim to be freedom fighters fighting for resource control and against marginalization of the region by the Federal Government of Nigeria, but end up seizing ships, kidnapping crew for ransom and diverting crude oil tankers and their contents, thereby threatening the operations of international oil companies, the

[86] Articles Concerning the Law of the Sea with Commentaries [1956] II Yearbook of the International Law Commission 265.
[87] United Nations Convention on the High Seas 1958, art 15.
[88] UNCLOS III(n59) art 101.
[89] United Nations General Assembly, [2018] Official Records Seventy-third Session Supplement No. 10 (A/73/10), 20,13,14.
[90] M Halberstam, 'Terrorism on the High Seas: The Achille Lauro, Piracy and the IMO Convention on Maritime Safety.' [1988] 82(2) *American Journal of International Law*, 269, 278. <https://www.jstor.org/stable/2203189>accessed 14 June 2025.
[91] J E Thomson, *Mercenaries, Pirates, and Sovereigns: State-Building and Extraterritorial Violence in Early Modern Europe* (Princeton University Press 1994) 21.
[92] M Murphy, 'Piracy and UNCLOS: Does International Law Help Regional States Combat Piracy?', in P Lehr (ed), *Violence at Sea: Piracy in the Age of Global Terrorism* (New York, London: Routledge, Taylor & Francis Group 2007) 159 -160.
[93] E Nyman, 'Modern Piracy and International Law: Definitional Issues with the Law of the Sea.'[2011] 5(11) *Geography Compass*, 865.<https://doi.org/10.1111/j.1749-8198.2011.00455.x> accessed 14 June 2025.
[94] *Castle John v NV Mabeco* (1986) 77 ILR 537.
[95] K Marciniak, 'International Law on Piracy and Some Current Challenges Related to its Definition.' [2012] 1(3-4) *Polish Review of International and European Law*, 97-140. <https://ssrn.com/abstract=2412268> accessed 14 June 2025.

maritime security of the territorial waters of Nigeria and the Gulf of Guinea, and exerted immense pressure on the Nigerian economy.[96]

A wider meaning is solicited in the interpretation of 'Private ends' concerning the goal or motive of the offender, and as was stated in the case of *In re Piracy Jure Gentium*[97], that the fact that nothing was stolen in the vessel during an attack against it by pirates should not vitiate the attack as an act of piracy. This is so because private ends are not limited to financial benefits alone, and for purposes of specificity and clarity, it is suggested that the provision be drafted to remove private ends and have it replaced 'with the aim to get financial benefits' since the definition of piracy under UNCLOS III intends to show that an act cannot be considered to be piracy unless it is committed for the sake of financial benefit.[98]

Two-Ships Requirement

One of the requirements for an offence or crime of piracy under section 3 of the Act is that an attack on a ship must originate from another private ship. This means that there must be an offender ship and a victim ship involved in the incident. It is the same requirement in UNCLOS III. The definition of 'two ships' is not given directly under the Act or the Convention. Its implication is derived from the provisions respectively, and it indicates that there must be more than one ship or vessel for an attack(s) to amount to piracy. The ILC's Commentary states that acts committed on board a ship by the crew or passengers and directed against the ship itself or against persons, or property on the same ship, cannot be regarded as acts of piracy.[99]

The consequence of the 'two ship' provision is the exclusion of acts of mutiny, internal hijacking, or the violent taking of control of a ship by members of its crew or passengers[100] even when it results in holding for ransom of the ship, its crew, and passengers, from being defined as acts of piracy. It also denied the hijackers aboard both the Portuguese ship *Santa Maria* in 1961 when it was seized by Portuguese and Spanish political exiles led by Henrique Galvão, and the Palestinians aboard the Italian cruise liner *Achille Lauro* in 1985 respectively, from culpability for the crime of piracy, since the acts were internal seizures, as passengers turned hijackers on the same ship.[101] Under this requirement, the offending ship or aircraft must be a private one, or even a governmental-owned ship over which the government has lost control, but the victim ship or aircraft need not be a 'private ship,'[102] as an attack on a Naval ship the 'USS Nicholas' belonging to the United States of America by a private ship, was

[96] A I Osuaka, 'Oil and Gas Revenues and Development Challenges for the Niger Delta and Nigeria.' [2007]: Being a Paper Presented at the Export Group Meeting on the Use of Non-Renewable Resources for Sustainable Local Development, Organised by the UN Department of Economics and Social Affairs (Friday 21 September 2007) UN Headquarters, New York. <https://www.un.org/esa/sustdev/sdissues/institutional_ arrangements/egm2007/presentations/isaacOsuoka.pdf> accessed 14 June 2025.
[97] *In re Piracy Jure Gentium*, (1934) A.R. 588.
[98] A Logina (n72) 20.
[99] ILC's Commentary on article 39, United Nations (1956). Report of the International Law Commission Covering the Work of Its Eighth Session, 23 April to 4 July 1956. Commentary to the Articles Concerning the Law of the Sea. A/3159, 28.
[100] T Treves, 'Piracy, Law of the Sea, and Use of Force: Developments off the Coast of Somalia [2009] 20 (2) *The European Journal of International Law*, 399–414. <https://doi.org/10.1093/ejil/chp027> accessed 18 June 2025.
[101] *Ibid*, 402.
[102] I Shearer, 'Piracy': *in Max Planck Encyclopedia of Public International Law* (2010) 15.

held by the court to be piracy in *United States v Dire*,[103] despite claims by the pirates that they mistook it for a merchant ship.

There are divergent views on the necessity for the provision of the two-ships requirement by the drafters of UNCLOS III. A view believes that it is a result of the primary concern of international law on the high seas to protect outsiders and not necessarily the passengers of a given ship because the domestic laws of the flag state can protect passengers,[104]and secondly, that it was meant only to exempt acts by one passenger or crew member against another from the definition of piracy,[105] while another states that treaty language and the preparatory papers support a conclusion that the two ship requirement is meant to screen out mutiny or other internal disturbances by crew and passengers, whose acts would remain within the jurisdiction of the flag state to prosecute.[106]

A noticeable distinction in section 3 of the Act is that section 3(a)(i) states that the acts must be against 'another' ship, while section 3(a)(ii) provides for action against 'a ship.' This is believed to be intended to cover two different situations, where the former would apply to international waters (high seas), and the latter outside the jurisdiction of any State (terra nullius), which otherwise would cause a contradiction between paragraphs (a)(ii) and (a)(ii). The proponents of a loose two-ship requirement, like Oppenheim[107], desire a reflection in prior customary law in favour of a one-ship rule, wherein mutiny can be reflected as an act of piracy, particularly if it was intended to steal the ship, and not a mere act of violence against the captain of the ship. However, it is believed that this is likely to create fact-intensive determinations and difficulties in establishing and proving jurisdiction, as a ship could have crew and passengers of different nationalities, which leaves the option of entrusting the acts within a single ship to the jurisdiction of the flag State[108], as also explained in the Harvard Draft Research[109].

The application of the two ships rule to two aircrafts under the provisions of the Act as is with UNCLOS III, is a matter that also requires consideration or query. Is it possible for two aircrafts to be involved in piracy over or in international waters (high seas) or a place outside the jurisdiction of any State in the maritime environment, or should such acts not be treated as hijacking or mutiny, which involves a single aircraft, and is committed by the passenger or crew of an aircraft within or against the aircraft? The crime of hijacking of aircraft is provided under the laws of Nigeria in the Civil Aviation Act 2022[110],

[103] *United States v Dire* 680 F.3d 446 (4th Cir. 2012).
[104] L Azubuike, 'International Law Regime Against Piracy.' [2009] 15(10(4*) Annual Survey of International & Comparative Law*, 53. <http://digitalcommons.law.ggu.edu/annlsurvey/vol15/iss1/4> accessed 14 June 2025.
[105] M Bahar, 'Attaining Optimal Deterrence at Sea: A Legal and Strategic Theory for Naval Anti-Piracy Operations.' [2007] 40 *Vanderbilt Journal of Transnational Law,* 38-39. <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=982679>accessed 18 June 2025.
[106] E Kontorovich, 'International Decisions, United States v Shi.' [2009] 103 *American Journal of International Law*, 734, 737.<https://uniset.ca/terr/art/103AJIL734.pdf> accessed 18 June 2025.
[107] L Oppenheim, *International Law: A Treatise*? (1905) 276.
[108] E Kontorovich (n106) 738.
[109] Draft Convention on Piracy, with Comment, Harvard Research in International Law 1932, American Journal of International Law Supplement 26:809-810.
[110] CAA 2022(n37) s 83.

and the Terrorism (Prevention and Prohibition) Act 2022,[111] while Nigeria is also a party to international treaties such as the 1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft and the Beijing Protocol 2010, and these laws define hijacking as the unlawful use of force or threat thereof, or by any other form of intimidation, to seizes, or 'exercises control of, an aircraft, or attempts to perform any such act, by any person who is on board the aircraft in flight,[112] which is similar to the definition of piracy, though with the differences in the single aircraft, and the situation of the crime; piracy occurs in the high seas. Nigeria can exercise jurisdiction over acts committed in international waters on an aircraft under its domestic laws on civil aviation and terrorism, as the nation of embarking or landing, the State of the hijacker, and the place of business of the registered owner of the aircraft under international law.

International Waters and a Place Outside the Jurisdiction of any State

The SPOMO Act in section 3(a)(i) provides that acts of piracy must take place 'in international waters,' or in section 3(a)(ii) in 'a place outside the jurisdiction of any State'. These provisions give the geographical scope or situation of the definition of piracy in maritime zones, and the operation of universal jurisdiction in reflection of international customary law in UNCLOS III.[113] The phrase 'international waters' is used to substitute the 'high seas' as provided in UNCLOS III[114] for 'international waters' in its definition of piracy in section 3(a)(i), which is the only difference therein between the provision of the Act and the Convention. UNCLOS III defines the 'high seas' as all parts of the sea that are not included in the exclusive economic zone (EEZ), in the territorial sea, or in the internal waters of a State, or in the archipelagic waters of an archipelagic State[115], but the Act did not define 'international waters'. A consensus of thoughts believes that international waters, as used in the Act, are officially known as the high seas (terra nullius, free seas or Mare liberum),[116]in consonance with the fact that piracy, as an international crime, can only be committed on the open sea,[117] and piracy in international waters had as much to do with international law as other robberies within the territory of a State.[118]

It is argued that the exclusive economic zone (EEZ), being considered as a maritime domain of a State, is not part of the high seas and therefore allows the exercise of sovereign jurisdiction by a State on the crime of piracy.[119] However, this position is countered by the provisions of articles 55 and 56 that only gives limited spatial jurisdiction to coastal States in the EEZ, particularly the rights to the management

[111] Terrorism Act 2022(n51) s 34.
[112] Hague Convention for the Suppression of Unlawful Seizure of Aircraft 1970, art 1.
[113] D Guilfoyle, *Shipping Interdiction and the Law of the Sea (*Cambridge: Cambridge University Press 2009) 31–32.
[114] UNCLOS III(n59) art 101(a)(i).
[115] *Ibid*, art 86.
[116] A A Olawoyin, 'Combating Piracy in Nigeria and the Suppression of Piracy and Other Maritime Offences Act 2019.': Proceedings of the 9th Strategic Admiralty Law Seminar for Judges. [2020] 3 *Contemporary Nigerian Admiralty Law Issues*, 10-11. <https://www.academia.edu/47578665/COMBATING_PIRACY_IN_NIGERIA_AND_THE_SUPPRESSION_OF_PIRACY_AND_OTHER_MARITIME_OFFENCES_ACT> accessed 18 June 2025.
[117] L Oppenheim, *International Law: A Treatise* (8th edn, Longmans: London 1967) 608-609.
[118] International Law Commission (ILC) 292nd Meeting, 16 May 1955, Summary Record of the Seventh Session 2 May - 8 July 1955, Yearbook of the International Law Commission (1955 Vol. I) 53.
[119] D Guilfoyle (n113) 45.

of natural resources,[120]and article 58(2) of UNCLOS III that states that the rules of international law that apply on the high seas, also apply to the exclusive economic zone (EEZ), in so far as they are not incompatible with the provisions of UNCLOS III that relate to the EEZ. A combination of this provision with article 101(a) would show that acts of piracy that are committed in a State's EEZ are deemed as though they had been committed on the high seas, and any State may assert jurisdiction over the crime as long as it occurs outside the territorial waters of any State.[121] It has also been held the courts in *United States v Ali,*[122] and *The Republic of Seychelles v Mohamed Ahmed Dahir & Ten Others ("Topaz")*,[123] that the EEZ is essentially concerned with resources, and that, except as regards resources, the EEZ is part of the high seas. This is also applicable to the Contiguous Zone,[124] where the power of a coastal State is limited to making legislation and punishments on its customs, fiscal, immigration, or sanitary laws and regulations within its territory or territorial sea.[125]

The use of the phrase 'in a place outside the jurisdiction of any State' in section 3 (a)(ii) of the Act, is also another identification of the location indicating a maritime zone outside the jurisdiction of any state to enforce and prosecute piracy according to UNCLOS III. According to the International Law Commission (ILC), the intention in the use of the phrase is to include acts committed by a ship or aircraft on an island constituting terra nullius or on the shores of unoccupied or ownerless territories and to prevent acts committed thereon from escaping punishment.[126] This requirement has received some criticism,[127]including the proposal by Peru at the drafting stages, that these words are unnecessary and should be deleted because the law of piracy already applies to the EEZ which is within State jurisdiction, which was rejected.[128] Those in support of its inclusion believe that it would bring acts of piracy within its international definition, in instances where they are committed on the shores of a new island that was created through a volcanic eruption, which is not yet subject to ownership by any State, or on the shores of the unclaimed sector of Antarctica.[129] However, its use is said to be pointless in today's maritime regime, since apart from the high seas, it is practically impossible to discover unoccupied areas in the maritime domain in the present day, perhaps except Antarctica[130.]

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[120] Y Tanaka, *The International Law of the Sea* (1st edn, Cambridge University Press 2012) 6-7.
[121] J A Roach, 'Agora: Piracy Prosecutions; Countering Piracy off Somalia: International Law and International Institutions.' [2010] 104 (3) *The American Journal of International Law*, 397, 398. <https://www.jstor.org/stable/10.5305/amerjintelaw.104.3.0397> accessed 18 June 2025.
[122] *United States v Ali*, 718 F.3d 929, 941–42 (D.C. Cir. 2013)
[123] *The Republic of Seychelles v Mohamed Ahmed Dahir & Ten Others ("Topaz")*, Judgment, ¶ 55-59, Crim. Side No. 51 of 2009, (July 26, 2010).
[124] UNCLOS III(n59) art 33(1)(a)(b).
[125] D Guilfoyle and R McLaughlin, 'The Crime of Piracy'. In: CC Jalloh, K M Clarke and V O Nmehielle(eds) *The African Court of Justice and Human and Peoples' Rights in Context: Development and Challenges* (Cambridge University Press 2019).
[126] International Law Commission (ILC), Report of the International Law Commission: Commentaries to the Articles Concerning the Law of the Sea, UN Doc. A/3159 (1956), GAOR 11th Sess. Suppl. 9, 282. art 39.
[127] L Azubuike (n104) 9.
[128] R Platzöder (ed), *Third United Nations Conference on the Law of the Sea: Documents* (vol.V, Oceana Publications 1984) 66,69,73.
[129] B H Oxman, 'The Antarctic Regime: An Introduction.' [1978] 33 *University of Miami Law Review*, 294.<https://repository.law.miami.edu/umlr/vol33/iss2/2/> accessed 18 June 2025.
[130] N Nilasari and L Steele (n74) 96.

While the debates persist, opinions have stated that the requirement on location exempts many acts of violence in the oceans from the purview of the definition, particularly those that occur within the jurisdiction of a State, which will require consent from the coastal State,[131]such as the acts of piracy that occur within the territorial seas of Somalia, wherein permission needs to be sought from the Somali TGF (Transitional Federal Government) and consent is given before other States can conduct anti-piracy operations off the coast of Somalia.[132] It also affects the efforts of States, and their ability to carry out international responsibilities to combat piracy, where occurrences of modern-day piracy are more in territorial waters than on the high seas.[133] The doctrine of 'hot pursuit'[134] is also not applicable, as it is not allowed for States to pursue pirates from the high seas into the territorial waters of other States, while a coastal State can only pursue a pirate ship from its territory into the high seas, thereby limiting the effectiveness of counterpiracy operations in the maritime environment.[135]

Conclusion

The limitations in the definition of piracy in the SPOMO Act as also present in UNCLOS III particularly, on the scope of unlawful acts, location of the crime, and the intention of the offender, are made light by the provisions of the Act in section 4, with the creation of 'maritime offences and unlawful acts at sea', which is a domestication of the Convention on the Suppression of Unlawful Act against Safety of Maritime Navigation 1988 and its Protocols (SUA Convention)[136], to criminalize other unlawful acts against ships, property and fixed and floating platforms, within national territorial waters, including 'armed robbery at sea' as defined by the International Maritime Organization (IMO)[137] with the inclusion of terrorism and political motives.138 The Act also covers crimes such as the receipt of proceeds of crime by a bank, transportation of persons, and instruments such as Biological, Radioactive, Chemical, and Nuclear (BRCN) weapons, hostage taking, and possession of the proceeds of crimes.[139]

Nigeria's ability to suppress piracy, through the effective implementation of the SPOMO Act may nevertheless be limited by the geographical and motive requirements in the definition of piracy as provided in the law, because most of the piratical acts are commenced or committed in the inland waters of Nigeria, leading to the Gulf of Guinea, with the pirates targeting oil-carrying ships, diverting the

[131] L Bento, 'Toward an International Law of Piracy Sui Generis: How the Dual Nature of Maritime Piracy Law Enables Piracy to Flourish.' [2011] 29 *Berkeley Journal of International Law,* 399. <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1682624>accessed 18 June 2025.

[132] T Treves(n100) 399–414.

[133] M Madden, 'Trading the Shield of Sovereignty for the Scales of Justice: A Proposal for Reform of International Sea Piracy Laws.' [2009] 21(2) *University of San Francisco Maritime Law Journal,* 141. <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1474522> accessed 21 June 2025.

[134] UNCLOS III(n59) art 110.

[135] U E Daxecker and B C Prins, 'Searching for Sanctuary: Government Power and the Location of Maritime Piracy: Enforcing order: Territorial reach and Maritime Piracy.'[2015] 34(4) *Conflict Management and Peace Science,4.* <https://www.researchgate.net/publication/283184538_Enforcing_order_Territorial_reach_and_maritime_piracy> accessed 21 June 2025.

[136] Suppression of Unlawful Act against Safety of Maritime Navigation 1988, art 3.

[137] International Maritime Organization (IMO) General Assembly, 'Piracy and Armed Robbery against Ships.' [18 January 2010] Resolution A.1025(26) (Annex, paragraph 2.2) on IMO's Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery Against Ships. <https://www.imo.org/en/ourwork/security/pages/piracyarmedrobberydefault.aspx>accessed 21 June 2025.

[138] SPOMO Act 2019(n3), s 4(m),(p),(q).

[139] *Ibid,* s 4(g),(n),(p),(r).

contents for sale, and sometimes taking the crew hostage,[140] and in recent times, the cases of attacks on local travelers on commuter boats by armed men on speed boats along the Onne, Okujagu, and Bonny rivers,[141] and those who hijacked two passenger boats and abducted the occupants along the Port Harcourt–Bille waterways on 6 May 2025 in Rivers State, Nigeria, with a demand for the sum of N100million as a ransom for their release.[142] In local parlance, these criminal acts in the internal waterways are referred to as 'piracy' in contrast to the definitions under domestic and international law. Since an unlawful act committed in territorial waters is not piracy but 'armed robbery at sea,'[143]it means that the latter attracts a lesser punishment (15 years imprisonment)[144] than the former (life imprisonment),[145] for the same acts but in different locations. This will encourage the pirates to lay siege on unsuspecting targets and ply their trade within the country's internal waters, thereby increasing insecurity on its rivers.

In the case of Somalia, the United Nations Security Council enlarged the scope of enforcement powers under UNCLOS III, to strengthen the effectiveness of counter-piracy operations in the Gulf of Aden, through its Resolution 1846,[146] consented to by Somalia, authorizing the use of all necessary means that are consistent with international law (UNCLOS III) by States to repress piracy within the territorial waters of Somalia. The resolution did not extend the direct (geographical) application of the Convention on acts of piracy to the territorial waters of a State, rather, it created an avenue to build upon the existing enforcement regime contained in UNCLOS,[147] and provided the remedy for its shortcomings, as used in repressing transnational terrorism or the proliferation of weapons of mass destruction by the UN Security Council.[148] Though Nigeria is not a failed State, a resolution of this nature will assist in the suppression of piracy and other maritime crimes in its territorial waters and the Gulf of Guinea in addition to the provisions of the SPOMO Act, without impugning its sovereignty, considering the negative impacts of these violent acts on its economy and national security.[149] Alternatively, to cure the inadequacy of the requirement, Nigeria should follow the steps of Mauritius[150] that used the words 'act of piracy means', which is different from 'Piracy consists of any of the following acts' in UNCLOS III,

[140] M B Kao, 'Against a Uniform Definition of Maritime Piracy.' [2016] 1 *Maritime Safety and Security Law Journal,* 4. <https://www.marsafelawjournal.org/wpcontent/uploads/2016/10/Issue3_KAO_Article.pdf> accessed 21 June 2025.

[141] A Onukwugha. 'Group Decries Rise in Sea Piracy in Rivers Waterways.' *Leadership Newspapers (Online)* (February 2025) <https://leadership.ng/group-decries-rise-in-sea-piracy-in-rivers-waterways/>accessed 21 June 2025.

[142] D Naku, 'Rivers Pirates Demand N100m for Abducted WASSCE Candidates.' *Punch Newspapers (Online)* (24th May 2025).<https://punchng.com/rivers-pirates-demand-n100m-for-abducted-wassce-candidates/> accessed 21 June 2025.

[143] SPOMO Act 2019 (n3) s 4.

[144] *Ibid,* s 12(2).

[145] *Ibid,* s 12(1).

[146] United Nations Security Council, S/RES/1846 (2008) preambular para 7.

[147] UNCLOS III(n59) art 105.

[148] H von Heinegg, 'The Proliferation Security Initiative – Security vs. Freedom of Navigation?' : in Y Dinstein and F Domb (eds) *Israel Yearbook on Human Rights* (Vol 35, Faculty of Law of Tel Aviv University 20 05) 181–203.

[149] C Katsouris and A Sayne, '*Nigeria's Criminal Crude: International Options to Combat the Export of Stolen Oil*.' [2013] London: Chatham House, September 2013, 1-3. <https://www.chathamhouse.org/sites/default/files/public/Research/Africa/0913pr_nigeriaoil.pdf> accessed 21 June 2025.

[150] Piracy and Maritime Violence Act 2011 of Mauritius, No 39 of 2011, s 3(3),

and Seychelles[151] with the use of 'includes', and that any act described in paragraph (a) or (b) which, except for the fact that it was committed within a maritime zone of Seychelles, would have been an act of piracy under either of those paragraphs; which broadens the definition of piracy and could imply the possibility that acts not considered piracy under article 101 of UNCLOS could be considered piracy under domestic legislation.

Recommendations

Nigeria has a lot to gain from the suppression of piracy and other maritime offences, apart from the safety of navigation and the protection of its maritime domain, as its social and economic growth will be greatly accelerated with its peaceful exploration and exploitation of the marine environment under the global blue economy drive. An effective implementation of the Suppression of Piracy and Other Maritime Offences Act 2019 will enable these lofty goals as a nation. It is therefore recommended that the National Assembly of Nigeria amend section 3 of the Act by modifying the definition of piracy to broaden its scope on unlawful acts, and the geographical jurisdiction of the courts, and also amend section 22 of the Act to provide for a broad definition of 'ship' that is compatible enough to consider local means of water transportation, and technological advancement in unmanned underwater vehicles (UUVs). Also, sections 12, 13, 14 and 15 of Act should be amended to prescribe uniform punishments due to the gravity of the crime of piracy and armed robbery at sea.

[151] Penal Code Amendment Act 2010 of Seychelles (No. 20 of 2010), s 65 (4)(a),(b),(c).