

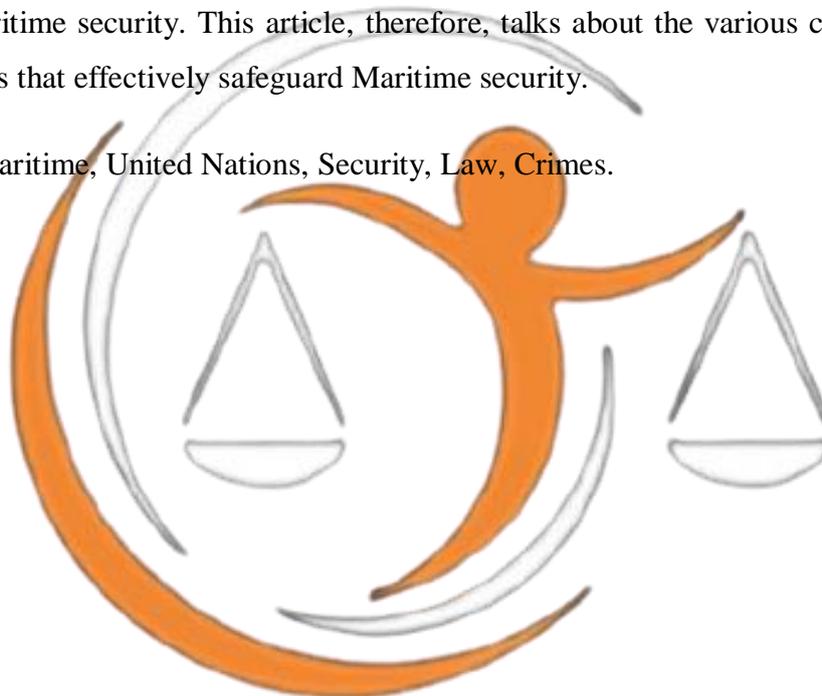
DO CURRENT MARITIME LAWS EFFECTIVELY SAFEGUARD MARITIME SECURITY

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ABSTRACT

This article talks about different kinds of Maritime laws that are framed in order to curb the increasing rates of maritime crimes in the World. Safeguarding vessels in the seas is one of the most difficult jobs for the coastguards as detection of crimes is very hard to track in these seas. Thus, the United Nations in its Convention framed such laws which try to effectively safeguard Maritime security. This article, therefore, talks about the various crimes and their respective laws that effectively safeguard Maritime security.

Keywords: Maritime, United Nations, Security, Law, Crimes.



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INTRODUCTION

A vessel that is on international waters needs to follow some protocols and laws for smooth transportation from one place to another. However, not every day is a fine day, a vessel carrying cargo supplies may fall prey to pirates or the vessel itself can do illegal things such as smuggling and human trafficking. Such things leave a huge impact on Maritime security and leave a question on the minds of the people as to whether the current Maritime laws are sufficient enough to safeguard Maritime security?

Therefore, to maintain security the International Maritime Organization has vowed to make travel by sea as safe and secure as possible. The organization has formed [Maritime Safety Committee](#) that maintains any threat which they think has the potential to disturb maritime security. This committee provides different guidelines for dealing with the threat along with other committees like [Facilitation Committee](#) and [Legal Committee](#).

DIFFERENT TYPES OF MARITIME CRIMES

There are various types of Maritime crimes like piracy, trafficking, illegal fishing, etc. Piracy, however, is one of the most visible and common Maritime crimes. These types of crimes have a huge impact on economic and human costs. However, the different types of Maritime Crimes are mentioned below:-

- **Maritime Piracy and Armed Robbery:-**

Maritime Piracy targets major shipping lanes and endangers the life of seafarers. These pirate groups are usually armed and aim to take billions from such ships. Piracy incidents take closer to the shore and are violent thereby leaving the crew members in a state of trauma. The money looted by means of piracy is always difficult to track down. As per [Article 101](#) of the [United Nations Convention on the Law of the Seas](#) (UNCLS), piracy has been defined as:

The term Piracy means any illegal act either by the master, officer, or crew members of the ship on board with the intent to loot the cargo or the passengers on board the vessel or to fulfill some other personal demands.

Piracy may also be committed by any other person with the illegal boarding of ship especially for looting the cargo that is on the ship. These offenses are mainly carried in the high seas with less security.

The key ingredient for the offence of piracy is the intention or knowledge of such a person committing the offence.

[Article 103](#) of the UNCLS, defines a pirate ship. A pirate ship is such a ship that has the intent to commit piracy by the person who is in control of the ship.

- **Trafficking:-**

Trafficking is the act of exporting or importing something illegal by sea route like weapons, drugs, humans, etc. These traffickers often choose poorly patrolled sea routes so that they cannot be caught easily. These people also bribe port employees to gain access to sealed containers so that they can hide illicit goods beneath the legal ones. [Article 3\(a\)](#) of [Trafficking in Persons Protocol](#) defines trafficking as the recruitment or transportation of any human being by exerting force, undue influence, coercion, or any other method by which the other person is bound to give consent, thereby achieving his goal for exploitation or any such other means as in different ways. Therefore, trafficking consists of three main acts:-

- a) An Act
- b) By means
- c) For the purpose of exploitation.

- **Illegal or Unreported Fishing:-**

This type of Maritime crime is one of the most ignored ones. Illegal or Unreported Fishing are those crimes that damage the environment, the coastal communities, and their livelihood. In this case, people catch fish and sell them illegally to other states at a higher price thereby causing disequilibrium in the market. Illegal fishing puts local fishermen who are associated with the market at a disadvantage. The main cause for such an act is mainly unemployment.

- **Unauthorized Broadcasting from High Seas:-**

Unauthorized Broadcasting means such radio waves or broadcasts television channels which they are not supposed to broadcast. In other words, this type of criminal activity does not follow the international regulations of broadcasting. As per [Article 109](#) of the United Nations Convention on the Law of the Seas, unauthorized Broadcasting means the transmission of sound radio or television broadcasts from a sea or installation in the high seas, intended for reception by the general public, contrary to international regulations excluding the transmission of distress calls.

These are the types of crime that mainly occur on the high seas.

PUNISHMENTS FOR SUCH CRIMES

The Conventions have laid down adequate punishments for the crimes committed on the high seas. These include punishment for trafficking, piracy, hot pursuit, unauthorized Broadcasting, and many as such. A few of such punishments are mentioned below:-

- **Punishment for Piracy:-**

As per [Article 105](#) of the Conventions, any ship which is outside the jurisdiction of any State that is they are on the high seas, then every State has the right to seize the pirate ship or any such ship which is taken by piracy and is under the control of a pirate and arrest the person(s) and the property on board.

The case will be taken up to the courts of such State that carried the seizure and they will decide about the penalties to be levied and may also decide about the action to be taken for such crime and may also seize the ship or the property. However, the State must give respect to the rights of any such third party on board who were acting in good faith. This is the punishment for committing the crime of Piracy.

- **Punishment for Trafficking:-**

[Article 108](#) of the Convention says that all States must cooperate with each other in the suppression of illicit trafficking of drugs, guns humans, or any other such illegal things.

Subsection (2) of Article 108 also states that any State which has reasonable ground in believing that a particular ship flying its flag is involved in illicit traffic in narcotic drugs or psychotropic substances may request cooperation from other States to suppress such trafficking.

The punishment for such Crimes will then be decided by the respective courts of the State where the matter is on hearing. This is the punishment for trafficking on the high seas.

It also states that if any ship is found carrying any slave, then every State shall take necessary measures to prevent the transport of slaves and punish the person who is responsible for such carrying. Any slave who is found to be taking refuge on such ship shall *ipso facto* be free.

- **Punishment for unauthorized Broadcasting in high seas:-**

The punishment for unauthorized broadcasting on the high seas is also stated in [Article 109](#) of the UN conventions. It also says that all States must cooperate with each other in suppressing such broadcasting

Subsection (3) of Article 109 says that any person who is engaged in such unauthorized broadcasting may be prosecuted before the court of:-

- a) The flag state of the ship
- b) The state of registry of the ship or installation
- c) The state of which such person is the national
- d) Any State where authorized radio communication is facing problems or interference due to such broadcasting

The State having such jurisdiction in accordance with subsection (3) shall arrest the person responsible for such broadcasting and also seize its broadcasting instruments.

- **Punishment for breaking Submarine Cable or pipeline:-**

As per [Article 113](#) of the UN conventions, every State shall adopt the laws and regulations necessary when they find that any person, in their jurisdiction, has willfully or through negligence broke a submarine pipeline or a cable, in such a manner so as to obstruct

telegraphic or telephonic communications, such persons have committed offenses which are punishable in nature and therefore, will be punished as per the laws of such State.

However, this Article shall not apply to any person who has broken a pipeline or submarine cable unintentionally or unwillingly in order to save their own lives or their ships while taking all the possible measures to prevent such break or injury.

This is the punishment to be received for breaking any submarine cable or pipeline.

These are the punishments that are mentioned in the Convention for committing particular crimes on the high seas.

Right to Visit:-

Apart from the punishments, [Article 110](#) states that no ship is subject to interference by any State or other warship unless any such treaty allows or if a warship sees a foreign ship on the high seas and is convinced that such a ship may be involved in:

- Piracy
- Slave trade
- Unauthorized broadcasting
- Without any nationality

If the warship is convinced that the particular ship is involved in the above-mentioned acts, then it may board the ship for verification of documents. It may also send a commanding officer for further verification of documents.

After the documents have been verified and there was no sign of suspicious activity or if the commanding officer is of the opinion that the ship was from the very start did not commit any act that arouses suspicions, then such ship will be compensated for the loss or damage done during the process of verification.

Right to Hot Pursuit:-

[Article 111](#) of the UN convention deals with the Right to Hot Pursuit. This right is given to the appropriate authorities of the coastal state when they are in the belief that any such ship,

which is in their territorial waters has committed a breach of the international law or regulation.

For such a case, the ship must be within the internal waters, archipelagic waters, or the territorial sea of the pursuing State. However, it is not necessary that the ship giving the order to stop, at the time of such pursuing, should as well be inside the territorial sea.

However, if the foreign ship enters into its own territorial waters or of any third party then such a right ceases to exist. For the proper execution of this right, the pursuing State must be convinced that the foreign ship is well within the territorial limits of the State. A clear signal to stop should be given before commencing such a right.

This right of hot pursuit can only be exercised by warships or military aircraft, or any other such ships that are marked and identifiable as being on government duty.

CONCLUSION

Crimes committed on high seas are always difficult to track and solve as there are no people or any such authority to witness unlike those committed on land. The main cause of piracy is one of the most committed crimes on high seas is because of the lack of proper order in such areas. Even the pirates choose such sea lines that are not heavily guarded but are used as a common route for the supply of cargo and essential materials. Even today, 90% of the export-import of goods are done through seas and thus the need for stricter Maritime laws are getting more attention. The [South China Sea](#), [Malacca Straits](#), [Gulf of Aden](#) are such sea routes where piracy happens the most. Even though there are many laws that try to prevent the rates of [high sea crimes](#) from climbing, but still high sea crimes are becoming 'increasingly sophisticated and well-executed.

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