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PIRACY AND PRIVATEERING: THE TIMELESS THREATS TO MARITIME SECURITY

Abstract: *The following text provides an overview of piracy historically and in contemporary contexts. The aim is to underscore the qualitative differences between piracy and privateering and highlight maritime security operations and the challenges posed by the current legal and geopolitical environment. The analysis concludes with an in-depth examination of the ongoing unrest in the Bab-el-Mandeb Strait due to the Houthi-led terrorist activities.*

Keywords: *piracy, privateering, terrorism, maritime security, international law*

A Historical Overview

The phenomena of piracy and privateering, from antiquity to the present day, have been among the most significant threats to maritime commerce. The term "piracy" is of Greek origin, derived from the verb "πειράω," meaning "to attempt." The first recorded use of the word "pirate" appears in an Athenian decree from the Hellenistic period, honouring General Epichares, who distinguished himself in coastal defence during the Chremonidean War (267 – 261 BC). (De Souza, 2002: 3). However, piracy was a widespread phenomenon throughout ancient times – and played a significant role in the political and economic geography of the Mediterranean space.

Thucydides recounts:

"Minos was the earliest man we know of by tradition to have built a navy. He made himself master of the Aegean Sea and ruled over most of its islands, where he planted colonies in many of them after expelling the Carians. He aimed to suppress piracy as far as he could, to secure the revenues for himself."

(Thucydides, 1.4.1)

According to Thucydides, piracy was an essentially primitive condition that was mitigated by the emergence of strong naval states, starting with that of Minos. In contrast, during the Homeric era, piracy enjoyed a certain prestige. It was effectively considered a standard part of a warrior's activities – a condition that we meet again in the History of Europe repeatedly, most notably in the case of the Vikings. The esteem held by pirates during that early Hellenic period is reflected in Odysseus' words when he presents himself as a pirate to the swineherd Eumaeus, recounting his exploits:

"I take pride that I hail from the island of Crete and am the son of Kastor, famed for his wealth, who was honored by all in glorious Crete. I was never cowardly or lazy, and, as you see the ears of corn, so you shall find the grain: life's trials have not spared me. Farming and domestic life I despised; my heart and mind were set on ships, weapons, and the war god Ares. I sailed the seas as a pirate, commanding my fellow corsairs on swift ships, plundering foreign lands with insatiable greed. I amassed great wealth, gold, and silver and was held in high regard on my island. When Greece went to Troy, I joined under Idomeneus, leader of Crete."

(Odyssey, Book 14, 228–234, translated by Kostis Kazamiakis)

With the rise of the Athenian Democracy, piracy was drastically reduced, but during the Peloponnesian War, it became rather closely associated with – and occasionally indistinguishable from – privateering – a form of piracy effectively sanctioned by state orders and perceived as part of the overall war effort. Piracy then, when conducted for personal gain, was considered blameworthy, but if directed by a state authority and served its interests, it was deemed acceptable. Moreover, whether privateering was considered adequate or not depended on the strength of the state actors involved. For example, Argives and Mantineans launched pirate raids from Pylos (*Thucydides, 6.105, 1-2*), while the Athenian General Demosthenes organized pirate operations in Sicily (*Thucydides, 7.26*). In

essence, the evaluation of piracy in ancient Greece – and even in the Classical and Hellenistic epochs – was based not on the act but on who committed it and under what circumstances. Correspondingly, responses varied between punishment and retaliation.

During the medieval period, Saracens emerged as pirates, seizing Sicily and launching raids across the Eastern Mediterranean. The Normans eventually curbed their activities, and years earlier, Byzantine Emperor Nikephoros Phokas had ended the Emirate of Crete. After 1000 AD, Byzantine naval power declined rapidly as its trade was overtaken by Italian cities such as Venice and Genoa. From 1084 onwards, Ghazis (Muslim "holy warriors") established pirate states along the Aegean coast, such as **Ishaq Bey** in Smyrna, the Menteşe Emirate in Aydin (Cahen, 2014:308), and the Emirate (or Beylik) of the Karasids which was crucial in assisting the Ottomans in establishing themselves in Europe. (Bosworth, 1996: 219). In these state-like or semi-state formations, piracy was justified ideologically and ethically by its alignment with the Ghazi "holy war" cause. The Ottoman state – espousing officially the same cause – allied with Ghazi pirates (Soucek, 2004:227 – 228), with notable figures such as Oruc Reis, Piri Reis, and Barbaros Hayreddin Pasha eventually rising to become admirals of the Ottoman fleet. (White, 2021: 157)

Irrespectively of holy war justifications, the strategical choice of aligning the official policy of a state with pirate political (or "political") formations is a repeated phenomenon in naval History and observable still today: it offers the polity in question the capacity to deploy extended naval forces, – often far away from its territorial waters, capitalizing also on external naval tradition and practical knowledge – while externalizing a great part of the costs for these forces. During such periods of alignment, the zone separating *piracy-proper* and *privateering* takes a pretty grey color. In the West, there had been an attempt to formally clarify this exact grey zone: a *privateer* (or *corsair*) was someone who possessed an official "*letter of marque*" (or *lettre de course*) that testified to his services of a specific power and conducted raids to benefit this power. It's needless, of course, to mention that, traditionally, for such a letter of marque, previous professional experience and the necessary vessel, crew, and tools were required: in most cases, the candidate had to be a successful pirate already.

The fall of Rhodes to the Ottomans in 1522 led to a surge in Mediterranean piracy: the control previously exercised by the Knights of St. John over Maltese pirates was eliminated, and they started operating freely across the Aegean. Before the fall, the Knights of St. John had encouraged Maltese pirates in their raids, retaining three-quarters of the spoils for their treasury (Cassar, 1960:141). The Maltese activities peaked in the 17th century, particularly after the fall of Candia in 1669. Pirates established bases in Milos, Paros, Kimolos, Fournoi, Tinos, Ikaria, and other islands in the Aegean. Greek pirates, including those from Sfakia, Mani, Roumeli, and the Cyclades, followed the example of their foreign colleagues. It was purportedly a restriction for Maltese privateers to refrain from acts of violence against Christians. However, this appears not to have been strictly enforced regarding the Greek Orthodox populations of the Archipelago, as evidenced by official warnings from the Knights of St. John to "not disturb or harm" the Christian Greek populations of the Aegean islands (Cassar, 1960:146).

By the 1700s, the seas were dangerous for travelers. Around 1690, "men from the Red Sea" raided ships belonging to the East India Companies (English, French, and Dutch) and vessels owned by wealthy Indians and Asians of other nationalities. Historian Jan Rogozinski described these pirates as "*the most successful criminals in human history*" (Boot, 1988: 97). A significant turning point came in the 17th and 18th centuries when European governments began changing their approach to piracy. Until then, pirates were seen as a minor nuisance or even used as a valuable tool for conducting undercover operations without official war declaration against enemy polities. However, as maritime trade became a primary source of wealth for the British Empire, the stance of this significant naval power shifted. "Pirate hunters" emerged, receiving substantial rewards for capturing prominent pirates. The British Admiralty established special naval courts overseas, comprised of Navy and colonial officers rather than judges, to expedite pirate trials. The historian Marcus Rediker estimates that between 400 and 600 pirates, or about 10% of active pirates, were executed after being processed by such courts. (Boot, 1988: 99). Gradually, the Royal Navy expanded its fleet and allocated more ships to patrol the seas and escort merchant vessels. While in 1670, only two ships were assigned to these tasks, by 1700, 24 boats and 3,500 sailors were stationed at strategic points in Barbados, Cape Verde, Jamaica, Virginia, and West Africa to suppress piracy (Boot, 1988: 100). Concurrently, and

as other European powers were extending their colonial interests, Western nations began collaborating on collective anti-piracy efforts.

This historical overview highlights a distinction between outright piracy and privateering – noting, however, the flexibility of the phenomenon and the adaptability that the main actors have historically demonstrated. Definition-wise, piracy is a purely criminal activity aimed at the personal enrichment of pirates and their crews. Privateering, on the other hand, involves political motives and state basic overseeing and receives, thus at least partial justification (legally and ethically, and at least by the given political authorities that utilize it). Privateers historically acted under government orders, seeking (along with personal profit) to inflict economic damage on enemies. This political dimension – often interwoven with religious motives like the case of the Ottoman holy wars mentioned earlier – has historically delayed or hindered effective responses to piracy.

Piracy in the Modern Era

The Legal Framework

A significant turning point in combating piracy was the first codification effort immediately following the Crimean War: The Declaration of Paris on Maritime Law (April 16, 1856). According to this declaration, privateering permits for private individuals operating armed merchant ships were prohibited. Neutral flags would now protect enemy goods, except for contraband cases. The seizure of neutral cargo on enemy ships was also banned, and the concept of naval blockades was clearly defined. This declaration obligated signatory states not to employ privateers at a time when many nations already considered them pirates who threatened intercontinental communications. For the first time, "International Commissions" were established to oversee policing and free navigation of the Danube River.

The fight against piracy is intricately linked to the development of the Law of the Sea and the adoption of the first United Nations Convention on the Law of the Sea (UNCLOS) on December 10, 1982. As a result of this convention, the International Tribunal for the Law of the Sea (ITLOS) was established in Hamburg. Although the tribunal primarily deals with interpreting the convention's provisions concerning existing interstate disputes, its decisions

play an essential role in anti-piracy efforts, as national sovereignty over territorial waters is tied to a state's ability to defend them. Before delving deeper into the issue, clarifying the distinction between "sovereignty" and "sovereign rights." The first concept means that a specific state has exclusive authority over an area and can exercise all competencies and powers within it. Conversely, the latter refers to exact and determined rights granted to a state in a particular area.

The Baseline Principle

A fundamental concept in the Law of the Sea is that of the "baseline." As defined by UNCLOS, a baseline is the line (or curve) along a coastline from which the maritime limits of a state's territorial sea and other jurisdictional zones, such as the Exclusive Economic Zone (EEZ), are measured. Usually, a baseline follows the low-water mark along the coast. However, if the coast has deep inlets, and marginal islands,¹⁴ or is highly unstable, straight baselines may also be used. The distinction between national sovereignty and sovereign rights extends to the definitions of territorial sea, continental shelf, and the Exclusive Economic Zone (EEZ):

- **Territorial Sea:** A maritime zone extending up to 12 nautical miles (nm) from the coast, where the state exercises full sovereignty.
- **Continental Shelf:** The seabed and subsoil extending beyond the territorial sea, where the coastal state has exclusive rights to explore and exploit resources. This can extend up to 200 nm, but individual agreements with neighboring states are required in enclosed seas.
- **Exclusive Economic Zone (EEZ):** The maritime zone beyond the territorial sea where the coastal state has exclusive rights to resources over the seabed, subsoil, and water column. The EEZ can also extend up to 200 nm, but its boundaries must be agreed upon with neighbouring states, and a unilateral delimitation is not permitted.

In the EEZ, third states have the right to free navigation, overflight, and laying submarine cables and pipelines. In the territorial sea, a ship may pass only under the "right

¹⁴ As a geographical and oceanographic term, a "marginal sea" refers to a partially enclosed sea adjacent to or widely open to the open ocean at the surface, but bounded by underwater ridges at the sea floor. As a geopolitical term, a marginal sea corresponds to a part of territorial waters that is significant for determining the maritime resources a state may exploit.

of innocent passage. (Innocent passage is one of the principles of International Maritime Law, allowing a vessel to pass through the territorial waters of another state under certain restrictions). The United Nations Convention on the Law of the Sea (UNCLOS) defines innocent passage as follows: “Passage is innocent so long as it is not prejudicial to the peace, good order, or security of the coastal state. Passage shall take place in conformity with this Convention and other rules of international law.”

All areas landward of the baseline are considered internal waters, subject to the state's jurisdiction. Visiting ships require state permission, and warships or aircraft must have special entry permits regulated by bilateral or multilateral agreements. Beyond the territorial sea lies the high seas, or the EEZ if declared.

International Straits

Special cases include international straits, which are narrow waterways connecting parts of the high seas or EEZs used for international navigation. Following the Corfu Channel case, it was established that warships have the right of innocent passage in such straits without question or denial during peacetime (Gerontas and Despotopoulou, 1958: 72-83). Straits such as Bab-el-Mandeb, Hormuz, Malacca, and Gibraltar hold immense economic and geopolitical importance for global trade and shipping. The current legal framework requires compliance with international law during passage and prohibits any actions that violate the sovereignty of coastal states.

Piracy Under UNCLOS

According to UNCLOS, piracy can only occur on the high seas or beyond territorial waters and is distinct from *robbery at sea*. «Robbery at sea is defined as “any unlawful act of violence or detention, or any act of theft or threat thereof, other than an act of ‘piracy,’ committed for private ends and directed against a ship or against persons or property on board such a ship, within a State’s internal, archipelagic, and territorial waters” (Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery against Ships, International Maritime Organization (IMO), Assembly Resolution A.1025(26))». Outside territorial waters, any state has the right to apprehend pirates and prosecute them. UNCLOS recognizes universal jurisdiction over piracy but frames it as a recommendation rather than

an obligation, encouraging all states to contribute to addressing these "enemies of humanity."

While piracy is a crime that can be addressed on the high seas, EEZ, and contiguous zones, similar acts (e.g., armed robbery, hostage-taking, abduction, extortion) within a state's internal, territorial, or archipelagic waters fall under the coastal state's jurisdiction. The UNCLOS definition of piracy also creates obvious challenges: excluding pirate-like acts by passengers or crew already aboard a vessel and disregarding known political motives, such as terrorist groups seizing ships to demand ransoms or garner publicity. Additionally, the pursuit of a pirate vessel is expected to end once it enters a state's territorial waters.

Maritime¹⁵ Security Operations (MSOs)

There are several methods of maritime security operations:

1. Maritime Interdiction/Interception Operations (MIO):

These involve monitoring, searching, and boarding vessels under examination. According to the Alliance, such operations are defined as "efforts to monitor, search, and board merchant vessels in international waters to enforce sanctions against other nations as designated by United Nations Security Council Resolutions (UNSCRs) and/or to prevent the transfer of restricted goods," according to the U.S. Doctrine in Command and Control for Joint Maritime Operations (2013). The distinction between interdiction operations during peacetime and the rights of belligerents during armed conflicts is subtle. In purely peacetime contexts, while these operations share many operational characteristics with the exercise of belligerent rights, they are fundamentally different. The use of lethal force is tightly controlled during these operations and is only employed as a last resort when all other means have failed. Boarding operations can be either compliant or opposed. If a ship's captain refuses to allow control forces to board, communication can be initiated with the state under whose flag the vessel is registered.

¹⁵ The term *maritime* is used instead of *naval*. "Maritime power, in its broad sense, is the military, diplomatic, and economic power or influence exerted through the ability to use the sea" (*Command and Control for Joint Maritime Operations*, 2013).

2. Escort and Convoy Operations:

Convoys complicate the attacker's efforts and focus on escorting forces to enhance the effectiveness of protection. However, escorting is less likely to mislead the enemy about the location of the protected vessels and can also disrupt trade flow. Strategic or operational decisions to form convoys require careful consideration of their advantages, disadvantages, and opportunities for luring the enemy into decisive action.

3. Use of Law Enforcement Detachments (LEDETs):

Many states deploy detachments tasked with boarding vessels to conduct investigations, inspections, seizures, and arrests on the high seas and maritime areas under state jurisdiction. The naval vessel's personnel (officers and crew) are prohibited from intervening in legal proceedings; the warship serves only to support the detachment's operations.¹⁶

4. Securing Sea Lines of Communication (SLOG):

SLOG refers to the primary sea routes between ports used for trade, logistics, and naval forces. "Recent developments, such as those in and around the Sea of Azov and the Strait of Hormuz during the spring and summer of 2019, have clearly demonstrated how maritime security measures and disruptions to navigation can have immediate and/or long-term economic impacts. Some of these security measures were justified based on rights granted under international law. It has thus become evident that these methods can potentially serve as tools in hybrid conflicts (Lohela and Schatz, 2019:15).

Maritime security operations to protect these routes can be conducted as long as they do not violate international law. However, they require the consensus of all state actors involved, and any refusal can only be overridden by a United Nations Security Council Resolution.

¹⁶ The entire issue is connected to the detention of those apprehended. The coastal state primarily holds the authority to address and prosecute the detainees. Challenges arise in cases involving failed states.

Key Threats to Global Shipping:

- Interstate or civil armed conflicts.
- Blockades of maritime routes by states.
- Hostile actions by non-state actors (e.g., terrorism, piracy).
- Criminal activities.
- Accidents and natural disasters. (Speed and Len, 2016: 17).

These primary sea routes are associated with establishing maritime safety zones (safety) and protection zones (security).¹⁷ Maritime security operations focus on protection zones (land, water, and air), where access is restricted during missions. Declaring such zones helps inform all parties involved about the prevailing conditions.

The Terrorist Activities of the Houthis in the Bab-el-Mandeb Strait**Who Are the Houthis?**

The Houthi movement is a Shia political and military organization in the Saada province of Yemen. It takes its name from the Zaidi religious leader Hussein al-Houthi, who was killed by the Yemeni Armed Forces in 2004. The Zaidis are a Shia Islam branch that emerged after Zayd ibn Ali's failed revolution against the Umayyad Caliphate in 740 CE. Zayd's father, 'Alī ibn al-Ḥusayn Zayn al-Ābidīn, survived the Battle of Karbala (October 10, 680 CE), where Husayn ibn Ali, grandson of Prophet Muhammad and claimant to the caliphate, was defeated and killed by forces of the second caliph, Umayyad Caliph Yazid I.

The Gates of Tears and Houthi Terrorism

Yemen's declaration of war against Israel starkly illustrates the communication battle for the conquest of the Muslim souls. The Houthis, who have increased their influence in Yemen in recent years, are Shia Muslims supported by Iran and are vehemently opposed by Saudi Arabia, which launched a military intervention in the country. Operation *Amaliyyat' Āṣifat al-Hazm* (*Decisive Storm*) began with airstrikes on Houthi positions, continued as a naval blockade, and evolved into the deployment of ground forces. Egypt and other Arab states

¹⁷ There is a significant difference between the concepts safety and security. *Safety* refers to protection from potential harm and danger, while *security* encompasses all actions taken to protect individuals and organizations from threats (external and internal, criminal, terrorist, and military in nature).

(Morocco, Jordan, UAE, Kuwait, Qatar, etc.) participated in the conflict, while Djibouti, Eritrea, Sudan, and Somalia provided military bases, open airspace, and territorial waters. The United States was also involved, primarily in intelligence, logistics, and search-and-rescue missions for downed pilots. The US Navy had an occasional direct role by assisting in naval blockades and intercepting vessels carrying Iranian arms to the Houthis. (Sciutto and Crawford, 2024)

The Yemeni conflict reflects the broader Iran-Saudi Arabia rivalry within the Muslim world. Iran, as the leading Shia nation, supports the Houthis, who follow the same doctrine, while Saudi Arabia is considered the traditional leader of Sunni Islam. Additionally, any secured control of Yemen would grant Saudi Arabia dominance over the Bab-el-Mandeb Strait, which connects the Red Sea to the Gulf of Aden. The straits linking the Red Sea to the Indian Ocean (Gulf of Aden) are known as the Bab-el-Mandeb Strait, or the "Gates of Tears," named for the many shipwrecks caused by navigational challenges. From this location, the Houthis have launched repeated attacks on commercial vessels using drones and missiles, causing thus significant disruption to global trade. To understand the area's importance, it should be noted that during the first half of 2023, approximately 9.2 million barrels of oil, representing 9% of global demand, passed through the strait daily. By December 19, 391 metric tons of liquefied natural gas (LNG), 4% of global imports, had also transited the strait. (Ghaddar, 2024)

Another crucial disruption factor is the critical role that the Straits have in the transportation of aviation fuels, with over 30% of jet fuel shipped by sea passing through the Suez Canal. Products such as naphtha, diesel, grains, oilseeds, and chemicals are also at risk (Levesque and Drummond, 2024). Commercial ships would have to circumnavigate Africa to avoid the Bab-el-Mandeb Strait, effectively reverting to the pre-Age of Discovery routes and significantly increasing travel time and costs.

Solutions to the Problem

There are two primary approaches to addressing the issue:

1. **Grouping Commercial Vessels into Convoys:** Surrounding them with warships and escorting them to port.

2. **Establishing a Secure Maritime Security Transit Corridor (MSTC):** A maritime passage divided into sectors, patrolled and monitored by warships on independent patrols. Since 2017, this system has included:
- **The Internationally Recommended Transit Corridor (IRTC):** A corridor where naval forces focus anti-piracy patrols.
 - **The Bab-el-Mandeb Traffic Separation Scheme (TSS):**¹⁸ A system managing vessel separation in the strait and West of the Hanish Islands.
 - **A Two-Way Maritime Route:** Directly connecting the Bab-el-Mandeb TSS and the IRTC. (CMF, 2024)

The second solution is considered faster and more feasible financially due to modern surveillance and weapon systems. As highlighted above, Houthi activities pose a global problem for shipping and international trade while affecting broader political terrains from the Red Sea to Iran and beyond. Greece, in particular, has a critical interest in resolving this issue due to the need to protect its merchant fleet, a significant portion of which is involved in transporting oil and natural gas. Houthi activities are essentially acts of asymmetric warfare – somewhat similar to the ghazi and privateering activities seen above – targeting the global economy while simultaneously drawing public attention.

Conclusions

From the above analysis, it can be concluded that of the two types of piracy, the more dangerous and challenging to address is privateering: state-sponsored activities aimed at economically harming opponents and gaining publicity. The very definition of piracy under the Law of the Sea creates challenges in combating the phenomenon due to its shortcomings and existing legal gaps. Combating piracy becomes even more difficult in regions with failed states or nations that disregard legal norms.

¹⁸ A Traffic Separation Scheme (TSS) is a sea traffic management route system governed by the International Maritime Organization (IMO). It consists of two (outer) lines, two traffic lanes, and a separation zone. The traffic lanes (or corridors) indicate the general direction of ships within that lane. Ships navigating within a lane travel in the same direction or cross the lane at an angle as close as possible to 90 degrees.

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