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Current Development

Exploration of Blue Economy: a Prognosis of its Sustainability in the Wave of Maritime Rascality

1. Conceptual Framework

The blue economy is perhaps one of the most prominent concepts in the discourse on emerging economies across the globe. Alongside the green economy, it has received significant attention as an alternative approach to addressing growing financial vulnerability and uncertainty. This is particularly so because activities within the marine economy – encompassing coastal areas, oceans, and the great lakes – are of critical importance for economic growth, job creation, and the provision of livelihoods worldwide, especially in coastal communities.[1] The concept of the green or blue economy has often been defined by the United Nations Environment Programme (UNEP) as one that enhances human well-being and social equity while simultaneously reducing environmental risks and ecological scarcities.[2] The economic activities of the marine sector are widely regarded as playing a pivotal role in alleviating severe hunger and poverty by providing employment and a wide range of economic opportunities.[3] It provides food and livelihoods for a substantial portion of the global population and serves as the means of transportation for approximately 80% of global trade.

Against this backdrop, a number of human factors are responsible for the haphazard exploration and exploitation of marine resources. Some will be given account in the following paragraphs.

2. Striking the Enemy's Lair

Rascality at sea may be understood, in a philological sense, as intentional and unlawful acts of misconduct, dishonesty, or misbehaviour, including theft, vandalism, damage to vessels, and breaches of maritime regulations and protocols by seafarers. It has been observed that such rascality often gives rise to resentment. "Resentment at sea" refers to feelings of bitterness, anger, or frustration arising, for example, from lack of recognition or the poor treatment of coastal communities. In this regard, both radicalism and rascality may be seen as manifestations of resentment, each serving as identifiable indicators with direct implications for the marine and blue economy.

2.1 Piracy at Sea

Piracy is defined as any illegal act of violence, detention, or depredation committed for private ends by the crew or passengers of a private ship or aircraft on the high seas against another ship, or

1 Abdulrazaq O. Abdulkadir et al, 'Exploration of Blue Economy in Nigeria: A Prognosis of its Gain and Sustainability', (Conference on Waves of Change: Nurturing Ocean Resilience and Chartering Sustainable Futures, Faculty of Shari'ah and Law, Villa College, Maldives, held on 10th December, 2024 at Male, Maldives).

2 Pietro Cappabianca, 'The Impact of Regulation (EU) 2023/2631 on the Blue Economy and on the Aim of Preserving Oceans and Marine Biodiversity' (2024) MarSafeLaw Journal 14 – 15/2024, p.42.

3 Jacob Augustine and Okon Joseph Umoh, 'The Nigerian blue economy: economic expansion issues and challenges' (2022) Socio Economy and Policy Studies, p. 29-33.

against persons or property on board such a ship.[4] It has been argued that piracy cannot occur within waters subject to the full sovereignty of a state and its territorial sea.[5] It has also been contended that, for an act to constitute piracy, it must be committed for private gain or private ends, and that this requirement is what distinguishes piracy from terrorism. Unlike piracy, acts of terrorism are ordinarily not carried out for private ends.[6] This view has further been developed with the contention that, under Article 101 of the 1982 UNCLOS, piracy cannot occur at sea unless two ships are involved, in contrast to Kenny's position that piracy encompasses any armed violence at sea not constituting a lawful act of war. Bob Kao (2016) of Queen Mary University of London further notes the distinction between attacks occurring on the high seas and those taking place closer inland. The latter category does not fall within the UNCLOS definition of piracy; instead, it is addressed under the International Maritime Organization's (IMO) Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships, which provides a separate legal definition.

Similarly, Article 15 of the High Sea Convention of 1958 defines piracy as any illegal act of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or private aircraft on the high sea against another ship or against persons or property on board ship. In line with the provisions of Article 101 of the 1982 UNCLOS, it has been argued that both the 1982 UNCLOS and the 1958 High Seas Convention definitions of piracy are too narrow to address the challenges posed by modern-day piracy, as evidenced by the 1985 Achille Lauro incident.[7] After the adoption of the 1982 UNCLOS, it became evident that its definition of piracy failed to encompass many violent crimes committed at sea. For example, on 7th October 1985, four armed stowaways hijacked the Italian cruise liner Achille Lauro and killed Leon Klinghoffer, an American passenger who was wheelchair-bound, before throwing his body overboard. Because the attack occurred within Egyptian territorial waters, it fell outside the scope of the definition of piracy under the 1982 UNCLOS. Despite the international community's strong interest in prosecuting the perpetrators, they could not be charged with piracy but only with other offences.

Following this incident, the international community, through the United Nations and the International Maritime Organization (IMO), adopted the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention), which provides a legal basis for the prosecution of maritime violence not covered by the 1982 UNCLOS piracy regime. Bateman (2011) observes that both the IMO and the International Maritime Bureau (IMB) envisaged unlawful acts against ships occurring during passage, in port, or at anchorage, irrespective of whether the vessels are within or beyond territorial waters at the time of the incident. The underlying point is that piracy remains a universal crime upon which all states are obliged to take action.

The insecurity posed by piratical activities may develop into an uncontrollable force, thereby necessitating proactive measures to curb the unruly nature of such attacks. [8] It has been reported that, over the past several years, pirates, armed robbers, and kidnapping-for-ransom (KFR) groups

4 See Article 101 of the United Nations Convention on the Law of the Sea (UNCLOS) 1982.

5 Abdulrazaq O. Abdulkadir, 'Maritime pirates: The criminal underworld of the Nigeria Maritime Domain' (2015) Al-Hikmah University Law Journal, 1 (2), p.363-384.

6 ibid.

7 ibid.

8 Abdulrazaq O. Abdulkadir, 'Asymmetric Maritime Security Threat: A Factor in Nigeria Terrorism Eccentricity' (2014) NIALS Maritime Law Journal, Vol.2. p. 43.

have operated off the coasts of Nigeria, Benin, Cameroon, Côte d'Ivoire, Equatorial Guinea, Gabon, Ghana, São Tomé and Príncipe, and Togo.[9] These groups have been known to fire at vessels during boarding, and in some cases their attempts have been successful, resulting in the kidnapping of senior crew members such as Masters, Chief Engineers, or other Western or foreign personnel. The abducted crew are typically taken ashore in the Niger Delta region, where ransoms are demanded in exchange for their safe release. For example, on 1st January 2024, a kidnapping-for-ransom incident occurred in which crew members of a Tuvalu-flagged tanker were abducted approximately 46 nautical miles off Bioko Island, Equatorial Guinea.

On 29th May 2024, two crew members of a general cargo ship were kidnapped approximately 25 nautical miles south of Bioko Island, Equatorial Guinea. Such incidents have undermined the full exploration of resources in the region and have prompted the U.S. Department of State to issue travel advisories, warning ships transiting the area to exercise extreme caution and vigilance. These circumstances often lead mariners to cancel voyages, as the Gulf of Guinea is perceived as a high-risk zone. The persistence of piracy and kidnapping, and the resulting boycott of the Gulf of Guinea by mariners, have undoubtedly contributed to economic setbacks for the affected states. In 2008–2009, 91 and 114 incidents respectively were recorded in the Gulf of Guinea, while the reduction to 14 incidents in 2012 was viewed as a reprieve in comparison. However, it has been argued that this decline merely reflected a temporary respite linked to the Federal Government of Nigeria's amnesty programme during that period.

It is our position that the privatisation of maritime security and enforcement does not provide a viable solution to the insecurity pervading the maritime domain. In this perspective, the Nigerian government's reliance on private security companies to secure its maritime space constitutes a serious aberration and an uncritical transplantation of practices from both Asia and the Western world.[10] In jurisdictions such as parts of Asia and Australia, it is common practice for shippers who wish to strengthen security during transit and navigation to engage the services of private security companies in order to avert potential disputes or maritime insecurity during voyages. For instance, when ExxonMobil was attacked in 2011, the company was forced to shut down operations for approximately four months. Around the same period, following the Super Ferry 40 attack that claimed about 100 lives, the company engaged Hart – a U.S.- and U.K.- based security firm with no permanent staff – to enhance security measures during subsequent voyages, pursuant to straightforward contractual arrangements with shippers. It is notable that such security companies are typically owned and operated by ex-military personnel, in contrast to the Nigerian situation, where many of the firms are controlled by ex-militants whose antecedents include oil bunkering and the kidnapping of expatriates. Moreover, in Western and Arabian contexts, the engagement of private security is generally limited to functions such as ship tracking, crew training, provision of security personnel to escort vessels, investigation and recovery of missing or hijacked ships, and negotiation with attackers in cases of kidnapping or hostage-taking of crew members.

Despite such arrangements in the Western and Arabian worlds, the spirit of radicalism and rascality at sea has by no means been suppressed. For example, piracy originating from the Arabian Peninsula and Somalia, particularly off the Horn of Africa and in the Gulf of Aden, remained a

9 Enuma Moneke, 'Maritime piracy in Nigeria: The national security implications' (2014) NIALS Maritime Law Journal, Vol. 2, p. 85.

10 Sharifah Zubaidah Syed Abdul Kader, Abdulkadir. O. Abdulrazaq, 'Privatization of maritime security surveillance & enforcement galore: A compromise of state sovereignty' (2013) Journal of Law, Policy & Globalization, p.19-25.

persistent problem notwithstanding the unprecedented presence of naval forces – let alone private security companies. Of the 439 attacks recorded on the high seas in 2011, 236 occurred in African waters, representing 53% of global incidents (IMB, 2011). These incidents resulted in significant economic losses, with shippers paying approximately USD 159.62 million in ransoms for the release of 31 hijacked vessels, including the Irene-XI and Sambo Dream. In addition, USD 12 million was paid for the release of the *MV Zirku*, which had been held for 73 days. It has therefore been argued that the concessioning of maritime security surveillance to private security companies constitutes a dangerous development and reflects the weakness of both state authority and governance regimes.

2.2 Maritime Terrorism

Maritime terrorism is another form of rascality that militates against the effective exploration of the marine and blue economy globally. Although the 1923 *International Regime of Maritime Ports* grants foreign-flagged vessels the right of access to port states – provided such vessels meet the conditions set by the host state – the activities of terrorists within the maritime domain have hindered the full utilisation of the opportunities inherent in the blue economy.

Conclusion

The wave of rascality in the ebb of marine and blue economy has been a serious concern since the period of ancient times. This issue remains in the world oceans, thereby affecting maximum exploitation and exploration of the resources of the sea, despite various strategies deployed to curtail them. Various devices have been deployed to tame the scourge. In order to achieve unity of purpose in terms of war on terror, collaborations among nations has been one of the strategies adopted. Most of the world's powerful nations have also adopted national legislation in contradistinction to the general alignment by nations, with a view to combat rascality in the ebb of marine and blue economy, although this has been observed as neither winning any war nor attained any peace in the world ocean. Rather, it is the position of this paper that pre-emptive strike approach will bring about militarisation of crimes in the long run, because this strategy will result in a 'might is right' scenario.

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