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The Houthi Attacks on Shipping and Maritime Security

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Abstract

The Houthis have attacked over one hundred merchant ships and threatened undersea cables as well as oil and gas pipelines in the Gulf of Aden, the Bab el-Mandeb Strait, and the Red Sea since the Israel–Gaza conflict began in October 2023. Like the attacks in the Strait of Malacca and the earlier Somali piracy crisis, these incidents have occurred at two of the five major chokepoints in global maritime trade. Taking place adjacent to the piracy-ridden Somali coast, the attacks have endangered ships and their crews, undermined maritime security, hampered international humanitarian efforts, threatened freedom of navigation, and increased both the costs and transit times of commercial shipping and global energy supplies. This article assesses these impacts, focusing on whether the attacks constitute a threat to maritime safety in contravention of the International Convention for the Safety of Life at Sea (SOLAS), as amended, and to maritime security (piracy, armed robbery against ships (ARAS), maritime terrorism, and related offences) under the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention).

Keywords: international law, UNCLOS, maritime security, piracy, ARAS, NSAs.

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1. Introduction

The Houthis have targeted over one hundred and thirty ships with missiles and drones since the Gaza conflict started in October 2023, seizing several of them and sinking others in a campaign that has killed and wounded several sailors and threatened maritime security. To date they have damaged over thirty-four ships, sank four, and killed eight seafarers. Because it is a symbol of economic, geopolitical, and military prowess, shipping has long been the target of enemy retaliatory economic warfare. That was the case during the American War of Independence,¹ the American Civil War,² WWI and WWII, and in several regional conflicts, including in the Persian Gulf.

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1 19 April 1775 – 3 September 1783.

2 12 April 1861 – 9 April 1865.



In the Middle East, attacks on shipping have occurred during the Iran-Iraq War,³ the First⁴ and Second Gulf Wars,⁵ and intermittently ever since. The attacks are a maritime security risk especially in a polarized region with wider geopolitical issues. Between the Gulf Wars and the current attacks, other assaults in the region have included the Al-Qaeda bombing of the US SS Cole, in 2000 at the port of Aden, the *MV Limburg*, in 2010 in the Gulf of Aden, and the *M Star* in Omani territorial waters in 2010. However, current attacks are unique for varied reasons including their occurrence at a heightened time in an already volatile region. The Houthis' status as a non-state entity complicates determination of culpability for their attacks.

The Houthis, rivalling the internationally recognised Yemeni government,⁶ control most of north Yemen, including the capital, Sanaa. However, they are not a recognized government so their actions can be assimilated to those of non-state actors (NSAs) and, therefore, piracy for purposes of determining private motives. This is irrespective of their current attacks being unlike those of past pirates and insurgents who did not control territory. By emulating the strategic locations of the Malacca Strait and Somali piracy and leveraging their own position at a key trade chokepoint, the Houthis have targeted shipping bottlenecks between the Gulf of Aden, the Bab-el-Mandeb Strait, and the Red Sea. The Bab-el-Mandeb is important for its role in longstanding rivalries among regional and great powers. The Strait forms a vital strategic link in sea routes between the Mediterranean and the Indian Oceans via the Suez Canal. The attacks have had profound consequences on maritime and energy security.

Against that backdrop, the article's main aims are to argue that the Houthi attacks on shipping are a maritime security issue⁷ and to systematically examine the various maritime security categories the attacks make up. The article treats maritime security as the exposure of vessels, their cargo, and

3 22 September 1980 – 20 August 1988; The anti-ship campaigns during the Iran-Iraq War (1980-1988) are also known as the *Tanker War*. In 1981, Iraq began attacks on ships to weaken Iran's ability to fight, initially attacking ships carrying military supplies to the ground war front and later attacking ships carrying Iran's exports. The *Tanker War*, part of the larger Iran-Iraq War, was a series of military attacks by Iran and Iraq against merchant vessels in the Persian Gulf and Strait of Hormuz from 1981 to 1988. Iraq was responsible for 283 attacks while Iran accounted for 168. The Iranian navy attacked Kuwaiti tankers, sometimes using Silkworm missiles and by mining Kuwaiti ports like Mina al-Ahmadi. The U.S. Navy intervened in the conflict to protect international shipping against Iranian attacks, eventually escorting Kuwaiti tankers under their own flag. See, Ademuni Odeke, 'Shipping and the Gulf War' (1987) 10 *Marine Policy Reports* 3, 4-12.

4 2 August 1990 – 28 February 1991, necessitating the transfer of Kuwait tankers to the US flag for the second time for protection against Iraq attacks.

5 20 March 2003 – 15 December 2011, also known as the Iraqi War.

6 Christian Edwards, 'Who are the Houthis and why are they attacking Red Sea ships?' (CNN, 5 February 2024) <<https://edition.cnn.com/2023/12/19/middleeast/red-sea-crisis-explainer-houthi-yemen-israel-intl/index.html>> accessed 25 March 2025.

7 Emilio Rodriguez-Diaz, Juan Ignacio Alcaide Jiménez and Ruth Garcia-Llave., 'Challenges and Security Risks in the Red Sea: Impact of Houthi Attacks on Maritime Traffic' (2024) 12 *Journal of Marine Science and Engineering*, 1900.



sea users to harm through a wide spectrum of offences.⁸ To achieve the above objectives, the article first provides a background to the maritime security perspectives of the attacks in Part 1 (Introduction) and then examines the attacks under the maritime security categories listed above.⁹

To do so, the article questions whether the attacks are:

- (a) Piracy;
- (b) Armed robbery against ships (ARAS);¹⁰ and
- (c) unlawful attack against merchant ships under the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 as amended¹¹ (SUA Convention) which covers:
 - (i) maritime terrorism;
 - (ii) deployment of Weapons of Mass Destruction (WMD);
 - (iii) cyber-attacks;
 - (iv) pollution of the marine environment; and
 - (v) other threats to maritime security.

The proposed solution proffered to end the attacks is a united action by the international community, like those adopted against Somali piracy, preferably in the form of a comprehensive UN Security Council Resolution (UNSCR) invoking Part VII of the UN Charter. For that, the article notes that recent UNSCR 2272/2024, UNSCR 2739/2024, UNSCR 2768/2025, and UNSCR 2787/25 on the crisis are useful markers.

So, Part 1 of the article provides background narratives. Thereafter, coverage of maritime

⁸ They also include maritime terrorism; maritime piracy; ARAS; illegal trafficking of goods and people; trafficking in narcotics; use of WMD; maritime cyber security; illegal, unreported, and unregulated fishing; and pollution of the marine environment.
⁹ *ibid.*

¹⁰ Created by the International Maritime Organization General Assembly (18 January 2010) Res. A/26/1025.

¹¹ Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation [1988] and Protocol to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (adopted 10 March 1988, entry into force 1 March 1992) UNTS 29004; Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (adopted 14 October 2005, entry into force 28 July 2010) UNTS 3429.



security is divided into two sections. Part 2 covers the first section with a focus on piracy and ARAS; Part 3 discusses the second section with emphasis on maritime terrorism, use of WMD, cyber-attacks and other maritime security aspects; Part 4 assesses future prospects of the attacks and proposed solution; and Part 5 concludes.

2. Whether the Attacks are Maritime Piracy and Aras

2.1 Whether the Attacks are Piracy

2.1.1 Definitional Tests

The issue in this section is whether the Houthi attacks amount to piracy. To constitute piracy the attacks must satisfy piracy definition as per Article 101 of the United Nations Convention on the Law of the Sea (UNCLOS)¹² which provides that:

‘Piracy’ consists of any of the following acts:

(a) any illegal acts of violence or detention, or any act of depredation, committed for *private ends* by the crew or the passengers of a private ship or a private aircraft, and directed:

(i) *on the high seas*, against another ship or aircraft, or against persons or property on board such ship or aircraft.

(ii) against a ship, aircraft, persons, or property *in a place outside the jurisdiction of any State*;

(b) any 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.

(c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b)’ (*emphasis added*)

Before analysing Article 101, it is noted that there are three offences under the definition: ‘illegal acts of violence or detention’ (first offence); ‘any act of voluntary participation’ (second offence); and ‘any act of inciting or intentionally facilitating’ in paragraphs 101(a) through to 101(c)

¹² United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 396 (UNCLOS).



(third offence)¹³ thereof, respectively. The first and second offences require the ‘high seas’ test while the third does not. Those requirements are detailed below.¹⁴

2.1.2 ‘High Seas’ Test

For the attacks to satisfy the ‘high seas’ test, also known as the ‘geographical scope’ requirement,¹⁵ there must be minimum area in the Gulf of Aden, Bab-el-Mandeb and the Red Sea of 12 NM on either side beyond the territorial sea (TS) to accommodate the high seas or areas beyond national jurisdiction (ABNJ)¹⁶. The Bab-el-Mandeb Strait is only 18NM wide at its narrowest point, thereby limiting maritime traffic to just 2NM wide channels for inbound and outbound shipping. That leaves no scope for the high seas or ABNJ beyond the 24NM for the combined TS and contiguous zones (CZ). So, there is insufficient space for the commission of piracy in the Strait.¹⁷

The Red Sea, on the other hand, is 400 NM long and 221 NM at its widest point. Less the 24 NM TS on both sides, which leaves 148 NM and 173 NM, respectively, sufficient for high seas and ABNJ. However, the attacks would have to be within those remaining 173 NM to constitute piracy. Incidents inward of 12 NM would constitute ARAS and SUA offences (see ARAS below).

That leaves the Gulf of Aden, another vital waterway for shipping, especially for Persian Gulf oil, making it an integral waterway in the world economy. Nine hundred kilometres (km) long and 500 km wide, the Gulf of Aden is an important waterway for transporting Persian Gulf oil. Together with the Red Sea, it forms an essential oil transport route between the Middle East, Europe, the Americas, and the Far East. Nevertheless, piracy remains possible in areas outside Yemen’s TS; within the TS and along the coastline, such acts would instead constitute ARAS or SUA offences. The added dangers are that the northern part of the Gulf of Aden is bordered by Yemen and the southern part by Somalia, both hostile waters from risks of Houthi and Al Shabab¹⁸ attacks and Somali piracy. So, the hijack and detention of the Bahamian registered *Galaxy Leader* and its 25 crew by the Houthis

13 References to (first offence), (second offence), (third offence) and (Piracy 3) in this article are the author’s own inventions and are not used in the Convention.

14 Tests used by the IMO in ‘Circular Letter concerning information and guidance in elements of international law regarding piracy,’ (18 February 2011) Letter Circular 3180 of 2011/LEG 98/8/1E, Annex (‘IMO Piracy Information and Guidance’).

15 See, Ademuni-Odeke, ‘You Are Free to Commit Piracy and Armed Robbery Against Ships but Please Do Not Do It in This Place: Geographical Scope of Piracy and Armed Robbery Against Ships Under UNCLOS and Related International Instruments’ (2019) 50 *Journal of Maritime Law and Commerce* 4, 407-449.

16 *ibid*, definition of piracy, 3-6.

17 *ibid*. The author suggested that the high seas start from and includes the contiguous zone in which case piracy could be committed in the contiguous zone.

18 Al-Shabab are Somali insurgents benefiting from the piracy and further complicating maritime security.



beyond the 12 NM in the high seas was piracy.¹⁹ Secondly, the attacks must fulfil the ‘ships’ and ‘aircrafts’ test.

2.1.3 ‘Ships’ and ‘Aircrafts’ Test

For the attacks to satisfy this test, the Houthi drone-boats, and aircrafts²⁰ used must fulfil the definition of ‘ships’ and ‘aircrafts,’ respectively. A drone boat (or drone ship, sea drone, or uncrewed or unmanned surface vessel (USV)) is a ship or boat that runs on the water’s surface without a crew. This satisfies the provisions of section 313(1)(c) of the UK *Merchant Shipping Act* 1995 definition of a ship as including ‘every description of vessel used in navigation, whether manually or mechanically propelled,’ although their operational modes are immaterial for the definition. Most national legislations have similar or identical definitions of ships. For this reason, the drone boats including USVs are ships, so the requirement is met.

Similarly, the Houthis’ use of helicopters, fixed wing aircrafts, sea drones and air drones in their attacks meets this requirement as they are ships and/or aircrafts. Drones can be fixed wing, like an airplane, or vertical take-off and landing (VTOL) with rotary blades.²¹ Likewise, a drone—also referred to as an unmanned aerial vehicle (UAV) or unmanned aircraft system (UAS)—is an aircraft that operates without a human pilot, crew, or passengers, whether in the form of a UAV or an autonomous unmanned vehicle (AUV). The same applies to the Houthi use of speedboats laden with explosives. Thus, the storming and commandeering of the *Galaxy Leader* (above) by airborne Houthi commandos was a piracy act, as were the attacks on the other vessels. For these reasons, the ships’ and/or aircrafts’ test is met. That ordinary pirates do not normally have the military capability and resources available to the Houthis is immaterial for the purposes of this test. Thirdly, the attack must involve at least two separate ships and/or aircrafts.

2.1.3.1 ‘Two-Ships’ and ‘Two-Aircrafts’ Sub-Test

Piracy involves two separate ships and/or aircrafts - the ‘two ships’ test. The attacking ship(s) must be separate from the attacked ship (s) and/or aircraft(s). Under Article 101(a) of UNCLOS, piracy is committed by the crew or the passengers of one ship or aircraft against another ship or

¹⁹ UNCLOS (n 12) article 101(a)(1).

²⁰ This test is not included under the IMO ‘Two Ships’ Test but is used by this author, as an extension to it, to avoid doubts whether Houthi UVs and UAVs satisfy ships and aircrafts requirements, respectively.

²¹ Tom Sharpe, ‘Red Sea War: Houthi drone boat detonation opens a new chapter Missiles, USVs, pirates - just one thing is missing from the Bab-el-Mandeb shooting gallery’ (*The London Telegraph*, 5 January 2024) <www.telegraph.co.uk/news/2024/01/05/red-sea-war-trade-disruption-drone-boat-explosion/?msockid=170ac1211b2a6e2604e2d74b1f2a6a79> accessed 5 March 2025.



aircraft. With the emphasis on ‘ships,’ it is often forgotten that piracy under the Convention is also committable by aircraft(s). Although implied as a piracy, attacks by two ships or two aircrafts against a ship or aircraft was not envisaged and is not specified in the Convention. Nevertheless, it is essential that the attackers, as well as their ships or aircrafts, originate from outside the confronted ship rather than from within it. So, the hijacking of a ship by the ship’s passengers from within is not piracy. Thus, if passengers board and hijack a ship, this is not considered piracy because there are not second ‘ship’ or ‘aircraft’ involved. The exception to this rule is a hijack by the crew of a warship, government ship or government aircraft who mutiny and then turn it into a pirate ship.²²

Thus, the 1789 seizure of *HMS Bounty*²³ in the South Pacific by Acting Lieutenant Fletcher Christian and disaffected crew members against their captain, Lieutenant William Bligh, was not an act of piracy, as it originated from within the vessel. Under current treaty law, the situation would be different, but only if the hijacked ship were subsequently operated as a pirate vessel.²⁴ It is probable that this case influenced the drafting of Article 15 of the 1958 Geneva Convention on the High Seas (the Geneva Convention)²⁵ and Article 102 of UNCLOS, which addresses piracy committed by “a warship, government ship, or government aircraft whose crew has mutinied.”

Likewise, in the *Santa Maria*, 1961,²⁶ Captain Galvão and his accomplices’ boarding and taking control from within of the cruise liner masquerading as ‘musicians,’ with their weapons disguised as ‘musical instruments,’ was not piracy. Similarly, the Palestinian Liberation Front (PLF) activists’ boarding of and taking control of the *Achille Lauro*, 1985,²⁷ veiled as ‘passengers,’ was not piracy. However, all three incidents are distinguishable from the current Houthi activities where both ships and/ or aircrafts used are external and where the use of either is sufficient for the commission of piracy²⁸

22 UNCLOS (n 12) article 102.

23 Harry Lionel Shapiro, ‘The Heritage of the Bounty’, *Nature*, vol 138, pp 382 – 383.

24 UNCLOS (n 12) article 102. Equally, using a pirated ship to commit piracy constitutes piracy. However, this raises the following issues: (a) is using a pirated ship for simply tracking other ships for piracy purposes, piracy under Article 101?; and (b) is such ship a pirate ship under Article 102 and Article 103? Otherwise, any ship can provide comprehensive tracking for all other ships within the vicinity. The Israelis bombed such a vessel [*the Galaxy Leader*] held by the Houthis allegedly to prevent its use as a tracking vessel. Is bombing one of the remedies under Articles 103 and 105? see, ‘Israel strikes Houthi targets including hijacked Galaxy Leader’ (*Lloyd’s List News*, 7 July 2025) <www.lloydslist.com/LL1154115/Israel-strikes-Houthi-targets-including-hijacked-Galaxy-Leader> accessed 14 July 2025.

25 Convention on the High Seas (1958) 450 UNTS 11.

26 David Raby, ‘Transatlantic intrigues: Humberto Delgado, Henrique Galvão and the Portuguese exiles in Brazil and Morocco’ (2004) 3 *Portuguese Journal of Social Sciences* 4, 143-156.

27 Malvina Halberstam, ‘Terrorism on the High Seas: *The Achille Lauro*, Piracy and the IMO Convention on Maritime Safety’ (2017) 82 *American Journal of International Law* 2, 269–310.

28 UNCLOS (n 12) article 101(a).



Fourth, the attacking vessel must be a private ship and/or aircraft.

2.1.3.2 'Private Ships' and 'Private Aircrafts' Sub-Test

Attack by private ship or aircraft²⁹ is needed for an act of piracy. Conditions in Article 101(a) that the ships and aircrafts be privately owned, rather than government owned or run, would cover vessels owned and run by NSAs, such as the Houthis. Article 101(a) absolves only authorised state entities and state sanctioned acts. Houthi ships and aircrafts lack state sanction and can, therefore, be assimilated to private ships and aircrafts for the purposes of piracy under the provision. As they are actions of NSA-owned ships and aircrafts, the Houthi attacks are technically piracy.

UNCLOS reiterates that private ships and aircrafts include government owned ships and aircrafts whose crew has mutinied.³⁰ So, since they are run by NSAs, the Houthi pirate ships and aircrafts and their crews or pilots are not only assimilated to pirate ships but can also be visited under Article 110 of UNCLOS, arrested and the suspects prosecuted under Article 105 of UNCLOS. It is for these reasons that the hijack of the *Galaxy Leader* by Houthi helicopter-borne invaders launched from a private ship constituted piracy. Fifth, reasons for the attacks must be for 'private ends'.

2.1.4 'Private Ends' Test

2.1.4.1. Convention Sub-Test

This core requirement in the piracy definition has two sub-tests: conventional textual (in UNCLOS texts) and interpretational (implied in or derived from interpretation of UNCLOS texts). The private ends test is based on whether the act was committed for personal gain or revenge (see under the feeling of hatred and desire for vengeance below), or without lawful authority. The concept of the private ends in the treaty differs from that of either the ordinary, commercial, or business context and does not necessarily have any bearing on commercial and private gains. It must be an objective test that evaluates the relationship among the act, actors, and states. If violence on the high seas between two ships or aircrafts lacks state sanction, then it is committed for private ends and is thus piracy. That is the cardinal principle of piracy under the Geneva Convention and UNCLOS.

This previously international customary law rule was codified into, and is outlined in, Article 15 of the Geneva Convention and Article 101 of UNCLOS. Thus, for the Houthi attacks to constitute pi-

²⁹ UNCLOS (n 12) article 103.

³⁰ UNCLOS (n 12) article 102 article103.



racy under Article 101(a) of UNCLOS, it must be committed for private ends,³¹ also inappropriately referred to by some commentators as ‘private motives’.³² As noted above, if violence on the high seas between two ships or aircrafts lacks state sanction, it is committed for private ends and is, therefore, technically piracy. Although that is settled law, the Houthis could argue that their actions are solely in support of the Palestinians and, therefore, without private gains to themselves (see also under political/public motives-below). However, contrary to that inference, personal economic gains are irrelevant for purposes of private ends. On the contrary, the Houthi attacks are motivated by revenge for Israeli bombardments of Gaza – the feeling of hatred and desire for vengeance which is equated to private ends (see below).

The Geneva Convention and UNCLOS drafters and negotiators included private ends for a reason, to exempt state sanctioned use of naval, government-owned and/or government ran ships and aircrafts actions from the piracy definition. Although originating from a judicial interpretation, as the language was not used in the convention, an American Federal Court followed a Belgian Appeal Court decision that private ends may also be constituted by mere feelings of hatred and desire for vengeance. That would defuse the Houthi public motive argument of their pro-Palestinian vengeance.

2.1.4.2. ‘Feelings of Hatred’ and ‘Desire for Vengeance’ Sub-Test

This new concept was introduced by the Belgian Court in *The Castle John or The Greenbeard the Pirate (The Greenbeard, the Pirate)*,³³ in which Greenpeace activists from the mother ship, the *Sirius*, were convicted of piracy based on feelings of hatred and desire for vengeance for attempting to stop the tanker M.S. Falco and the *Wadsy Tankerdredger* from dumping pollutants into the North Sea. The decision followed a commentary to that effect by the International Law Commission (ILC) *Rapporteur* on clause thirty-nine of the ILC draft that resulted into the piracy definition in Article 15³⁴ of the Geneva Convention.³⁵

The Belgian decision was followed by Justice Kozinski in the American case of the *Institute of*

31 UNCLOS uses ‘private ends;’ ‘private motive’ are academic interpretations See Ademuni Odeke, ‘The Evolution, Nature, and Application of Private Ends’ (2021) in Piracy Definition Ascomare Yearbook on the Law of the Sea, 165-196.

32 *ibid*, 165-196.

33 *The Castle John and Nederlandse Stichting Sirius v. NV Mabeco and Parfin* (1988)77 International Law Reports, 537-541. *The Greenbeard the Pirate* concern the definition of ‘private ends’. See also Samuel Pyeatt Menefee, ‘The Castle John or The Greenbeard the Pirate’ (1993) 24 California Western International Law Journal 1, 1-16.

34 UNCLOS (n 12) article 101.

35 Report of the International Law Commission on the Work of its Eighth Session (4 July 1956) Official Records of the General Assembly, Eleventh Session, Supplement No.9 (A/3159).



Cetacean Research v Sea Shepherd Conservation Society, (*The Seashepherd*)³⁶ which convicted anti-whaling campaigners for trying to stop Japanese whaler hunters. The two decisions were buttressed by the fact that, in the said *Commentary*, the ILC *Rapporteur* also expressed an opinion that an actual robbery was not material for the commission of piracy. It is unclear whether the *Rapporteur* was aware of or influenced by similar sentiments in the earlier English court verdict in *Re Piracy Jure Gentium*³⁷ that, ‘actual robbery is not an essential element in the crime of *piracy jure gentium*’.³⁸

Implications of the above analysis is that private ends have no relation to commercial gain, as logic would suggest. The two authorities equated *feelings of hatred* and *desire for vengeance* to a full satisfaction or private gain amounting to private end. As opined above, on those bases the *HMS Bounty*, the *Santa Maria* and the *Achille Lauro*³⁹ hijackers would have been convicted under Article 101 of UNCLOS for feelings of hatred and desire for vengeance,⁴⁰ post-*The Green Beard* and *The Seashepherd* decisions, as would the attackers in *The Arctic Sunrise*⁴¹ had the case against the latter been sustained by the Russian Federation Prosecutor.

Similarly, and for the same reasoning, the Houthi attackers could face justice in their attempts to avenge Israeli bombardments of Gaza. Their *feelings of hatred* and *desire for vengeance* for Israeli actions in Gaza, although understandable, is inexcusable. There is also a discrepancy in the Houthi actions. For instance, the attack linked to interests within the group, against the tanker *The MV Chem Pluto*⁴² off the coast of the western State of Gujarat, India, over 3,000 NM from the Yemeni coastline, casts doubt on their actual motives. Although the Houthi targeted vessels are supposed to be linked

36 *Institute of Cetacean Research v. Sea Shepherd Conservation Society (The Sea Sheperd)* [2013] United States District Court, W.D Washington State (708 F. 3d 1099, 9th Circuit 2013).

37 *Re Piracy Jure Gentium* (1934) AC 586, Judicial Committee of the Privy Council; it is uncertain whether the ILC *Rapporteur* was aware of and, therefore, influenced by this case in his commentary.

38 *ibid*, 600; the opinion was expressed by way of an answer to a question referred to the Privy Council under Judicial Committee Act, 1933, s.4; *Halsbury's Statutes* (2nd Edn) 177.

39 Malvina Halberstam, ‘Terrorism on the High Seas: *The Achille Lauro*, Piracy and the IMO Convention on Maritime Safety’ (2017) 82 AJIL 2, 269–310.

40 Despite the “two ships” test not being met in the *Bounty*, *Santa Maria* and *Achille Lauro* cases. There was a Court Martial in 1792, for the loss of the *Bounty*, but no prosecution for piracy. There were ‘legal proceedings’ following the hijacking of the S.S. *Santa Maria* in 1961, although their exact nature is not described as ‘court trials’ in the provided results, but rather discussions about piracy charges, extradition and securing the vessel and cargo for the rightful owners. The events of the hijacking were complex, involving potential charges of piracy and questions of international law regarding the rebels’ actions and seizure of the ship. However, there were prosecutions and acquittals in the *Achille Lauro*.

41 See the PCA conclusion that Greenpeace protests directed at a fixed platform (the *Prirazlomnaya*) did not meet the requirement of piracy to be directed ‘against another ship’; *Arctic Sunrise Arbitration (Netherlands v. Russia) (Award on the Merits)*, PCA case n. 2014-02, 14 August 2015, paras. 238–241.

42 The Liberian-flagged, Japanese-owned, and Dutch-operated chemical tanker was struck by a one-way drone allegedly launched by the Iranian or Houthi military, causing fire but without injuries. At the time, it was carrying crude oil from Saudi Arabia to India.



to Israeli and Anglo-American interests, most in fact do fly other flags. Additionally, it is not clear whether the Iranian seizure of the Marshall Islands-flagged oil tanker *St. Nikolas* while transiting the international waters off the Gulf of Oman had any connections with the Houthi attacks. For these reasons, the current Israeli-Gaza conflict was merely the catalyst for unsubstantiated underlying Houthi motives.

Thus, the *feelings of hatred and desire for vengeance* puts the Houthi activists within range of *The Greenbeard* and *The Seashpherd* interpretation of private ends and, therefore, the definition of piracy.

The corresponding Houthi claims of 'political motives' and 'public motives' as extensions of private ends is also discredited.

2.1.5. Are there 'Political Motives' and 'Public Motives' Tests?

2.1.5.1. Political Motives

The 'private ends' test has generated considerable scholarly debate and divergent interpretations within the legal community. As previously discussed, significant controversy has emerged from academic efforts to introduce the concept of so-called 'public ends' – also referred to as 'public motives' or 'political motives' – which stand in direct contrast to private ends. The question arises as to whether Houthi attackers might be exempt from the private ends test based on these purported political or public motives. This argument is not tenable under the Convention. The characterization of actions as stemming from political and/or public motives originated with academics seeking to contextualize actions of certain liberation movements during the 1970s and 1980s, but it is not reflected in the Convention's requirements. Moreover, even if such a provision were arguably included, the Houthis insurgents do not qualify as a liberation movement in the technical sense.

The core of this argument creates the 'NSAs versus state sanction' scenario. The private ends' test is intended to differentiate actions taken by NSAs, such as the Houthi rebels, from state sanctioned ones. Some commentators claim that political motives can justify piracy, and that such motives are public rather than private ends.⁴³ This argument is also unsound. Although political and public motives are sometimes conflated, they differ and are not addressed by the Convention. Public motives involve government-related people or things, while political motives concern government activities or institutions. Scholarly consensus holds that 'private end' means lack of state sponsorship.

43 See Kevin JH, 'Why Political Ends are Public Ends, Not Private Ends' (*Opinio Juris*, 1 March 2013) <<https://opiniojuris.org/2013/03/01/a-final-word-about-politically-motivated-piracy/>> accessed 15 February 2025.



Additionally, lawful sanction must come from internationally recognised government.⁴⁴ Furthermore, actions must be authorised by governments of internationally recognised states.

So, violent NSAs like the Houthis should not be excused based on their political motivations. As previously mentioned, to address the ambiguity surrounding NSAs within the definition of piracy, some academic commentators introduced the concepts of 'political motives' or 'public motives' to justify the actions of liberation organizations. Nevertheless, political objectives pursued by rebel groups, despite not justifying, may also serve as motivation for acts of piracy. For example, Somali piracy arose partly out of political grievances against illegal fishing and the dumping of toxic wastes off the Somali coastline by foreign vessels. Furthermore, the actions of the Ogoni rebels and environmental campaigners⁴⁵ in Nigeria, while not strictly piracy, aimed to end the pollution and economic exploitation of their region by their government and multinational oil companies were no excuse. That claim did not spare either from arrests and/or prosecution and execution of their leader, Ken Saro-Wiwa.⁴⁶

Nevertheless, it is noticeable that the Houthis have shown no interest so far in privately profiting from the attacks and, therefore, would not be considered pirates on this count. On the other hand, other commentators argue that *animo furandi* (intention to steal), rather than a feeling of hate or revenge, is an essential element in the private ends test and, therefore, of piracy.⁴⁷ However, these arguments are untenable as intention to steal is irrelevant for piracy. On the contrary, as opined above, failure to meet the 'two ships' test, rather than political affiliations, was central to the non-prosecution of those involved in the HMS *Bounty* and the *Santa Maria*, and the acquittal of *Achille Lauro* hijackings. Although NSAs like the Houthis do not fit the typical profile of pirates, nevertheless their actions are non-state sanctioned and are, therefore, still technically piracy.

Under English law, following the repeal of the Ransom Act 1782, ransom payments to pirates for hostages in insurance settlements are legal if made for financial gain and not for political or public motives, regardless of morality or public policy. It is, therefore, for these reasons that piracy is an insurable risk under the UK Marine Insurance Act 1906 (MIA 1906),⁴⁸ and ransoms payment therefrom considered legal, in contrast to ransom payment to terrorists and those acting for purely

44 See Aaron Nicholas Honnibal, 'The 'Private Ends' of International Piracy: The Necessity of Legal Clarity in Relation to Violent Political Activists' (2015) International Crime Database Brief n 13, 7.

45 The 'Ogoni rebels' refer to the members of the Movement for the Survival of the Ogoni People (MOSOP), a group of Indigenous Nigerians who fought against oil companies and the Nigerian government to protest environmental degradation, political oppression, and economic exploitation. MOSOP was led by Ken Saro-Wiwa and looked to protect the rights of the Ogoni people, who faced devastating consequences from oil exploration and extraction in their land.

46 Martin Plaut, 'UK and US considered Nigeria naval blockade over Saro-Wiwa execution' (*BBC News*, 31 December 2019) <www.bbc.com/news/world-africa-50892306> accessed 12 February 2025.

47 Mazyar Ahmad, 'Maritime piracy operations: Some legal issues' (2020) 4 *Journal of International Maritime Law* 3, 62-69.

48 *MIA 1906*, Section 3. Although a UK national legislation, this Act is unique and followed not only in all common jurisdictions but including in most, if not civil law jurisdictions, too.



political motives. While this argument is persuasive, it does not contradict or supersede the principle of state-sanctioned acts. Neither does the claim to be acting for public motives.

2.1.5.2. Public Motives

Regarding political motives, it is important to differentiate between public objectives and private interests when considering the definition of piracy.⁴⁹ Until the *Greenbeard* and the *Sea Shepherd* cases, there were no definitive clarifications on the question. However, as early as 1901, the English Court of Appeal in *Republic of Bolivia v. Indemnity Mutual Marine Assurance Association*⁵⁰ had already grappled with the ‘private gain’ element (the equivalent of ‘private ends’) by distinguishing the business, commercial, and legal meanings of piracy within the insurance context. Dismissing the appeal from the King’s Bench, Lord Justice Kennedy noted that:

‘The learned judge in this case, --, has asked himself what “piracy” meant in this policy, and he has given it a meaning which clearly does not bring that which happened within the meaning of the term. To my mind the term “piracy” is inapplicable to the acts of the persons who seized the goods insured in this case, however wrongful or lawless their conduct may have been according to the law of Brazil or Bolivia. They seized these goods not for their private gain, but in furtherance of a political adventure in the latter country. I do not think that any businessperson would say that those acts formed ‘piracy’ in the sense in which that term is used in this policy’⁵¹

Although his reasoning is *prima facie* sound, Justice Kennedy equates political adventures with political motives, the very antithesis of private ends. Nevertheless, it is from treaty law – and not from judicial interpretations such as in this case – that the principle arises: state-sanctioned actions are not piracy, whereas those of NSAs are. In any case, this observation was *an obiter dictum* of an English judge, cited here solely for comparative purposes and not as a reflection of international customary law. For these reasons it is arguable that, outside the *Greenbeard* and the *Sea Shepherd* precedents, the Houthis qualify as pirates under the treaty’s ‘private ends’ test.

The counterpoint suggests that, apart from the views held by the *Greenbeard* and the *Sea Shepherd* regarding animosity and retribution, political motives should exempt the Houthis and their

49 UNCLOS (n 12) article 101(a).

50 *Republic of Bolivia v. Indemnity Mutual Marine Assurance Company, Limited* [1909] 1 K.B. 785.

51 *ibid*, 804.



leaders from liability. However, due to the Houthis' NSA status, such views are considered inaccurate. Based on precedents set by the *Greenbeard* and *Seashepherd* cases, as well as the involvement of groups like the *HMS Bounty*, *Santa Maria*, and *Achille Lauro* activists, convictions would still occur. The limited *ratio decidendi* for acquittal in these examples is attributed to the absence of the two ships' tests, rather than political considerations. This article asserts that the drafters and negotiators of the Geneva Convention and UNCLOS, by emphasising private ends, likely intended to exempt only state-sanctioned actions while excluding other types of actors and motives, including those that are political or public in nature.

So, any claims by the Houthi NSAs based on being a politically organised group (POG),⁵² holding territory, having a military force and being an armed organised group (OAGs)⁵³ with an effective an administration acting for public or political motives are untenable. For the purposes of exemption from piracy, state sanction applies only to state-owned and state-operated vessels under the authority of lawful and internationally recognised governments. Mere control of territory or the appearance of governmental authority is insufficient to escape the 'private ends' test and, therefore, the definition of piracy. This was also the pattern of the discredited political and public motives' claims by the rebels in the *Republic of Bolivia* and, the *Santa Maria* and the *Achille Lauro*.

Furthermore, the Houthis' principal motives and target selection appear, at best, random. Although they have claimed to target vessels beneficially owned by Israeli interests, it is doubtful that all of the attacked ships were sailing from, bound for, or otherwise connected with Israel as alleged. Furthermore, apart from releasing the *Galaxy Leader* and her 25-member crew, it is still uncertain what they plan to do with several ships and crew they still hold. Following the Anglo-American bombing of their bases, they now consider all US and UK ships legitimate targets. In addition, they have extended their actions to non-maritime targets and are conducting drone and missile attacks on Israel. Those actions put them in the realms of armed combatants under international law, outside the protection of piracy laws, and the remit of this article.

Sixth, and finally, there must be intention to facilitate the piracy by onshore and backroom (passive) pirates. This raises a rarely examined issue – an uncharted test arising from the third piracy

52 A POG is a political organization engaged in political activities (e.g., lobbying, community organizing, campaign advertising, etc.) aimed at achieving clearly defined political goals, which typically benefit the interests of their members. Some POGs, like the Houthis, also have military wings involved in violence.

53 An OAG is a non-state party's (such as POGs) military or armed wing in a non-international armed conflict. Although not part of international treaties, they are required to: follow the basic rules of war; respect IHL principle that the state they operate in has consented to and communicate with the parties to a conflict. See generally Jann K. Kleffner, 'The applicability of international humanitarian law to organized armed groups' (2011) 98 *International Review of the Red Cross* 882, 1-19.



offence noted above – namely, whether the Houthi leadership and their masterminds could also be held liable for inciting or intentionally facilitating acts of piracy.

2.1.6 The ‘Inciting and Intentional Facilitation’ Test.

As outlined above, this is the third piracy offence (‘Piracy 3’).⁵⁴ It should also be noted that the phrase ‘on the high seas’ appears only in the first and second piracy offences, which address offshore and frontline (‘active’) pirates, and is not a requirement for the third offence, which targets shore-based or behind-the-scenes (‘passive’) actors.⁵⁵ However, even if the Houthi ‘active pirate’ attackers were, in the unlikely event, to satisfy the private ends test, it is arguable that their masterminds, financiers, and other key actors could still be liable for the distinct offence of incitement and intentional facilitation of piracy.⁵⁶

Incitement and intentional facilitation accelerate the occurrence of violence, detention, or deprivation on the high seas. They, therefore, constitute piracy, even though the phrase ‘on the high seas’ is omitted from the UNCLOS definition. Consequently, such acts fall under universal jurisdiction, and their perpetrators may be held accountable in any forum, irrespective of their physical presence on the high seas. However, would this include the Iranians and any other Houthi *passive pirates* as compared to the *active pirates*? Furthermore, could the Iranian backers hide behind state immunity and/or state-sanctioned piracy defence? These are some of the grey areas that the Houthi attacks throw out.

Given that for *passive piracy* the suspect and/or accused and their remote controllers cannot be physically present and *active*, it is arguable that a narrow interpretation of the clause, requiring private ends for actions,⁵⁷ would excuse the Houthi backers. However, a wider interpretation of the clause includes only the private ends’ requirements under Articles 101(a) through to 101(b) rather than the suggested wider political motives and would qualify Houthi’s backers as pirates. For these reasons, a leading Somali piracy mastermind, the *Big Mouth*,⁵⁸ would have been convicted by the Belgian Court for intentional facilitation, *inter alia*, had it not been for lack of evidence. Instead, there was evidence to convict him of *active piracy*, having also taken part earlier in the hijacking of a

54 UNCLOS (n 12) article 101(c); Geneva Convention (n 25) article 15(1).

55 See Jonathan Bellish, ‘A High Seas Requirement for Inciters and Intentional Facilitators of Piracy *Jure Gentium* and Its (Lack of) Implications for Impunity’ (2013) 15 San Diego International Law Journal, 115-162.

56 UNCLOS (n 12) article 101(c);

57 UNCLOS (n 12) article 101(a) and article 101(b).

58 *Belgium v Mohammed Abdi Hassan and Mohamed Aden Tiiceey* (2016) Bruges Criminal Court; see Ademuni-Odeke: ‘Challenges of apprehending and prosecuting Somali pirate leaders and financial backers: the Big Mouth case’ (2023) 29 Journal of International Maritime Law 3, 165-184; see also Ademuni-Odeke: ‘Culpability of Somali Piracy Facilitators and Ransom Dealers Under UNCLOS and International Law’ (2025) Journal of International Maritime Law, vol 30, issue 4.



Belgian vessel, the *Pompeii*.

Consequently, a further hurdle in this scenario is whether Iran could plead state sanction and sovereign state immunity defences, including for her accomplices. Otherwise, the Houthi attacks are undoubtedly piracy albeit only technically. However, the Houthi attacks occurring within Yemeni territorial seas would constitute ARAS and SUA offences (see below), rather than piracy. To address the lacuna created by limiting piracy to the high seas and ABNJ under Article 15 of the Geneva Convention and Article 101 of UNCLOS, a separate ARAS offence was established to include piracy-related acts committed within a state's jurisdiction.

2.2. Armed Robbery Against Ships

So, if not culpable for piracy on account of the geographic scope test, could the Houthis be culpable for ARAS? Under international customary law, piracy could be committed broadly anywhere and from any onshore or offshore source. Its narrowing by the 1958 and 1982 codifications created a lacuna giving rise to ARAS.

Introduced by the IMO in 2010, ARAS consists of:

‘(a) any illegal act of violence or detention or any act of depredation, 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 waters, archipelagic waters and territorial sea;

(b) any act of inciting or of intentionally facilitating an act described above⁵⁹

ARAS' definition is identical to that of piracy,⁶⁰ save for the emphasised texts. Piracy takes place on the high seas while ARAS takes place in internal waters, archipelagic waters and territorial seas which are under the jurisdiction of the coastal states. Although also involving violent attack and private ends, ARAS is more of a robbery. The distinction between piracy and ARAS is, therefore, a technical one that depends on where the act was perpetrated. Without ARAS, offences inward of the high seas and ABNJ would not be prosecutable. This is more so given that Houthi attacks occurring within Yemen's TS are subject to domestic laws. The intention to rob is central to ARAS, although irrelevant for piracy. Under Part II of UNCLOS, primary responsibility for ARAS enforcement nor-

⁵⁹ IMO, Code of Practice for the Investigation Crimes of Piracy and Armed Robbery Against Ships, Para 2.2 of the Annex to the 26th Session of the IMO General Assembly Resolution (A 26/Res.1025), 18 January 2010, (Agenda item 10), adopted on 2 December 2009.

⁶⁰ UNCLOS (n 12) articles 101(a) and 101(b).



mally falls on the coastal state.

In recent years, armed robbery and piracy have been most prevalent in Southeast Asia, the Horn of Africa, the Caribbean, and the Gulf of Guinea. That said, there is no evidence that any of the current Houthi attacks have taken place within Yemeni territorial seas. ARAS is also an offence under the SUA Convention, which is not constrained by geographical distinctions and, in some cases, under the *United Nations Convention against Transnational Organized Crime 2000*.⁶¹ However, as with piracy, the consequences of Houthi attacks constituting ARAS include kidnapping, injury, assault, death, threats, missing crew, and damage – particularly through the use of WMD or the intentional destruction of equipment and property – all of which fall within the scope of maritime security.

Secondly, because ARAS falls under national jurisdiction, it is inconceivable that Iranian backers or the Houthi leadership would apprehend and prosecute their own conspirators, whether in their own courts or in Yemen's. Thus, although the ARAS criteria are technically satisfied, without apprehension and prosecution, the offence offers neither a practical remedy nor consolation for past, present, and future victims.

Despite this, Houthi attacks pose a broader maritime security risk under the SUA Convention rather than being classified as simply piracy or ARAS.

3. The Houthi Attacks as SUA Maritime Security Offences

3.2. The Attacks as SUA Offences

3.2.1. General Overview

The SUA Convention facilitates the suppression of unlawful acts, such as those by the Houthis, which threaten the safety of ships and their passengers and crews in Article 3 thereof. Adopted to address the two ships' requirement, the Convention primarily ensures proper action is taken against persons committing unlawful acts against ships, the keywords being 'appropriate action.' The offences covered by the Convention are primarily related to maritime security.⁶² The 2005 SUA Protocol introduced Article 3bis, which reinforces provisions against the seizure or exercise of control over a ship by force, threats, or intimidation. It also extends to acts of violence against persons on board and

61 United Nations Convention against Transnational Organized Crime [2000] UNTS No.2225.

62 Found in Article 3 and 3bis SUA Convention (n 11).



the use of explosive devices capable of causing destruction or damage.

Additionally, the Protocol criminalises the communication of false information (a cyber-related offence) that endangers the safety of a ship, as well as the use of weapons or threats of force against ships and acts of terrorism. These include the forcible seizure of ships, violence against persons on board, and the placement of destructive or damaging devices on vessels. It further addresses maritime terrorism by criminalising conduct intended to intimidate a population or influence a government through the use of harmful substances (WMD) or violent acts at sea. These are precisely the types of deeds currently being carried out by the Houthis.

Those provisions are wide enough to cover current Houthi attacks, the remaining problem being that of apprehension, jurisdiction,⁶³ extradition of the perpetrator⁶⁴ and the willingness of state parties to assist each other.⁶⁵ Yemen, all states in the Gulf of Aden region (except Eritrea, Ethiopia, and Somalia), and states with navies running off the Somali coast are parties to the SUA Convention. This means that Houthi attackers can be prosecuted in Yemeni courts for those offences. However, there are no reported cases to date of such action under the Convention, which is hardly surprising given the practical difficulties of extradition, especially in Articles 11 and 12 of the Convention. Apprehending and prosecuting Somali pirates—let alone their masterminds and financiers—proved difficult even under the comparatively straightforward provisions of UNCLOS. The challenge is far greater with the heavily protected Houthi operators, who operate in a lawless and hostile environment.

Moreover, potential violations of SUA offences, particularly maritime terrorism, are areas where Houthi involvement may be considered.

3.2.2. The Attacks as Maritime Terrorism.

In addition to their accountability for piracy, ARAS and other SUA offences, the Houthi acts are maritime terrorism. Under Article 3 and 3bis of the Convention, this offence consists of terrorist acts and activities within the maritime environment, using or against vessels or fixed platforms at sea or in port, or against any one of their passengers or personnel, against coastal facilities or settlements, including tourist resorts, port areas and port towns or cities. This fits in with the Houthi drone and

63 SUA Convention (n 11) Article 6 outlines jurisdiction of State Parties over certain offenses committed against ships or within their territory.

64 SUA Convention (n 11) article 11 outlines the process of extradition for offenses listed in Article 3/3bis, including those like hijacking, violence on board a ship, or damage to a ship.

65 SUA Convention (n 11) article 12 outlines the obligations of State Parties to assist each other in criminal proceedings related to the offenses defined in Article 3/3bis SUA Convention.



missile attacks. It is geopolitical in nature and not constrained by the private ends or high seas' requirements, whether the attacks are under SUA, the amended International Convention for the Safety of Life at Sea (SOLAS), 1974⁶⁶ or related terrorism conventions.⁶⁷ The International Ship and Port Facility Security Code (ISPS Code) and SOLAS Chapter XI-2⁶⁸ (SOLAS Amendments) are part of a wider global effort to counter terrorism, including initiatives by the UN, the World Customs Organization (WCO), and the International Labour Organization (ILO).

Although the Houthi attacks are in a region with histories of maritime terrorism, the recent origin of anti-terrorism legislation is the 11th of September 2011 attacks in the US which, although non-maritime, underscored the devastating effects of global terrorism. The specific origin of maritime terrorism is often traced to the al-Qaeda attack on the *USS Cole* in 2000 while it was refuelling in the Port of Aden, Yemen, which killed seventeen sailors and crippled the vessel. The *USS Cole* incident closely resembles the current Houthi *modus operandi*, which involves deploying an array of sophisticated weapons – including, but not limited to, ballistic missiles and “kamikaze” drones – against shipping. The Houthi attacks thus constitute clear acts of maritime terrorism, the principal difficulty lying in the apprehension and prosecution of the perpetrators.

Additionally, the Houthi use of explosives and other sophisticated weapons amounts to deployment of WMD, a more violent SUA offence of maritime terrorism.

3.2.3 Effects of the Use of Weapons of Mass Destruction

Before the Houthi entrance into the foray, similar attacks on shipping had included the *USS Cole* and suicide bombers ramming an explosives-laden dinghy into the starboard side of the *MV Limburg* in 2002, 3 km off the port of Al-Bashir, in the Gulf of Aden in Yemeni TS, causing extensive fire damage and spilling 90,000 litres of crude oil; the *MV SuperFerry 14*, a Philippine registered Roll-on-Roll-Off (RORO), attacked in Manila Bay in 2004 by the Abu Sayyaf terrorist operatives planting explosives, resulting in the ferry's destruction and the deaths of 116 people in the Philippines' deadliest terrorist attack; and the *M Star*, a Japanese Very Large Crude Carrier (VLCC) damaged by an explosion in 2010 in Omani TS west of the Strait of Hormuz, suffering hull damage, with evidence of an attack from external sources.

66 International Convention for the Safety of Life at Sea (SOLAS) (adopted 1 November 1974, entered into force 25 May 1980) UNTC No.18961.

67 For example International Convention Against the Taking of Hostages (adopted 17 December 1979, entered into force, 3 June 1983) UNTS 21931; International Convention for the Suppression of Terrorist (adopted 25 November 1997, entered into force 23 May 2001) A/RES/52/164; and International Convention for the Suppression of the Financing of Terrorism (adopted 9 December 1999, New York, entered into force 10 April 2002) UNTS n 38349.

68 The International Ship and Port Facility Security Code (ISPS Code) and SOLAS (n 66) Chapter XI- 2 entered into force 1 July 2004.



In addition to speed boats, also popular with Somali pirates, the Houthis use missiles, “kamikaze” drones, and manned (suicide) or unmanned boats loaded with explosives. Fortunately, and despite the fear thereof following the collapse of the Soviet Union, terrorist use of ‘dirty bombs’⁶⁹ have not materialised, the Houthi attacks being the closest involvement of WMD use at sea to date.⁷⁰ Although the full extent of the Houthis’ arsenal remains uncertain, the scope and usage of the term ‘WMD’ in relation to their weaponry has evolved. Accordingly, individuals and groups such as the Houthis—as well as those providing aid, funding, or technology to WMD programmes—may be held accountable for WMD-related activities. However, in addition to the lack of prosecution under the Convention so far, there are poor extradition prospects due to its complex proceedings under the Convention⁷¹ and the lack of cooperation in this case from the Houthis and Iranians.

That said, the actions of OAGs, POGs, and armed combatant NSAs in wartime fall within the scope of the laws of war. This article, however, is confined to attacks on shipping in peacetime; detailed consideration of NSA culpability in naval warfare and other armed conflict situations lies beyond its remit. The remainder of this article will, therefore, focus on cybersecurity, marine pollution, and the prospects of future attacks.

3.2.4. Cyber Attacks and Other Maritime Security

3.2.4.1. Cyber Security Considerations

Of the remaining aspects of maritime security, there is no recorded evidence that the Houthis are engaged in: illicit trafficking of goods or people; narcotics trafficking; illegal, unreported, and unregulated fishing (IUU)F; or maritime cyber activities connected to their attacks on shipping.

However, while the Houthis have not explicitly focused on cyber-attacks, their increased maritime activity, misinformation, and the use of advanced technologies create a broader threat landscape where cybersecurity is a growing concern.⁷² Other cybersecurity concerns include spyware attribut-

69 A ‘Dirty Bomb’, or radiological dispersion device, is a bomb that combines conventional explosives, such as dynamite, with radioactive materials in the solid, liquid, or gaseous form. It is intended to disperse radioactive material into a small, localized area around an explosion.

70 Pursuant to Article 3bis SUA Convention (n 66) and its 1988 and 2005 Protocols, a WMD is a biological, chemical, radiological, nuclear, or any other weapon that can kill or significantly harm many people or cause great damage to artificial structures (e.g., buildings), natural structures (e.g., mountains), or the biosphere.

71 SUA Convention (n 66) article 11.

72 Angela, ‘The resumption of Houthi attacks: Implications for maritime security and how technology can help navigate new risks’ (*Concirus*, 1 October 2024) <<https://concirus.ai/houthi-attacks-implications-for-maritime-security-and-how-technology-can-help/>> accessed 20 February 2025.



ed to pro-Houthi hackers, which has been used against Middle Eastern militaries and could be redirected toward attacks on ships. Such cyber-attacks could disrupt communication and navigation systems, or even target critical maritime infrastructure, with serious implications for maritime security.

Pollution of the marine environment is another major maritime security concern. The damage to, and sinking of, the *Rubymar* (a Belize-flagged vessel), the *Tutor* (a Greek-owned coal carrier), the *Magic Seas*, and the *Eternity C*, both Liberian registered (see below), have resulted in chemical and oil spills, which illustrate the threat to the marine environment.

3.2.4.2. Marine Pollution

The attacks have led to vessels sinking and releasing fuel, their cargo, and other polluting materials into the water, posing not only maritime security risks but also threatening the marine ecosystem and coastal communities. The sinking of the *Rubymar* in March 2024, after a Houthi attack a month earlier, resulted in a 30-km oil slick and the release of thousands of tons of fertilizer, posing significant environmental risks. This was the first vessel sunk in the Houthi attacks, having been struck by missiles in the Gulf of Aden. The attack caused fuel and fertilizer leakages, creating a large oil slick and threatening the Red Sea's delicate ecosystem. The second victim was the *Tutor*, a Greek-owned coal carrier also sunk by the Houthis, after being hit by missiles and a remote-controlled boat in June 2024, killing a Filipino crew member.

These sinkings raise concerns about potential pollution and damage to the marine environment, including the risk of oil slicks, algal blooms, and the creation of 'dead zones'.⁷³ The *Magic Seas* carrying iron and fertilizer was sunk by Houthis in the Red Sea, on 6 July 2025 followed by the sinking on 8 July 2025, of the *Eternity C*, another Liberian-flagged, Greek-operated cargo ship.⁷⁴ The latter was hit by rocket propelled grenades (RPGs) and sea drones in the Red Sea, resulting in the death of 4 seafarers and the kidnapping of the survivors.⁷⁵ She was in ballast having just delivered her cargo of iron and fertilizer.

The sinking of these ships raised immediate concerns about potential environmental damage and pollution in the critical Red Sea maritime corridor. The IMO highlighted the risk of pollution and

73 'Dead zones' also known as hypoxic zones, are areas in the world's oceans and large lakes where low oxygen levels make it difficult or impossible for marine life to survive. These zones are caused primarily by nutrient pollution from sources like fertilizers and sewage runoff, which leads to algal blooms that deplete oxygen when they decompose.

74 David Gritten, 'Search for survivors after Houthis sink second Red Sea cargo ship in a week' (BBC News, 9 July 2025) <www.msn.com/en-us/news/world/search-for-survivors-after-houthis-sink-red-sea-cargo-ship/ar-AA1IhsWW> accessed 15 July 2025.

75 *ibid*; William Christou, 'Seafarers from cargo ship attacked by Houthis rescued after 48 hours in water' (10 July 2025) *The Guardian*.



harm to seafarers from such attacks.

The potential for further pollution from damaged ships and the rerouting of vessels around the Cape of Good Hope is also a concern. The resultant security threats are threefold. First, there is the threat to marine ecosystems, given that the Red Sea hosts diverse marine life, including coral reefs, which are particularly vulnerable to pollution. Oil spills and other contaminants can damage these ecosystems, thereby undermining biodiversity and the livelihoods of coastal communities dependent on fishing and other marine resources. Secondly, there are long-term impacts: the Houthi attacks, together with the diversion of ships around the Cape of Good Hope, have resulted in higher emissions from significantly longer routes and increased exposure to accidents and spills in vital shipping lanes.

Thus, the environmental risks associated with the Houthi attacks constitute a concern not only for the Red Sea region but also for the wider global maritime trade network, as such disruptions generate commercial risks, including increased insurance premiums, tariffs, additional costs, and delays.

4. Future Prospects of Attacks

Unlike Somali piracy, which was not underpinned by broader related issues, the Houthi attacks are rooted in multiple national and regional conflicts, as well as wider geopolitical dynamics. The attacks appear to constitute only a symptom of these underlying causes.⁷⁶ Whereas the former was addressed through UNCLOS-based legal mechanisms, the latter cannot be resolved in the same manner. A solution to the Houthi attacks would require a Somali-type strategy founded on an international legal framework. However, owing to the international community's reluctance to replicate the Somali experience, alternative measures have thus far proved disappointing.

First, the US, Israeli and British response in attacking Houthi targets, citing self-defence based on the UNSCR 2722/2024, is an attempted military solution that lacks universal backing. Unlike earlier UNSCRs adopted since 2008⁷⁷ – which authorised foreign naval missions to employ “all necessary means to repress acts of piracy and armed robbery,” including intervention in Somali territorial waters to provide convoy escorts, pursue, intercept, seize, and arrest pirates – the current UNSCRs merely condemn the Houthi attacks without expressly conferring a legal mandate on Member States

⁷⁶ See Jonah Carlson, 'Houthi Motivations driving the Red Sea crisis: understanding how Ansar Allah's strategic culture goes beyond Gaza and Iran' (2024) 15 *Journal of Advanced Military Studies* 2.

⁷⁷ UNSC Resolution 1816 (2008).



to undertake military action against them.⁷⁸ This is despite the fact that the Houthi attacks have caused damage to maritime security comparable to that inflicted by Somali piracy, which necessitated – and received – effective UNSC intervention and unequivocal international cooperation. There is, therefore, a pressing need for a similar UN-led concerted response.⁷⁹

The continued inaction of the UN and the international community in response to the attacks is, therefore, striking, with the probable rationale being the uncertainty as to whether such attacks constitute piracy. From this inaction, it may reasonably be inferred that the UNSC does not yet consider the crisis sufficiently grave to threaten international peace and security so as to warrant the invocation of Part VII of the UN Charter, as was the case with Somali piracy. Nevertheless, preventing the ongoing threats to maritime security and the resulting harm to shipping and global trade requires comprehensive and effective UNSC authorisation for a new legally grounded collective action.⁸⁰ The Houthis and their backers are more likely to take note of a robust and unified UN-led response. Although they had promised to limit their attacks to Israeli interests following the short-lived Israeli-Gaza ceasefire,⁸¹ no guarantees were given.

Secondly, diplomatic efforts have also stalled in resolving the Houthi insurgency and its associated regional conflicts (distinct from the Gaza conflict), as well as the broader Israeli–Gaza confrontation.

Finally, the involvement of the UNSC has been insufficient. Instead *UNSCR 2722/2024*, *UNSCR 2722/2024*,⁸² *UNSCR 2739/2024*,⁸³ *UNSCR 2768/2025*⁸⁴ and *UNSCR 2787*⁸⁵ merely noted the imperative to emphasize, ‘the need to address the root causes, including the conflicts contributing to regional

78 See also UNSC Resolution 2216 (2015) and UNSC Resolution 2624 (2022) and prior UNSCRs referred to therein; cf. Zoran Kusovac, ‘Analysis: In the Red Sea, the US has no good options against the Houthis’ (*Aljazeera News*, 27 December 2023) <www.aljazeera.com/news/2023/12/27/analysis-in-the-red-sea-the-us-has-no-good-options-against-the-houthis> accessed 20 March 2025.

79 Charlotte Kleberg, ‘The Search for a High Seas Solution,’ A Commentary (*RAND*, 17 January 2024) <www.rand.org/pubs/commentary/2024/01/the-search-for-a-high-seas-solution.html> accessed 20 March 2025.

80 See Nadwa Al-Dawsari, Casey Coombs, Ibrahim Jalal, Kenneth M. Pollack, Baraa Shiban and Katherine Zimmerman, ‘Ending the Houthi Threat to Red Sea Shipping’ (*American Enterprise Institute*, 1 February 2024) <www.jstor.org/stable/res-rep58032> accessed 20 March 2025.

81 See Jonathan Saul ‘Yemen’s Houthis to target only Israel-linked vessels following Gaza deal’ (*Reuters*, 20 January 2025) <www.reuters.com/world/middle-east/yemens-houthis-will-target-only-israel-linked-vessels-after-gaza-ceasefire-says-2025-01-20/> accessed 20 March 2025.

82 Adopted by the Security Council at its 9527th meeting, on 10 January 2024; Prior Resolutions 2216/2015, 2014/2011, 2051/2012, 2140/2014, 2201/2015, and 2204 (2015) and presidential statements of 15 February 2013, 29 August 2014, and 22 March 2015, concerned the security situation in Yemen, not the latter attacks on shipping.

83 Adopted by the Security Council at its 9672nd meeting, 27 June 2024.

84 Adopted by the Security Council at its 9836th meeting, 15 January 2025.

85 Adopted by the UN Security Council at its 9958th meeting, 15 July 2025.



tensions and the disruption of maritime security in order to ensure a prompt, efficient, and effective response⁸⁶ and urged ‘caution and restraint to avoid further escalation of the situation in the Red Sea and the broader region, and encourages enhanced diplomatic efforts by all parties to that end, including continued support for dialogue on the root causes of the Houthi attacks under UN auspices.’⁸⁷

Although *UNSCR 2768 (2025)* for the first time reaffirmed the need to address the root causes of these attacks, it merely reiterated its condemnation of the Houthi actions and of the conflicts contributing to regional tensions and the disruption of maritime security, without providing for a prompt, efficient, and effective response.⁸⁸ None of the 5 UNSCRs refer to piracy and ARAS. The UNSC actions simply seem to be going through a routine process.

Although the Council also acknowledged the use of WMD-like advanced weaponry in the Houthi attacks and demanded that Member States cease supplying arms to the Houthis, it merely re-emphasised the need to address the underlying causes of these attacks.⁸⁹ The *UNSCR 2277/2024* had already urged caution and restraint to avoid further escalation of the situation in the Red Sea and the broader region.

The Houthi actions have already crossed the red line of constituting a threat to international peace and security, thereby necessitating the invocation of Part VII of the UN Charter, which empowers the UNSC to take coercive measures in response to threats to the peace, breaches of the peace, and acts of aggression, as it did in the case of Somali piracy. The disruption of shipping and global trade poses risks to all nations and, therefore, calls for a collective international response similar to that adopted against Somali piracy. Following that precedent, a robust UNSCR would provide the legal legitimacy and mandate for Member States and regional organisations to act, particularly under Articles 100 (duty to cooperate in the repression of piracy), 105 (seizure of a pirate ship or aircraft), 110 (right of visit), and 111 (right of hot pursuit) of UNCLOS.

Such measures would enable the provision of naval and aerial patrols and escorts, the exercise of rights of visit, the arrest of suspects, and their prosecution, whether directly or through piracy transfer agreements. It would also reaffirm the freedom of the high seas and navigation⁹⁰ and the rights of innocent passage,⁹¹ curb the attacks, reopen the Suez Canal route, reduce shipping costs, and prevent marine pollution.

86 UNSC Resolution 2272 (2024), para. 7.

87 *ibid*, para. 9.

88 *ibid*, para. 3.

89 *ibid*, para. 4.

90 *ibid*, article 90.

91 *ibid*, Part II, Section 2.



5. Concluding Remarks

The Houthi attacks constitute a maritime security concern under UNCLOS, the SUA Convention, and the general principles of international law. Although unusual in character, they qualify as ARAS when conducted within Yemeni territorial seas; as piracy as far as they are not state-sanctioned; as maritime terrorism; as the use of WMD-like weaponry; and as a source of marine environmental pollution. Accordingly, they amount to a threat to maritime and global security within the meaning of *UNSCR 2768*, which recognised ‘the importance of maritime security and [that] the maintenance of maritime security in the region of the Red Sea is essential for the stability of global supply chains and economic development’.⁹² The attacks have not only re-energised Somali piracy but could also potentially encourage international organized criminality and other opportunistic actors.

Against that backdrop, a concerted, united international effort, as prescribed above, remains the only viable solution through the UNSC. A similarly unified approach, backed by broad international support, once led to the assembly of the largest naval force ever deployed in either war or peacetime and proved decisive in the fight against Somali piracy. Absent such action, what began as a form of economic warfare aimed at pressuring Israel could produce unintended consequences for maritime and global security in an already volatile region.

The attacks demonstrate the Houthis’ capacity, as NSAs, to challenge global norms and exert economic pressure; they have contributed to regional instability by heightening tensions and risking further escalation; and they carry global security implications by raising questions about the ability of non-state actors to disrupt international trade and about the role of major powers in maintaining maritime order.⁹³

The attacks, which are expected to continue even if a Gaza ceasefire is achieved, underscore a persistent challenge to global trade, the marine environment and maritime security, necessitating a continued urgent need for a united international response and shift towards diplomatic solutions involving the United Nations, major maritime nations and key regional actors.

⁹² *ibid*, *Preamble* 4.

⁹³ See Febrina Estika, Hikmat Zakky Almubaroq and Ari Pitoyo Sumarno, ‘Red Sea War: How the Houthi onslaught affected the security of the state’ (2024) 3 *East Asian Journal of Multidisciplinary Research* 12, Vol. 35861-5870.