Combating Piracy: New Approaches to an Ancient Issue

Helmut Tuerk

Introduction

What is commonly regarded as piracy has most likely existed since the beginnings of navigation.¹ The concept of piracy has, however, undergone an important evolution from antiquity until its codification in the 20th century. In ancient times almost anyone who attacked another on the open sea was referred to as a ‘pirate’.² It was only from the late Middle Ages that the word piratae began to be understood as ‘sea thieves’.³ Under customary international law there is no authoritative definition of piracy.⁴ Many countries criminalize ‘piracy’ that takes place in their own territorial sea or even in their internal waters, which is, however, not piracy under international law.⁵

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² See id., p. 978.
The notion of piracy was first codified by the 1958 Geneva Convention on the High Seas\textsuperscript{6} and later by the 1982 United Nations Convention on the Law of the Sea (UNCLOS)\textsuperscript{7} in Articles 100 to 107 and 110 which almost literally repeat Articles 14 to 22 of the 1958 Convention. Some countries which are not yet parties to UNCLOS are nevertheless bound by the 1958 Convention so that the respective provisions state the international law on piracy currently in force.\textsuperscript{8} Article 101 UNCLOS defines piracy, in particular, as 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 on the high seas, against another ship or aircraft, or against persons or property on board of such ship or aircraft. The intention to rob—\textit{animus furandi}—is thus not required.\textsuperscript{9} The ‘private-ends criterion’ removes attacks on shipping “for the sole purpose of achieving some political end” from the concept of piracy under current international law.\textsuperscript{10}

The applicability of the rules on piracy only to the high seas, and by virtue of Article 58(2) UNCLOS to the exclusive economic zone (EEZ), however, enables pirates to evade pursuit by crossing into the territorial sea.\textsuperscript{11} As most attacks against ships take place when they are in port or at anchor or when transiting the territorial sea,\textsuperscript{12} the International Maritime Bureau (IMB), a specialized division of the International Chamber of Commerce (ICC), for statistical purposes has adopted a broader definition than UNCLOS which also

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