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WORLD MARITIME UNIVERSITY

Malmö, Sweden

**STRENGTHS AND WEAKNESSES OF THE
LEGAL STRATEGIES TO COMBAT SEA
PIRACY IN NIGERIA**

By

SIRAJA ZAMFARA IBRAHIM

Nigeria

A dissertation submitted to the World Maritime University in partial
Fulfilment of the requirement for the award of the degree of

MASTER OF SCIENCE

In

MARITIME AFFAIRS

(MARITIME LAW & POLICY)

2019

DECLARATION

I certify that all the material in this dissertation that is not my own work has been identified, and that no material is included for which a degree has previously been conferred on me.

The contents of this dissertation reflect my own personal views, and are not necessarily endorsed by the University.

(Signature):

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ABSTRACT

Title of Dissertation: **Strengths and weaknesses of the legal strategies to combat sea piracy in Nigeria**

Degree: **Master of Science**

Maritime Piracy and Armed Robbery is a global phenomenon which affects the security of international maritime, the economy and other activities that are related to it. Shipping and transportation through water have become an essential means of conveying goods and services across the globe. Nigeria is one of the countries that are affected sharply by the higher incidence of maritime piracy and armed robbery, as it has been reported to be the highest in 2018 and 2019. This study examines the strengths and weaknesses of the legal strategies of the piracy phenomenon in Nigeria due to the introduction of new laws recently in 2019 in the country. The research used a qualitative method of data collection and analysis. A secondary method of data collection was used, which consists of books, journal articles, reports, documented government materials, and organizations and internet sources. The data gathered was discussed and analyzed using thematic analytical interpretations, where sub-themes were identified and interpreted. The research discovered that Nigeria made an enormous effort in enacting laws recently to domesticate the international approach towards maritime security and to combat armed robbery in Nigerian seas and international waters. The research revealed that the legal strategies on anti-piracy have their strengths and weaknesses which shall be considered. It was recommended among others that Nigerian policymakers should utilize the identified strengths which are well-articulated laws and sanctions as identified from the study and intensify efforts to cater for the weaknesses which are mainly failure to implement laws as provided to ensure a maximum achievement of maritime safety and security.

KEYWORDS: Armed robbery, maritime piracy, maritime safety, maritime security

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LIST OF ABBREVIATIONS

AU	African Union
AFRICOM	Africa Command
ECOWAS	Economic Community of West African States
EFCC	Economic and Financial Crimes Commission
IMO	International Maritime Organization
IMB	International Maritime Bureau
ICC	International Chamber of Commerce
IMCO	Intergovernmental Maritime Consultative Organization
MOU	Memorandum of Understanding
NIMASA	Nigerian Maritime Administration and Safety Agency
P & I	Protection & Indemnity
PRC	Piracy Reporting Centre
SUA	Suppression of Unlawful Acts
UNCLOS	United Nations Convention on the Law of the Sea
UN	United Nation
UNOWAS	United Nations Office for West Africa and the Sahel
UNGA	United Nations General Assembly
UNCTAD	United Nations Conference on Trade and Development

CHAPTER ONE: INTRODUCTION

1.1 Background of the Study

Maritime piracy and sea terrorism are some of the dangerous trends for international security contemporarily across the shores and borders of world countries (Burnett, 2003:3). Maritime piracy is a global security phenomenon which has a long history in the world. It had flourished for hundreds of years and then diminished drastically before it surged again in recent years. It has been recorded by the International Maritime Organisation (IMO), an umbrella body of the United Nation (UN) that about 5, 667 sea piracy had been recorded from 1984 to 2011 against international shipping across the globe (IMO, 2018). It has also been recorded by the International Maritime Bureau (IMB) that from the year 2000-2009, there were about 3000 attempts or successful maritime piracy attacks records (Kraska, 2011:1). Recently, in the year 2018, 107 attacks or piracy were reported and in 2019 from January to July, a total number of 78 incidents of maritime piracy and armed robbery were reported (IMB, 2019).

Piracy at sea is becoming an issue of concern because it is becoming a threat to national security, economic prosperity, and safety of lives and properties of international merchants across the global waters in modern times. From 1990 to 2013, 6,000 robberies and deadly attacks were recorded against international business vessels as reported by IMB and International Chamber of Commerce (ICC). Pirates and sea robbers carried out their dangerous activities freely with a robust escape chance in many of the world's waters. The sharp effect of sea piracy compelled for the adoption of an international conference from 17-19 October 2011 in Malmö Sweden on addressing the menace of the phenomenon by the IMO in 2011. To rescue the maritime industry from the dangers of the attackers and robbers who are causing a significant loss of wealth and lives across the world waters due to their illegal activities (Mejia, Kojima & Sawyer, 2013: 1).

Significantly, almost all oceans of the world have a history of piracy and maritime attacks and robbery right from the early days of seafaring using smaller vessels through the periods of canoes, sailed ships, early days of imperialism to the modern times of advancement in sea transportation using large vessels and sea cargo for transportation of bulky goods and services. In the 20th century, the spate of the activities of piracy seemed diminished until in the early 21st century when a new dimension of piracy emerged directly linked with sea robbery and terrorism interwoven together. This situation made the issue of sea piracy an alarming problem (Lehr, 2007:1, Alexander & Richardson, 2009:1, Geib & Petrig, 2011:1).

Piracy is more alarming in Africa, especially in the Horn of Africa and the Gulf of Guinea. The level and nature of piracy have taken various dimension affecting sea activities such as transportation, international business, and other economic activities and security across the affected areas for many decades. For instance, in the year 2018, 40% of all reported pirates' attacks in the world occurred in the Gulf of Guinea with attacks in Nigerian waters amounting for 29% of the total global attacks. The percentage of attacks in Nigerian water was even believed to have been under-reported according to IMB because some of the incidences are not appropriately documented or reported. The number of organized violent attacks also occurred in the neighbouring countries of Nigeria, including Benin, Ghana and other countries in the Gulf of Guinea. The pattern and nature of attacks used to take the form of kidnapping for ransom, ambush and stealing of petroleum products from cargo vessels, diversion of products and goods from their target destination to another illegal destination for ransom or illegal use, killings and attacks on travelers and other related criminals (Priority Paper for the Danish Efforts to Combat Piracy and other Types of Maritime Crime 2019-2022).

One of the reasons why maritime piracy and armed robbery continues to flourish globally and particularly in the Gulf of Guinea is because of the weak legal enforcement provisions that can contain the crime through sanction and as a result play a preventative role. Many studies (Mair, 2011:5, Ukeje & Ela 2013, Bryant, Townsley & Leclere, 2014, Hassan & Hassan 2017 and Tien Le 2019) argued that the legal

provisions are not reliable or competent enough to combat or address the menacing issue of sea piracy world over. These by implication suggests that there is a need for a better approach than the existing method adopted globally, regionally and domestically in the countries of the Gulf of Guinea and Nigeria specifically. These have left a huge vacuum for policymakers and researchers to work on in coming up with stronger and more effective legal measures that can address the security issues in that perspective. The country has come up with the legal measures under the “Act of Anti-Piracy Suppression and other Maritime Offences 2019”, but the major issue now is the effective implementation of the legal provisions which is another problem at hand.

Nevertheless, the above paragraph does not suggest that there are no efforts both regionally and globally in tackling the issue of maritime piracy. There are many strategies put in place most notably the legal strategies by various international agencies, country-governments, and regional organizations to proffer solutions to the problem. There is the existence of the United Nations Convention on the Law of the Sea (UNCLOS), Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA 1988 and the SUA Protocols 2005) and the International Ship and Port Facility Security (Hong & Adolf, 2010). The International Maritime Organisation (IMO) has been contributing immensely in coming up with legal measures to curb the activities of pirates in world waters recently (Attard, 2014). There is also a regional approach towards adopting legal measures in combating maritime piracy in the Gulf of Guinea, which is the focus of this study. Regional capacity was built in the Gulf of Guinea with the aid of some world powers including the United Nations, China, and several European countries. Some of the measures taken involved the use of military suppression, the building of regional maritime capacity, collective military cooperation, enhancing maritime surveillance and the establishment of legal jurisdiction within the powers of the countries (Hassan & Hassan, 2017).

In Nigeria, there are recent efforts in addition to regional cooperation to address the security problem of sea piracy by the enactment of laws against piracy which has been asserted by the Nigerian President in May 2019. The laws provide in clear terms what

is identified as piracy in Nigerian land, the extent of the sanction or punishment and the regulations of sea activities in the Nigerian waters (Nigerian Anti-Piracy Act 2019). However, this study found it expedient to explore these regulations or measures that the Nigerian state is taking to address the problem of maritime crime since most of the existing studies did not dwell deep into the strengths and weaknesses of the approach towards addressing the piracy issue in the country.

As a result of the volatile and rampant incidents of piracy in the Gulf of Guinea and specifically in Nigerian waters, this study found it expedient to study this area of knowledge, to contribute to knowledge. Also, to provide additional information that will help in practical policy-making which will help in curbing the menace of sea piracy in Nigeria. This study found that there are inadequate attention and scarcity of academic research in this area by the researchers which enabled for the identification of the research gap and making a contribution to knowledge. The gap identified in the fresh legal provisions introduced by the Nigerian state in 2019 under the Act of Anti-Piracy Suppression and other Maritime Offences which has not been studied and analyzed academically by any researcher going by the works consulted so far. This work is the pioneer in this regard.

1.2 Problem Statement

Piracy is a global security problem, and it has been on the increase in recent years, especially from the 1980s to the present time. In the year 2018, 107 attacks or piracy were reported and in 2019 from January to July, a total number of 78 incidents of maritime piracy and armed robbery were reported (IMB, 2019). Despite the various measures put on the ground to tackle the issue, including the legal provision of international laws under the auspices of bodies such as IMO, IMB and ICC all under the regulations of the United Nations, the phenomenon continues (Onuoha & Hassan 2010). Sea piracy and robbery have many implications on the global economy, security, politics and collective well-being. An aggregate 201 incidences of maritime piracy and armed robbery were recorded in the year 2018 higher than 180 in the year 2017 (IMB Piracy Reporting, 2018).

The rate of maritime piracy is more pronounced in the Gulf of Guinea than anywhere in the world, according to IMB (2018) and UN (2018). The Gulf of Guinea has become extremely dangerous for seafarers. Reports of maritime attacks and robbery between Ivory Coast, Congo, and Nigeria, which tripled in 2018 and these particular incidents from the above-mentioned areas accounted for the vast majority of the severe crimes recorded in 2018. The Gulf of Guinea claimed all the six hijackings, 130 out of the incidences of 141 hostages taken and 78 of the 83 seafarers kidnapped in return for ransom globally.

The problem of maritime piracy and armed robbery have been more complex in Nigeria which belongs to the Gulf of Guinea. It has been reported that 29% of the total global maritime piracy was reported from Nigeria in 2018 (Priority Paper for the Danish Efforts to Combat Piracy and other Types of Maritime Crime 2019-2022). According to the United Nations Office for West Africa and the Sahel (UNOWAS), Nigeria lost an estimated \$2.8 billion in revenues last year alone due to the activities of maritime pirates and armed robbers. Most of the crimes in Nigerian waters are oil-related ones. There are other crimes such as kidnapping, holding of hostages, attacks for random killings and seizure of other commodities. Between January 1 and November 23, there were 82 reported incidents of maritime crime piracy in the Gulf of Guinea (United Nations, 2018).

Maritime piracy and armed robbery have many implications for the Nigerian state. It has a national security threat. The Nigerian shores and waters both within and in the Atlantic are becoming insecure and free haven for criminals who are making the seafarers and sea transportation extremely dangerous and possibly unbearable. This situation made the international merchants operating within and outside Nigeria to start devising other means of transporting their commodities safely through the air and land. This has created a severe security breach in the nation. Economically, Nigeria is reported to have been losing about \$2.8 billion which is approximately 11% of the country's budget in 2019. Politically, Nigeria is losing relevance as a hegemonic power in the Gulf of Guinea because of its inability to demonstrate leadership in terms of the political will to address the menacing issue of maritime piracy. There are legal

provisions on addressing the security issues in Nigerian waters, particularly maritime piracy.

However, it has been observed that there are inadequacies of the legal provisions in addressing the problem. For instance, most of the crimes inside Nigerian territories in Nigerian waters are softly addressed without any provision to deal with them (Brume-Eruagbere, 2017). This lapse in legal provisions motivates the criminals to continue and expand their activities beyond the Nigerian waters. However, recently there has been an effort by the Nigerian government to tackle the challenges through the enactment of Maritime Piracy Laws which was passed by the National Assembly and assented by the President on 24th June 2019.

There are many works on the subject matter of study from the global perspectives including Burnett 2003, Lehr 2007, Alexander & Richardson 2009, Onuoha 2010, Geig & Petrig 2011, Kraska 2011 Mejia et al. 2013, United Nations 2015 and Priority Paper for the Danish Efforts to Combat Piracy and other Types of Maritime Crime 2019-2022. None of these works focuses on Nigerian context which leaves a vacuum for researchers to fill.

Additionally, there are some works on maritime piracy in Nigeria such as Onuoha & Hassan 2009, Neethling 2010, Okoronkwo, Okpara & Onyinyechi 2014, Jimoh 2015, Brume-Eruagbere 2017 and European Parliament 2019. However, the above works focus on some legal issues, not on all of them and specifically, they do not address the new law that was introduced on the legal issues of piracy in Nigeria, considering the enormity of the crime in the country and for the fact that there is a new law in the country which justifies the need for a new analysis. Also, all the works above did not give adequate attention to the strengths and weaknesses of the legal provisions on maritime piracy in Nigeria. This has provided the researcher with a research gap for contribution to knowledge by filling the gap identified.

1.3 Research Questions

The research questions are categorized into the following:

- i. What are the legal provisions on maritime piracy and armed robbery in Nigeria?
- ii. Why is it necessary to adopt legal strategies for combating maritime piracy and armed robbery in Nigeria?
- iii. How do the legal provisions improved maritime security and boost socio-economic development in Nigeria?

1.4 Scope and Limitation of the Research

The research of this nature is extensive and broad in nature and perspective. It is much difficult or impossible to cover all issues that are related to maritime piracy and armed robbery in Nigerian waters in this study. Piracy is a universal security issue currently, and every part of the globe is affected. This is why Nigeria was chosen as the frame for the study because of the severe nature of the crime in the country which accounted for more than a quarter of the total global piracy crime in 2018. It is also multi-tasking to take all issues that are related to maritime piracy and armed robbery in Nigeria such as national security, the economy, politics, legal perspectives, and international dimension. As such, the scope of the research is on the analysis of the strengths and weaknesses of the legal strategies of tackling maritime piracy in Nigeria only for the feasibility of the study.

The research may encounter three limitations in the process of its undertaking. The first is the procedural limitation in terms of the process of conducting the research due to time constraint. The second limitation is logistics, including financial aspects and transportation, and the third limitation is on data collection. Finally, the research focuses on the law, but not on the policy or economic issues which is the main limitation of the work

1.5 Significance of the Study

The research is significant in many aspects, but most importantly it will be relevant and essential to the world of academia through the provision of new knowledge and contribution to knowledge which is the overall target of the work. The work is significant in terms of its approach, which is the use of qualitative data approach and content analysis. This makes it differ from other existing works which used a quantitative method, mixed-method and primary data. This work will rely on both primary and secondary data, but it will adopt content analysis. Furthermore, the work used different theories from the previous works which used realism, securitization theory, conflict theory, frustration and aggression theory, and systems analysis.

The work is significant to policymakers because it will provide practical solutions based on the findings from the analysis that can help in making stronger policies and regulations which will help the country in tackling its challenges of maritime piracy and armed robbery. To this end, the research is significant because it has policy implications.

1.6 Methodology

The research methodology is the philosophy that is used to gather data for the work, assemble and group the data, discuss and analyze the data and interpret them for findings. The step by step approach made in the research is discussed below.

1.6.1 Research Design

The research design for this work is the use of a qualitative method of data collection and analysis. The topic of discussion qualified the work to fall under a qualitative case study method. A qualitative method is a paradigm of conducting the research through the gathering of a large data that can be summarized and analyzed using a selected strategy or technique that best fits the chosen topic (Sharan, 2009:7). A qualitative method can adopt a strategy of the use of statistics where applicable (Sekaran & Bougie, 2013:14) and it can use secondary sources only or both methods depending on the situation, the topic and the researcher's philosophy (Creswell, 2014:70).

1.6.2 Method of Data Collection

The work will use both primary and secondary sources. The primary source is the government's legal documents which were signed into law on the legal provisions of combating sea piracy in Nigerian waters. The secondary sources include books, journal articles, internet sources, newspapers, and reports.

1.6.3 Method of Data Analysis

The data gathered from the primary and secondary sources would be discussed, analyzed and interpreted using content analysis. Themes and sub-themes would be formed from the available data at hand and then discussed together with the existing literature on the subject matter of study, and the adopted theoretical framework would be applied in the process to arrive at findings.

1.7 Definition of Key Terms and Concepts

Armed Robbery: has been defined as any act of apprehending seafarers, attacks and seizure of ships, properties, valuables and other forms of extortion in the sea of any country or in international waters by a person, group of persons or corporate bodies met on any person, group of persons and corporate belongings onboard a ship, aircraft or a fixed floating platform (UNCLOS 1982).

Resolution A.1025(26) (Annex, paragraph 2.2) on IMO's Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery Against Ships, determines that armed robbery against ships consists of any of the following acts:

- (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 onboard 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 above."

Strategies: these are methods and techniques that are introduced or adopted to achieve a certain goal. According to Encyclopedia Britannica (2018), a strategy is a model of

achieving a designed goal or project by an individual or an organization or even a country.

Combating: The Encyclopedia Britannica (2018) identified the word “Combating” as the process and activity of preventing and addressing an action for the purpose of minimizing or deterring its effects on its targets.

Maritime Piracy: The term “piracy” is defined in UNCLOS (Article 101) as: (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 onboard 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)

1.8 Organization of Chapters

The work is organized into five chapters. Chapter one is the background of the research which consists of the general introduction, statement of the problem, research questions, aim and objectives of the study, scope, and limitations of the research, significance of the research, methodology, definition of key terms and concepts and organization of chapters.

In chapter two, a literature review and theoretical framework are discussed. The literature was reviewed under the following sub-themes: the concept of maritime piracy, types, and nature of maritime piracy, causes of maritime piracy, maritime piracy in a global perspective, maritime piracy in Africa; the Horn of Africa and the Gulf of Guinea, maritime piracy in Nigeria and research gap and contribution. The second aspect is the theoretical framework which consists of two theories: Routine Activity Theory and Failed State.

Chapter three is the examination of the existing legal strategies to address the crime of maritime piracy. This has been categorized into the global efforts, the African response, the regional efforts at combating piracy in the Gulf of Guinea and legal measures adopted by the Nigerian state to combat piracy. Chapter four consists of the analysis of the strengths and weaknesses of the legal strategies in Nigeria for the combat of maritime piracy, including the challenges and prospects of the legal strategies. Chapter five is the summary, conclusions, recommendations, references, and appendices (if any).

CHAPTER TWO: LITERATURE REVIEW AND THEORETICAL FRAMEWORK

2.1 Literature Review

In this section, the literature would be reviewed under some identified themes that are most relevant to the subject matter of study and also, the new law introduced in Nigeria under the Act of Anti-Piracy Suppression and other Maritime Offences was briefly examined particularly the background behind its emergence. The literature is reviewed critically to enable for the identification of the missing gap, which will enable for contribution through the filling of the research gap. In this regard, the following themes were reviewed: the concept of piracy, types and nature of piracy, causes of piracy, maritime piracy a global perspective, legal approach to addressing piracy globally, piracy in Africa: the horn of Africa and Gulf of Guinea, piracy in Nigeria, legal efforts to combat piracy in Nigeria.

2.1.1 The concept of Piracy

The concept of piracy has been given various meanings by many scholars.

Piracy has been perceived as an act of violence, attacks, crimes committed for private benefits by a private ship and its crew against seafarers, ships and vessels on the sea of any country or international waters (Onuoha & Hassan, 2009 and Hong, 2010).

Maritime piracy has been conceptualized as the criminal activities and illegal usurpation of properties, attack and kidnapping of seafarers and vessels, hijack of ships, robbery and diversion of vessels for personal, private, political and economic motive and which the implications have a negative consequences on the travellers either within a shore of a particular country or in international waters (Attard, 2014 and Hassan & Hassan, 2017).

In another dimension, maritime piracy is recognized as a global or international crime perpetrated against innocent seafarers targeting their ship for robbery, kidnapping for ransom, extortion, hostage-taking for political motive and destruction of lives and

properties for terror motives (Priority Paper for the Danish Efforts to Combat Piracy and other Types of Maritime Crime 2019-2022). Thus, the above explanations of sea piracy indicate in a simpler term that sea piracy or maritime piracy and armed robbery consists of crimes that are perpetrated by a group of criminals which target travellers by sea and international business activities and transportation which are carried through the sea.

Armed robbery is perceived (Geib & Petrig 2011 and Hassan & Hassan 2017) as the attacks on seafarers and ships as well as vessels or aircrafts by a smaller gangs within the territory of a country off the shores of international waters and which is directed at ships and vessels that have been travelling from one country to another or within the same country from one region to another. Sea robbers usually used smaller weapons or less sophisticated weapons and approaches in some cases than pirates on international water even though in most cases, their method of operation and weapons seem similar. Armed robbery in the sea has the economic and political implications on the affected countries because it disrupts maritime activities and weakens the political authority of the states that are affected.

2.1.2 Types and Nature of Piracy

Sea piracy has been classified into three main categories, according to the IMB, as cited in Kraska (2011). They include:

Attacks

This is a direct assault on seafarers and transporters of goods and services, especially oil and other valuable commodities. In most cases, the attacks are not successful, but they are considered as piracy because of intentional attempts. The criminals used speed boats and sophisticated weapons to ambush the vessels and cargoes that are travelling through the oceans and inland waters across the globe.

Hijack

In some other times, pirates hijacked the vessels or cargoes and diverted them from their target route or destination to another destination. This can be purposely to either seek for negotiation in monetary terms or political or even economic motives. In some cases, they release the vessels after achieving their targets. In other times, they confiscate the commodities on the vessels and release the empty vessel and the cabin crew.

Kidnapping

The pirates kidnapped the seafarers and demand a ransom before they release them. In the case of the horn of Africa and the Gulf of Guinea, the kidnapped are sometimes expatriates who are working in oil companies, construction companies and other strategic sectors. They are kidnapped to settle for a payment of a huge ransom in cash before they release them.

Robbery

In other cases, the incidence is not to kidnap or to hijack the vessels or cargoes but to rob the seafarers for what is visible and available to the pirates. They used their speed boats and target the vessels, mount on them and demand for what they are looking for. They cart away with the seized commodities.

2.1.3 Causes of Piracy

Lehr (2007) identified several factors that caused piracy across the globe. One of these factors is globalization. Globalization and liberalization brought about an increasing movement of goods and services and international trade at sea. Thus, when more goods and services that are expensive and valuable become available at sea, the criminals saw it as a potential target for their criminal activities. Another cause of sea piracy in the current time is the end of the Cold War and the demise of the Soviet Union. The decline of the USSR as the second superpower in the world brought about the general withdrawal of warships, especially in the Pacific, Indian and Atlantic oceans. Thus, a

lower interest in maritime affairs and a lower number of warships on patrol means lower security for legal trade activities and higher illegal activities.

Other studies (Dutton, 2013, Osinowo, 2015, Hassan & Hassan, 2017 and Abdel Fattah, 2017) attribute the causes of piracy in the Gulf of Guinea to many factors as summarized below which consists of poverty in the majority of the population of inhabitants of the region, lack of economic opportunities and unemployment, misgovernance and poor leadership, corruption, weak military settings, inequality and lack of political will to face the problem of piracy squarely.

Another factor that is responsible for the increase in piracy is the negligence of the ship-owners who do not want to report the cases of piracy for fear of losing a large amount of money through rising Protection & Indemnity (P&I) which cost around \$25,000 per day. They saw the cost of piracy as minor in comparison with what they will lose in the process (Lehr, 2007). However, the author above seems to blame the victims of maritime piracy and violence for being attacked from the understanding of the fact that their complacency in failure to report the incidence timely for prompt action is making the pirates escape freely.

2.1.4 Maritime Piracy: A Global Perspective

Maritime piracy is a global phenomenon, and it cuts across all the continents and countries of the world. The ICC and IMB reported in 2019 that the incidences of sea piracy in the first quarter of 2019 are lesser than that of the first quarter of 2018. In the first quarter of 2018, IMB reported cases of maritime piracy of 66 incidences which is higher than that of 2019, which stands at 38 in the first quarter. IMB reported that in the first quarter of 2019, 27 vessels were boarded, seven vessels were fired upon and four attempted attacks occurred (IMB, 2019).

The highest point of risk in maritime piracy and armed robbery in the Gulf of Guinea with 22 incidents were reported in the first quarter of 2019. The Gulf of Guinea also accounted for all the global crew kidnappings of 21 in five separate incidences reported in the coastal countries of Benin, Cameroon, Ghana, Ivory Coast, Liberia, Nigeria and Togo in the first quarter of 2019. Nigeria is the hotspot of maritime piracy and armed

piracy in 2018 and the first quarter of 2019 with 14 incidents in the first quarter of 2019 (IMB, 2019).

A live tracking system was put in place by the International Maritime Bureau (IMB) which has been following the pattern and trend of maritime piracy as they occur. This has been a good move for the prevention and response to the crime of piracy. The map is shown below for a practical illustration.



Figure 1, Live Map of Global Maritime Piracy by the International Maritime Bureau (IMB) 2019

Source: Adapted from (Google map, 2017)

The above map indicated that the crime of maritime piracy is dominant in the Horn of Africa, the Gulf of Guinea in Africa and Strait of Malacca in the Asia Pacific. The map indicated the highest occurrences in the Gulf of Guinea, where Nigeria as the focus of this study is located. This is due to the reasons identified above as the causes of maritime crime in the Gulf of Guinea which consists of poverty, bad governance,

corruption, and inequality. The Gulf of Guinea is predominantly famous for poverty, corruption, poor leadership and other low levels of development indicators.

2.1.5 Piracy in Africa: The Horn of Africa and the Gulf of Guinea

Piracy in the Gulf of Aden is a long-term security problem because of the narrowness of the water between Somalia to Yemen together with the density of the traffic of vessels which made piracy easier in this region. The pirates' attacks in the Gulf of Aden reached its zenith in 2008 which culminated in the seizing of 44 vessels. Attacks at the Gulf of Eden became a notorious security issue and a nuisance to international security (Geib & Petrig, 2011:17). In 2018, the IMB reported that there were 8 suspicious events in 2018 in the Gulf of Aden, 10 total attacks, 3 pirated and 4 disruptions.

In the Gulf of Guinea, the IMB reported that it is the hotspot globally in recent years. In the year 2015, the economic cost of maritime piracy in the Gulf of Guinea cost \$719.6 million, and the human cost is 1,225 seafarers attacked, 44 kidnapped and 23 killed with 54 total attacks in which about 48% of the attacks occurred in international waters (UN, 2015). The seas in West Africa remain the most dangerous for piracy, according to IMB in the 2019 report. Out of the total of 75 seafarers taken hostage onboard for kidnapping in return for ransom worldwide this year, 62 incidents occurred in the Gulf of Guinea off the coast of Benin, Cameroon, Ghana, Nigeria, and Togo.

The above statistics indicate that Africa has the highest incidence of maritime piracy, particularly in two of its coastal waters; the Gulf of Aden in the Horn of Africa and the Gulf of Guinea in West Africa. These two Gulfs can claim about 40% of the total piracy, armed robbery attacks and about 96% of total hostage-taking and kidnapping in the sea.



Figure 2, Gulf of Guinea

Source: Adapted from (Google Photos, 2019)

2.1.6 Piracy in Nigeria

Nigeria has been reported by the IMB as the highest recorder of maritime piracy and armed robbery in the year 2018 and the first quarter of 2019. According to the reports by the IMB (2019), the first quarter of 2018 alone in Nigeria recorded a total of 22 incidents of piracy, the 11 vessels that were targeted revealed that 8 were off the Nigerian coast including a tanker more than 40 nautical miles off Brass, in Bayelsa State in the Niger Delta with a capacity of 300, 000 metric tons. Piracy in Nigerian waters has many implications. For instance, Nigeria was recorded to have lost a whopping sum of \$2.8 billion in 2018 from the consequences of maritime piracy (United Nations, 2018). This is the economic aspects of the implications of piracy on Nigerian waters. Nigeria may lose another figure similar to that in 2019 because the first quarter of the IMB reports still identified Nigeria as a hotspot in the globe and the country with the highest risk of sea piracy.

Politically, the country is under security threats and vulnerability of security failure in the Nigerian shores because the seafarers are always under the risk of attacks with impunity since most of the reported cases in 2018 and the first quarter of 2019

according to IMB that were reported are not apprehended. The level and frequency of piracy in Nigeria are presented in the map below:



Figure 3, Map Showing the Frequency of Maritime Piracy in Nigeria

Source: Adapted from (Google Map, 2018)

2.2 Theoretical Framework

The work adopted two theories to explain the context of the work. The first theory emerged from the American Sociologist Cohen & Felson (1979) in their efforts to espouse scientifically the major reasons for the global surge in maritime piracy and armed robbery. The theory is related to this study because it is depicting the fact that the lack of legal enforcement regime is responsible for large-scale crimes and related activities such as maritime piracy. This has been the reason why the Nigerian government is coming up with such enforcement. In other words, the highest rate of maritime piracy recorded by the Nigerian government can be due to lack of functional enforcement agencies or regulations as identified in the latter section of this study and the emergence of the regulations should be analysed to determine the feasibility of securing the Nigerian waters and territory in future. This can give room for further application or debunking this theory in future studies depending on how the emerged

rules succeeded in curbing maritime piracy or otherwise. The second theory, which is the Failed State, emerged from the American Social Scientists Helman & Ratner (1993) and later expanded by Zartman (1995). The theory is related to this study because Nigeria is reported by IMB in 2018 as the country with the highest incidence of maritime piracy and sea robbery due to decline functioning government or a collapsing state that is not delivering its responsibility. Poverty, hunger, disease, insecurity, unemployment, inequality and other socioeconomic problems are allowed by the policymakers in the country to overcome the wellbeing of the citizens which provided for a collapsed system and structures making it easy for criminals and crime rate to proceed unabated.

The theories which are: Routine Activity Theory and Failed State Theory are discussed independently below with each having its origin, assumptions and significant analysis being discussed extensively including the applicability within the context of this study.

2.2.1 Routine Activity Theory

The Routine Activity Theory was built and founded by Cohen & Felson (1979) (cited in Bottom & Wiles, 1997:320). The theory has three underlying assumptions which are: the potential offender, the suitable target and the absence of a capable guardian. The three assumes that all the above three categories must come in place before a criminal activity takes place. The word “Routine” in theory can be explained as a situation whereby the criminal will have a routine of checking his suitable targets continuously to ensure that there is no deterrence or an obstacle that will prevent him from undertaking his crime. The theory also assumes that the criminals are rational in their activities and choices because they ensure that they perpetrate their crimes where they can be convenient and where they can escape without any hiccups.

The theory is influential in terms of explaining criminal activities such as maritime piracy in Nigerian waters because the crime flourished and increase due to the perfect presence of the potential offender, suitable target and the absence of the capable guardian which are the Nigerian leaders and Nigerian security personnel. However, the theory is weak in its explanation that criminals are rational in their activities. This

is because they may not use their rationality like that of the security personnel in tackling the crimes as in the Nigerian case where recent laws enacted cater for minor and significant maritime piracy in the Nigerian shores and international waters. Attempts at minor crimes of piracy or armed robbery are now punishable, and any efforts to perpetrate the crimes in international waters are covered by the Act punishable by the Nigerian government when caught in the act. The theory is presented in the model below for practical illustration.

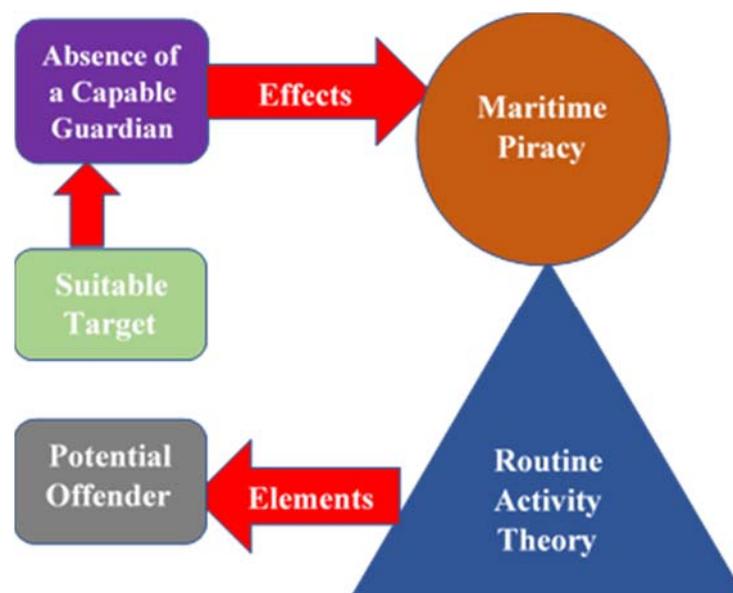


Figure 4, Showing the Practical Applicability of the Routine Activity Theory
Source: (Author, 2019)

2.2.2 Failed State Theory

The Failed State Theory was coined by Helman & Ratner (1993) and later expanded by Zartman (1995) which summarily espoused that state is a failure or characterized as failed states when they failed to deliver their essential primary responsibilities to the populace. In failed states, it is not the presence of anarchy or war that is considered, but the failure of the government to discharge its duty accordingly is also considered in this regard. Kin a situation where the government failed to provide the basic needs of its citizens, failed to secure their lives and properties, injustice prevailed and

corruption, the citizens are prone to crime and criminal activities which will further endanger lives in these kinds of states.

Maritime piracy in Nigerian waters can be understood from the perspective of a failed states because the Nigerian government for several decades allows for the collapse of infrastructure, Nigeria is the headquarters of world poverty in 2019, it has the highest corruption incidence and a low ranking in Corruption Perception Index and all other indicators of well-being show negativity in Nigeria. The citizens resorted to crimes including piracy as an alternative to survival.

If one integrate the two theories above (Routine Activity and Failed State), they are related and applicable within the context of understanding or supporting the academic discourse of maritime piracy in Nigeria and armed robbery because as assumed by Routine Activity Theory, criminals and their vulnerable prey exist continuously if there is no strong agency or constituted authority to tackle them and where there is no such authority or agency within a country, then that country or state is classified within the states that are faced with the phenomenon of a 'Failed State' or collapsed state. IMB (2018) reported that 29% of the total global maritime piracy is in Nigeria and that is alarming. It has been connected with the unavailability of strong regulations and agency that can take decisive measures and actions against the pirates.

The country is the poverty headquarters of the world according to the United Nations Development Report in 2018. With such a heavy bottom poor population and deprivation, it means the state is a failed one being a rich oil-producing country. Failure of a state can lead or open all doors of crimes including piracy for the subjugated to survive and for the simple fact that there is no authority to apprehend the criminals and bring them before the law. In this case, the Routine Activity assumption is practically confirmed here that criminals engage in their crime if there is a potential target which is the ships and vessels in Nigerian waters and where there is no authority to stop the crime since the country has drifted towards a failed state syndrome.

CHAPTER THREE: THE LEGAL FRAMEWORK FOR COMBATING MARITIME PIRACY AND ARMED ROBBERY IN NATIONAL AND INTERNATIONAL WATERS

3.1 Introduction

In this chapter, an attempt is made in critically examining the legal frameworks and strategies adopted at both national and international levels to combat maritime piracy and armed robbery in domestic and international waters. It should be observed that due to the daunting and alarming rate of sea piracy, terrorism, robbery and other forms of sea crimes and their implications on the human cost, economic effects, political and environmental consequences, the international community braced up for tackling the challenge through the most feasible and affordable means available which include conventions and laws.

There are laws on sea piracy initiated by the UNCLOS, some international organisations and agencies such as the IMO, IMB and regional efforts by continental bodies such as the European Union, African Union and other continents, sub-regional efforts as in the case of the Gulf of Guinea by the Economic Community of West African States (ECOWAS) and national efforts in the case of the Nigerian state which has the highest rate of incidence in the world as at 2018 according to IMB Report (2018).

3.2 The United Nations Convention on the Law of the Sea (UNCLOS)

UNCLOS first emerged when, in 1954, the United Nations General Assembly (UNGA) requested and demanded the international law that will focus on the high seas and oceans. By 1956, a draft treaty was prepared on the regulations concerning international seas and oceans named as Article 38-45 against sea piracy and other criminal activities in international waters. This movement set the foundation for the

final adoption of the 1958 Convention on High Seas which made some provisions on high seas and oceans internationally (United Nations Conference on Trade and Development, UNCTAD, 2014:3). The Conventions that are adopted by the UN in 1958 consist of five major regulations as presented in table 1 below:

Title	Date of Adoption	Date of Entry into Force	Contracting Parties
Convention on the Territorial Sea and the Contiguous Zone	29 April 1958	10 September 1964	52
Convention on the High Seas 1958	29 April 1958	30 September 1962	53
Convention on the Continental Shelf	29 April 1958	10 June 1964	58
Convention on Fishing and Conservation of the Living Resources of the High Seas	29 April 1958	20 March 1966	39
Optional Protocol of Signature concerning the Compulsory Settlement of Disputes	29 April 1958	30 September 1962	38

Table 1, United Nations Convention on the Law of the Sea from the 1958 Convention

Source: Adapted from (UNCTAD, 2014)

Afterwards, the Convention seemed ineffective in particular, because it had never entered into force and due to the increasing nature of sea piracy internationally, a new Convention was ratified by the United Nations in 1982 called the “United Nations Convention on the Law of the Sea (UNCLOS 1982). The UNCLOS 1982 has

supremacy over the earlier 1958 Convention because the 1958 Convention had never entered into force since it did not get a sufficient number of ratifications and additionally, more nation-states bound by the Geneva Conventions on the ratification of international law and human rights registered as members. The general provisions of the Convention are presented succinctly in table 2 below:

UNCLOS	1982	Provisions of the Articles
Articles		
Article 100		Duty to Cooperate in the Repression of Piracy
Article 101		Definition of Piracy
Article 102		Piracy by a Warship, Government Ship or Government Aircraft whose Crew has Mutinied
Article 103		Definition of a Pirate Ship or Aircraft
Article 104		Retention or loss of the Nationality of a Pirate Ship or Aircraft
Article 105		Seizure of a Pirate Ship or Aircraft
Article 106		Liability for Seizure without Adequate Grounds
Article 107		Ships and Aircraft which are Entitled to Seize on Account of Piracy
Article 110		Right of Visit
Article 111		Right of Hot Pursuit

Table 2, The Provisions of the United Nations Convention on the Law of the Sea (UNCLOS) 1982

Source: Adapted from (UNCTAD, 2014)

The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) 1988

The 1988 Convention is more complex and has given the powers to member states to take against the seizure of their ship and piracy. However, one of the loopholes in the 1958 Convention was the issue of armed robbery in the sea. Those, it was necessitated for the inclusion of laws against sea robbery which was enshrined in the Convention in 1988 under the Convention for the Suppression of Unlawful Acts against the Safety

of Maritime Navigation (SUA) (1988). The provisions of SUA 1988 are presented in Table 3 below:

Title	Date of Adoption	Date of Entry into Force	Contracting Parties	Percentage of World Tonnage
Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA), 1988	10 March 1988	1 March 1992	161	94.51
Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (SUA PROT), 1988	10 March 1988	1 March 1992	149	88.51
Protocol of 2005 to the Convention for the Suppression of	14 October 2005	28 July 2010	28	36.05

Unlawful Acts Against the Safety of Maritime Navigation (SUA) 2005)				
Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (SUA PROT) 2005	14 October 2005	28 July 2010	24	35.29

Table 3, Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) (1988)

Source: Adapted from (UNCTAD, 2014)

Apart from the UN Convention and related instruments, there are other international efforts pursuing the establishment of a legal framework to combat international piracy. These organizations include the IMO and the IMB. These organizational efforts are discussed below:

One fundamental issue with maritime protection against piracy is the issue of compliance given that essential international conventions to tackle the issue have not been signed by many countries. Moreover, laws could not provide any binding enforcement such as standing army or a standing court for the trial of the accused and

judgment. In the case of UNCLOS and SUA, there is a different approach because any ratification by a country will automatically lead to its domestication.

The international law usually came into force in domestic affairs when it is ratified fully by a particular state and that state deems it fit its advantage to apply when necessary. The issue of full compliance is still at stake because of many international provisions require further implementation measures at the national level and further enforcement efforts. (Simmons & Steinberg, 2006: 115 and Shaw, 2008: 129).

3.3 The International Maritime Organization (IMO)

The International Maritime Organisation is the leading international body that globally supervise the affairs and activities of maritime (Saiful, 2014). The logic of the emergence of the IMO is on the ground that the sea and ocean occupied over seventy per cent of the entire earth and humanity has been using the sea as a means of transportation since the primitive period (Otto, 2014). The world economy has relied on the sea for global trade and transportation, which makes water transportation a paramount source for economic development and survival. Shipping is one of the flourishing global industries nowadays (Yakubu, 2016).

IMO has a long history in the world, especially after the Second World War. In 1946, the United Maritime Consultative Council was established to undertake some complications that emanate in post-war peacebuilding and not only to restore the dignity of maritime activities but to enhance it to boost the ailing global economy (Attard, 2014). The United Nations Economic and Social Council was mandated to convene a conference to come up with an Intergovernmental Maritime Consultative Organisation (IMCO). The Conference was convened in Geneva in 1948 with some conventions adopted, but later the organization was not consultative but proactive, which necessitated for the renaming into IMO (Nunes, 2013).

IMO consists of the Assembly and Council but it uses to undertake its activities through committees and sub-committees including the Legal Committee, the Maritime Safety Committee, the Marine Environment Protection Committee, the Facilitation

Committee, the Technical Cooperation Committee and it is also subordinated by a Secretariat (Crawford, 2008).

The structural components and mandates of IMO are presented in the designed model below in an effort to minimize the huge explanations under the subject matter for an easy illustration and grasp of the meaning attached to it. IMO has diverse functions, powers, and role but this study focuses only on the role of the Organisation in maritime security as illustrated below:

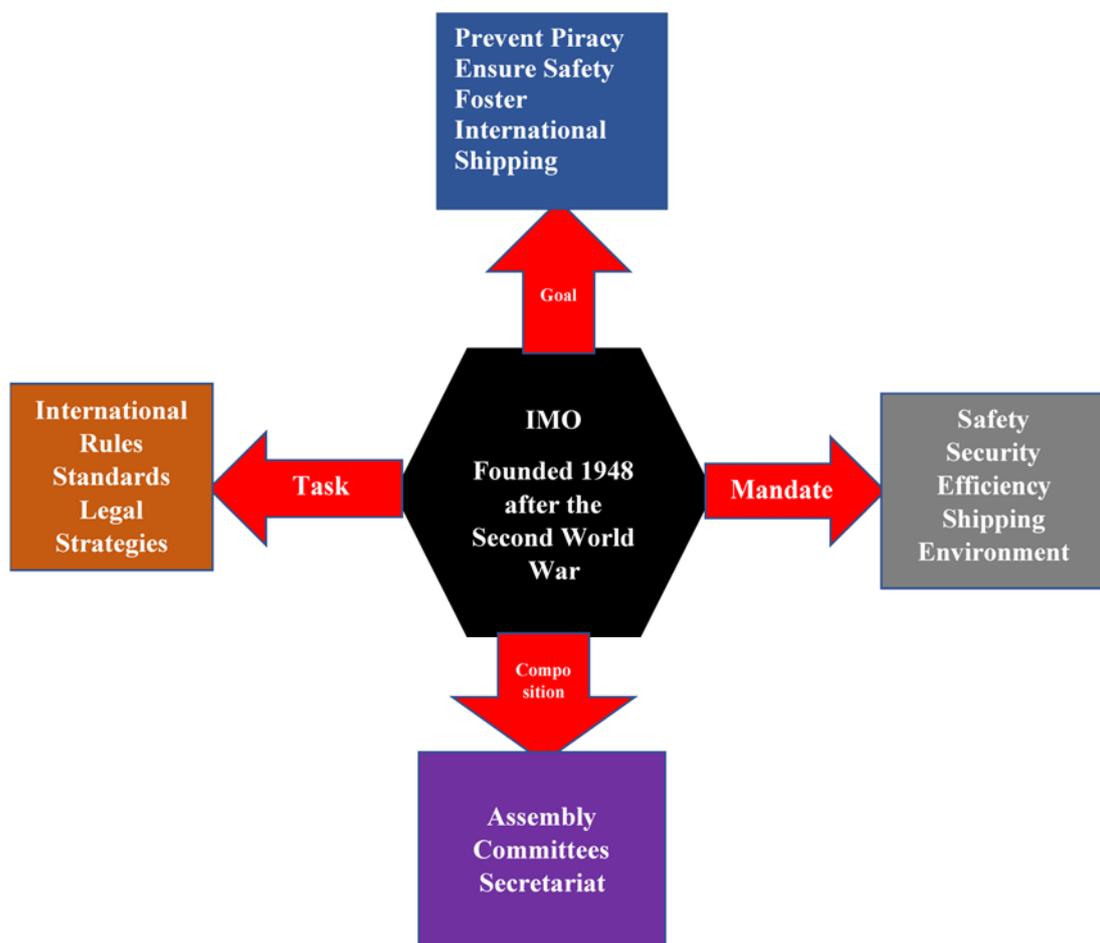


Figure 5, A Model Showing the Origin, Task, Mandate, and Goal of IMO

Source: (Author, 2019)

3.4 The International Maritime Bureau (IMB)

The IMB was formed in the year 1981 under the auspice of the ICC, which was specifically targeted at combating all forms of maritime crime and violations. The IMB became a focal point of tracking and detecting of sea piracy to the extent that the level and dynamics of the alarming rate of international piracy compelled for the formation of the IMB Piracy Reporting Centre (PRC) on October 1992 in Kuala Lumpur Malaysia (ICC International Maritime Bureau, 2018). The IMB PRC is saddled with the responsibility of undertaking the following tasks:

- Providing the current daily position of maritime piracy and armed robbery to ships and seafarers through a coordinated broadcast on the Inmarsat-C Safety NET Service;
- Reporting of the incidences of maritime piracy and armed robbery to the immediate authorities and IMO;
- Assisting the domestic law enforcement agencies in apprehending the pirates and bringing them before justice;
- Helping the hijacked ship owners and vessels to track and discover their possession;
- Providing assistance to ship crew members under attack or that are attacked;
- Providing a current update on piracy incidence or red alert through internet services and
- Publishing of a full periodic and annual reports with details of piracy statistics.

The IMB has been instrumental and vital in helping for international combat of maritime piracy by preventing its occurrence through alerting the seafarers and helping them during the attack or after the attack to detect their properties or kidnapped humans from the pirates. It is also relevant in providing useful data for research and the shipping safety by identifying the red areas and the anticipating dangers attached to the spot areas.

The IMB report indicates that six countries contribute 75% of the total world maritime piracy in 2018. These countries are presented in Table 4 below based on their ranks and incidences that took place in the year which is shown below:

Country	Incidence	Rank
Nigeria	31	1st
Indonesia	25	2nd
Bangladesh	7	Joint 3rd
Venezuela	7	Joint 3rd
Benin	5	Joint 4th
Ghana	5	Joint 4th

Table 4, Countries with the Highest Incidences of Maritime Piracy According to IMB Report in 2018

Source: Adapted from (IMB Piracy Reporting, 2018)

The above data provided by the IMB will help the vessels and ships as well as their crew members in the protection of their lives and properties because the danger zones are clear and the occurrences are tracked daily by the IMB Reporting Centre which can prevent or alert the travellers. Thus, IMB may not have the legal backing or enforcement to handle the pirates and sea armed robbers, but it has the technical and intelligence capacity to deter or prevent many attempted attacks through prior information on the impending or anticipated attacks.

3.5 The Continental Approach: African Union's Response to Maritime Piracy

Africa is the flashpoint of maritime piracy in the world comprising of around 50% of the total attacks according to the IMB Reporting Centre in 2018. The Gulf of Guinea is the highest point of the crime according to the Report. Based on that, a continental effort was made by the African Union in combating maritime piracy. One of these

efforts is the adoption of Article 3 and 4 of the Union which emphasize on the safety, security and uncompromised peace of the continent. The target of the security strategy by the African Union is to be attained by the year 2050, according to the Articles (African Union, 2019).

In order to beef up maritime security in Africa, the AU enhanced the facilitation of the adoption of a Charter against Sea Piracy entitled “The African Charter on Maritime Security Safety and Development” which was adopted unanimously by all the leaders in Lome, Togo in 2016. This movement was reminiscent of the recommendations of the IMO PRC which tantamount to the prompt establishment and the adoption of the Charter. The Charter in its provision seeks to promote the sustainable development and cooperation of the African countries towards achieving a peaceful, safer and secured sea environment and its management for the economic development of the continent. The African leaders were encouraged to ratify and sign the Charter to prevent piracy and crimes in the African seas (African Union, 2016).

The above continental effort by the AU is a giant step forward towards addressing the menace of sea piracy where the continent is recording more than half of the incidences annually since 2014. However, it should be noted that the Charter like other international laws, cannot be enforced on the member countries and it lacks the coercive apparatus for the backing of the law towards full implementation. This is one of the weaknesses that is always associated with the laws and legal strategies of combating sea piracy. Nevertheless, it is a positive move which will set the foundation for a more reliable approach in future considering the alarming rate of the incidences especially in the Gulf of Aden and the Gulf of Guinea.

3.6 The Regional Efforts towards Combating Sea Piracy in the Gulf of Guinea

The challenges of combating maritime piracy in the Gulf of Guinea is political, economic, social, environmental and most importantly legal because of unclear legal provisions and definitions of what constitutes sea piracy and armed robbery to enable for the prosecution of the criminals even when they are apprehended. These have been

the reason why the region remains an essential flashpoint in piracy with oil theft, kidnapping, armed robbery, attacks and hijack of vessels and ship on the rise (Chatham House, 2013).

Despite the existence of weak regulations to tackle sea piracy in the Gulf of Guinea, there are regional efforts and cooperation towards addressing the issue. There are the global institutions such as the UN, IMO, IMB, African Union (AU), and ECOWAS itself as well as other countries in the region that are affected who are cooperating in facing the challenges of piracy. It has been observed that a low level of cooperation in previous years hindered the actors and stakeholders from realizing their objectives of achieving the safety and security of seas in the region. In March 2012, a conference was summoned on maritime security in West Africa which was coordinated by the Africa Command (AFRICOM) and the Africa Centre for Strategic Studies which ushered in an agreement between the ECCAS and ECOWAS to work out a model of Memorandum of Understanding (MOU) and the adoption of multilateral agreements for regional cooperation. The grey areas identified are lack of adequate surveillance and funding. For instance, it has been observed that the joint surveillance by Nigeria and Equatorial Guinea navies was 95% funded by Nigeria. Nigeria has been the major key player among the countries in the Gulf of Guinea towards fostering of peace and maritime safety (Chatham House, 2013).

3.7 The Nigeria Anti-Piracy Law of 2019

The Nigerian state having realised the implications of maritime piracy and its effects on the human cost, economic, social, environmental, political and diplomatic development of the country and having understood the weaknesses of the international regulations on piracy and their inadequateness, decided to introduce domestic laws to cater for the piracy and armed robbery within its waters and in international waters within its domain or territory. A law was initiated by the Presidency titled “The Suppression of Piracy and other Maritime Offences Bill 2019” and sent to the National Assembly for passage. The National Assembly passed the Bill and the President assent to the Bill on 24th June 2019 (World Maritime News, 2019).

The Nigerian anti-piracy law provides the following as parts of its efforts to suppress maritime piracy and armed robbery in its shores and the West African region (World Maritime News, 2019).

- The Bill adopted the UNCLOS 1982 and SUA 1988 conventions and its protocols. It is stated in the opening statement of the Bill that Nigeria is a party to UNCLOS and SUA Convention and that the Bill still recognizes and affirms their essence and Nigeria's commitment to promoting them;
- The law fulfils the international requirements for standalone regulations on piracy;
- The law provides a distinct definition of piracy and other maritime sea offences which are in line with the UNCLOS submission;
- Punishment upon conviction for maritime crimes which includes taking to court for the jail of several years or fine or both;
- Return of the assets of the owners of violated maritime properties or forfeiture of proceeds of maritime crime to the Nigerian Government;
- Establishment of piracy and maritime offences fund with special sources of funding which will be a channel in the implementation of the Bill;
- The exclusive powers of jurisdiction for sea piracy is given to the Federal High Court;
- The Bill also empowers the court to seize vessels or aircraft used for maritime crimes in Nigeria or international waters.

Thus, the above indicates the trend in which the Nigerian policymakers and authorities advanced in their efforts to combat piracy. Hitherto before the enactment of the Act, no specific or particular law is found domestically on handling the cases of sea piracy and armed robbery. In most cases, they are taking to court, but they are released without taken a punitive measure because there were no regulations or legal back up to do so.

Furthermore, the laws are fresh and are yet to be ascertained of their success or failure except that they can be analyzed based on the current situation on the ground to

determine whether they are strong enough or they are weak in handling or tackling properly the cases of piracy in Nigerian waters. This can be analyzed in detail in the next chapter.

CHAPTER FOUR: ANALYSIS OF THE STRENGTHS AND WEAKNESSES OF THE LEGAL STRATEGIES OF COMBATING MARITIME PIRACY AND ARMED ROBBERY IN NIGERIA

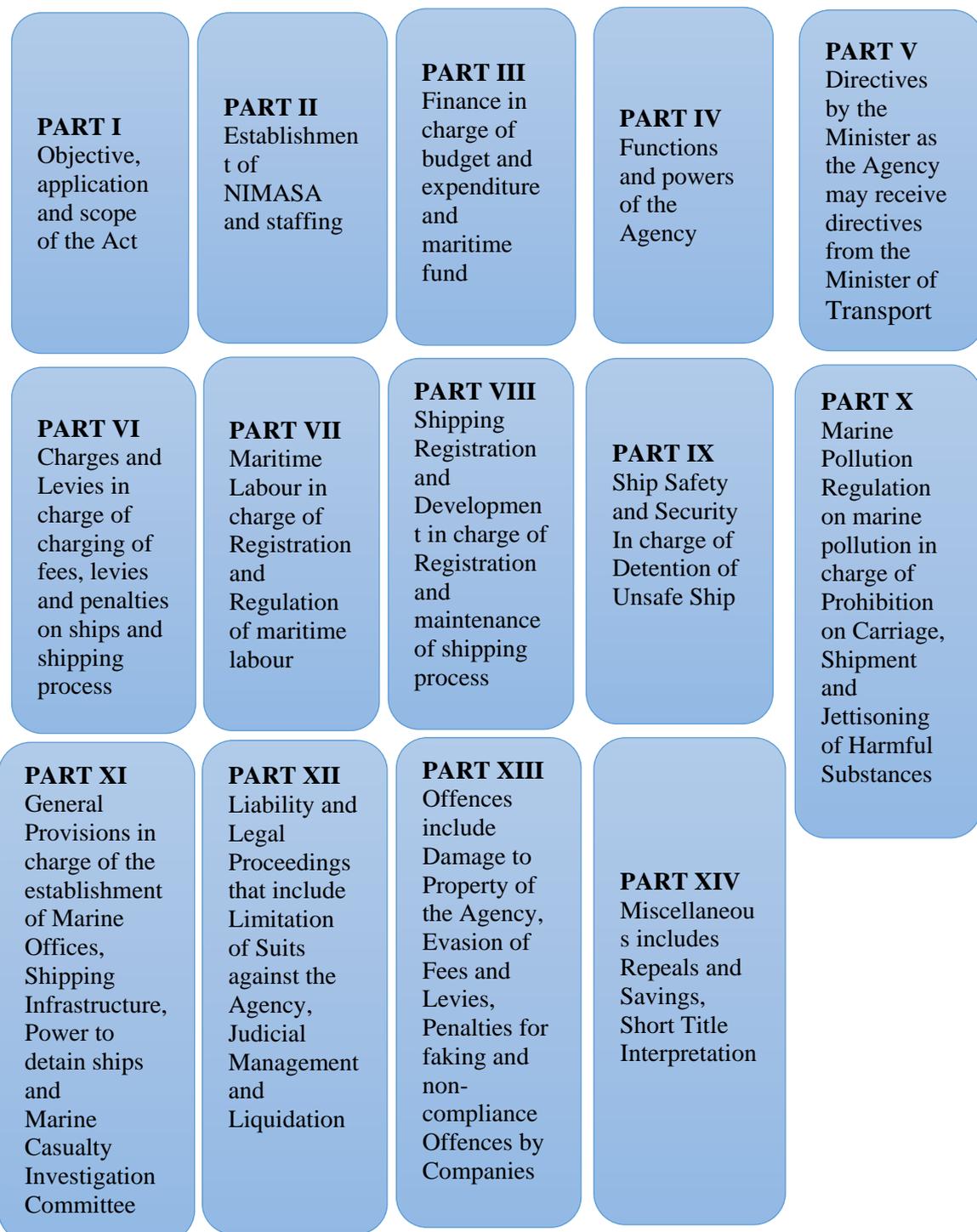
4.1 Introduction

This chapter is the critical analysis of the strengths and weaknesses of the legal strategies of combating maritime piracy and armed robbery in Nigeria which is located in the Gulf of Guinea that has been continuously recording the highest incidences of the crime. The chapter emphasizes the strengths, weaknesses, challenges, and prospects of addressing the phenomenon of maritime piracy in Nigerian waters.

4.2 The Strengths of the Legal Provisions on Maritime Piracy and Armed Robbery in Nigeria

The legal strategies that are adopted by Nigeria to combat maritime piracy and armed robbery in the Nigerian waters are three. The adoption and ratification of UNCLOS in its full pledge, the Nigerian Maritime Administration and Safety Agency (NIMASA) Act, 2007 and the Act Provide for the Suppression of Piracy and other Crimes 2019. It should be noted that the first law is an international convention which was already discussed in the previous chapters and the adoption of the laws by the Nigerian State means that the law is fully applicable in the Nigerian waters. The second law is not purposely enacted for the combat of maritime piracy and armed robbery but rather for the purpose of clearly identifying the role and function of NIMASA which is the agency that is responsible for regulating the maritime industry in Nigeria, by providing security of Nigerian waters and the safety of ships. This is because the Act for the establishment of NIMASA does not identify the sanctions and other applicable punishments for the pirates and armed robbers like in the case of the 2019 Anti-Piracy Act that was recently enacted. Before the 2019 Anti-Piracy Act, there were no specific

laws that determine the context of piracy in Nigerian waters and legal enforcement in response to the crime. Before the analysis of the strengths of the regulations on maritime piracy in Nigeria, it is better to illustrate the two major laws in the country which were not previously discussed in the work. The NIMASA Act is divided into 13 major sections revealing its formation and responsibilities as displayed in the figure below:



Source: Adapted from (The Federal Government of Nigeria: NIMASA Act 2007 and Author, 2019)

The figure above is a succinct summary of the establishment, powers, and functions and role of NIMASA in the protection of Nigerian waters, promotion of maritime safety and prevention of ships as well as ensuring their safety and function adequately. However, the missing gap is the effectiveness and the failure to give the issue of maritime piracy and armed robbery an emphasis in the NIMASA Act, 2007. The Act should have operated in ensuring that security and safety of Nigerian waters are engendered through collaboration with the Nigerian security operatives and the identification or enactment of some extant laws specifically on maritime piracy. However, the major emphasis is on revenue generation and maintenance of cleanliness in Nigerian seas as well as issues of shipping without the safety aspect in it particularly considering the Gulf of Guinea where the Nigerian waters belong to and in which the highest level of global piracy is occurring. Despite the shortcomings, the NIMASA Act is a positive regulation towards preventing piracy if there is an effective function. For the fact that the regulation exists, it means that Nigeria is conscious of the safety of ships and vessels in its territories and the Gulf of Guinea.

It can be seen that Part I and Part IX in the above figure (6) are the most important sections that are only related to the issue of maritime piracy and maritime safety before the emergence of the 2019 Act. However, the provisions NIMASA Act, 2007 did not capture it in the laws that indicate sanctions and punishments for the pirates and armed robbers which allows them to escape in most cases since there are no details for identifying what exactly is maritime piracy and armed robbery in the Nigerian context, what are the sanctions or punishment for the offences and other related matters. This has been the reason for the establishment of the 2019 Anti-Piracy Act, which is more comprehensive in approach. The second substantive law on maritime piracy in Nigeria came into being in May 2019 titled “An Act to Provide for the Suppression of Piracy and other Maritime Offences”, which is aimed at the suppression of piracy in Nigerian waters and international waters based on the UNCLOS.

The Bill, which is titled “An Act for the Suppression of Piracy and other Maritime Offences is divided into several parts as presented numerically below:

1. Act of Piracy and Prosecution of Maritime Offences;
2. Offences, Punishments, Forfeiture and Restitution;
3. Incidence Reporting and Evidence Preservation and
4. Miscellaneous

The first and second parts are presented with all their sections and subsections in a tabular form for easy identification and details of the provisions. For details of the provisions, refer to appendix I and appendix II.

There are other components in the Act, but the above two tables are the most important in this study. In analyzing the strengths of the laws, one can see that they are well-articulated and categorical in identifying what is maritime piracy, who is responsible for undertaking the judicial proceedings and the specific punishments for various offences and the related ones on those that are caught in the act of the crimes. Prior to the emergence of the 2019 Anti-Piracy Act, only the UNCLOS, SUA and NIMASA Act 2007 were in operation which are inadequate for a country like Nigeria with a unique case of recording the highest incidence of piracy globally.

Moreover, if the country were to develop a required political will, it would drastically minimize maritime piracy in its waters, and the Act is so strong that it extends beyond the Nigerian waters relying on the newly introduced Anti-Piracy Act if there is a proper implementation which can be achieved through collaboration. If the Nigerian state succeeds in addressing the significant incidences of maritime piracy, by extension, it means the total global incidences will also decrease, and this can be a good attempt for the international maritime industry.

Many studies (Ukeje & Ela 2013, Gomez 2014, Nnadi, Nwokedi, Nwokoro, Ndikom, Emeghara & Onyemachi, 2016, Hassan & Hassan 2016, Xiao, Fan & Zu, 2017 and Aboh & Ahmed 2018) hold the above view that maritime insecurity in the Gulf of Guinea is the most alarming threat in the maritime industry and that the Nigerian state can be a focal point in addressing the issues because of its hegemonic strength in the

region. However, all the studies as mentioned above were conducted when the Act for the Suppression of Maritime Piracy and other Offences 2019 was not passed into a Bill. This is the strength of this work which integrated the Act's provision in strengthening the arguments that there is a high potential for combating maritime piracy in the Gulf of Guinea. The most supporting factor in realizing this ambition is the effectiveness of the law in Nigeria. Nigerian Maritime Piracy Act can also ginger other countries in the Gulf of Guinea to follow suits which is another strength of the legal strategies. Some of the countries may even adopt the same Nigerian model with some modifications. If this prediction occurs, in a short period in the Gulf of Guinea will be sacred, and that can minimize the maritime piracy to lesser incidences and by extension, this means global security of the maritime industry.

The two theories adopted in this work; the Routine Activity Theory and Failed State are applicable in the context of this work in the sense that in the first instance, crime of any nature can occur as presumed by the Routine Activity Theory if there is a criminal, there is the vulnerable prey, and there is no prevention. The criminals are present because the state is weak going by the assumption of the theory. Lack of a functional government agency or security personnel that can prevent the Nigerian waters allow freely for the criminals or maritime pirates to flourish as assume by the Routine Activity Theory and since the waters are existing with seafarers and maritime activities in Nigerian shores and in the neighbouring international waters, the crop of vulnerable prey are made feasible for the pirates. This can be seen as the major explanation of the Routine Theory in the prevalence of maritime crimes in Nigeria more than any country in the world and the compelling need for the establishment of the 2019 Anti-Piracy Act. Nigeria recorded the highest incidence of maritime piracy of the 29% of the overall global piracy in 2018 according to IMB (2018) Report because there are the criminals and the vulnerable prey without any prevention. With the emergence of current Anti-Piracy Act in 2019, the crime is not only prevented but also punished, which may drastically minimize the incidence in 2019 and beyond in Nigeria and the Gulf of Guinea.

In the other theory, the Failed State Theory, there are myriads of problems and issues in the Nigerian state that can make the country to be identified as a failed state. Problems such as scorching poverty, prevalent unemployment, pervasive corruption, chronic hunger and malnutrition, disease, insecurity, inequality, mismanagement and misgovernance, illiteracy and other related factors contributed in opening the doors of Nigerian predicament making the country virtually a failed state that could not cater for its citizens accordingly despite being the seventh-largest oil-producing country and the tenth most populous country in the world. The resources both human and material are not harnessed and utilized for proper wellbeing of the governed. As a result, the country lost its wheel and focus, and the doors of insecurity and criminal activities are opened up in all ramifications in which one of these crimes is the maritime piracy. The policymakers are quite aware that the country is vulnerable to criminal activities and that explains why maritime piracy becomes more formidable in the Nigerian territory because the state has become a free fall for all and a haven for criminal activities and their survival. This means that the Nigerian government, by enacting anti-piracy law now recognized and accepted the fact that the country for long has no standing regulations due to the ailing and failing state. However, it is the success or failure of the regulations that will justify whether this theory has succeeded in espousing critically the subject matter of maritime piracy in Nigeria or otherwise.

In essence, the introduction of the 2019 Anti-Piracy Act can neutralize the assumption that there is no authority to take action against criminals or that the state of Nigeria is a failure. The theories succeeded in espousing the explanations of the predicaments of the maritime piracy in Nigeria previously. The strengths of the law, if it is implemented, can point to the future that is bright in terms of decreasing the crime. This is because the law for the first time states categorically the sanctions and punishments which that alone can deter the criminals due to the fear of the consequences and if they are caught, they can be used as a good example that can send fear of the aftermath of the crime action to the culprits.

4.3 The Weaknesses of the Legal Strategies of Combating Maritime

Piracy and Armed Robbery in Nigeria

Despite the efforts in establishing laws in Nigeria to combat maritime piracy and armed robbery in Nigerian waters and international waters, some factors can be the weaknesses of the legal strategies, and it is considered here as impediments to preventing maritime crimes. It should be noted that not all countries of the world ratified the UNCLOS and SUA Convention. This can make the full ratification of the Convention by Nigeria a setback. However, it has been observed (Aboh & Ahmed) that all the countries in the Gulf of Guinea have ratified the UNCLOS and SUA Convention, but they are vulnerable in terms of the internal and external security of their territories due to battling security issues in the region. The legal enforcement is the problem because there is no standing army that is constituted by the UN or the West African countries for that purpose. The pirates can escape justice.

There is another issue or weakness of the legal strategies introduced in Nigeria by the government. The NIMASA Act, 2007 gives emphasis and priority only in protection and sanitation of the Nigerian waters without recourse to piracy and armed robbery. This is the reason why the 2019 Anti-Piracy Act was introduced. However, the 2019 Anti-Piracy Act seems more sophisticated and convincing for the fact that the term piracy is clearly defined, crimes related to it are defined, punishments are designed and sanction and other issues that are attached. The weakness is the fact that laws are often not fully implemented in Nigeria. There are various well-designed policies in the country on matters of governance and security, but when it comes to implementation, that is where the problem is. The judicial system is bedevilled with prolonging and manipulation of the verdict not only in the aspect of the Act of Piracy which is just starting.

A good example is the case of the Economic and Financial Crimes Commission (EFCC) established in 2001 to cater for corruption allegations cases involving public officials. Since its inception, over 1000 top cases were reported, but only a few (less than ten) allegations were concluded to the level of conviction. There are several cases involving billions of Naira and Dollar which are lingering for over ten years. The

powerful pirates may escape justice despite the well-designed and robust Act that can see to it that justice is met on the offenders. It should be understood here that there is no study so far on this to support this assertion. This study is the pioneer in this aspect. It may be supported in future in this perspective.

In applying the theoretical framework, the Routine Activity Theory is strong here since it assumes that maritime piracy is taking place in Nigerian waters because the criminals exist, the targets are present, and there are no preventing agencies that are active in the protection. The laws can be used for the protection, but if they are not effective because of the manipulation of the legal process in Nigeria, the pirates can escape. On the other hand, the Failed State Theory is also relevant here because it explains the fact that some states, especially in the area of study in the Gulf of Guinea, are classified by scholars as failed states which could not secure the lives and properties of its inhabitants due to corruption, poverty, hunger, malnutrition, disease, and others.

4.4 The Challenges of Combating Maritime Piracy and Armed Robbery in Nigerian Waters

There are many challenges of combating sea piracy and armed robbery in the Nigerian state, even with the existence of the Anti-Piracy Act. These challenges are itemized into the following:

1. Fragile Security Apparatus: many studies (Jimoh 2015, Abdel Fatah 2017, Brume-Eruagbere 2017 and Hassan & Hassan 2017) identified that one of the reasons why Nigeria could not combat maritime piracy effectively is because of fragile security personnel and apparatus. The country is affected by the insecurity of various magnitudes in all ramifications including Niger-Delta militants, Boko Haram insurgency and farmers-herders conflict in addition to ethno religious conflicts. The security personnel is exhausted and absorbed in the different peace-keeping mission, which made the provision for a special force to tackle the issue of piracy a problem. Besides, Nigeria is still using obsolete equipment for security maintenance according to the studies above. This study, therefore, stresses that this aspect can be a severe challenge of administering the law towards combating piracy in the country.

2. **Inexperienced and Poorly Trained Personnel:** the sector that is responsible for administering and control of the affairs of maritime in Nigeria; the NIMASA has inexperience and poorly trained personnel which is a great challenge in managing the Anti-Piracy law. The Agency requires experts in the issue and matter of piracy and anti-piracy laws nationally and internationally. Although the Agency is making an enormous effort in training of its staff across the globe, there is a need for an improved training which will equip the personnel with modern knowledge of piracy and strategies of legal interpretations to ensure that laws enacted in 2019 are adequately implemented and utilized.

3. **Lack of Regional Harmony:** one of the challenges of addressing the problem of maritime piracy in Nigeria is regional harmony. Despite the existence of well-articulated law enacted in 2019 to combat piracy, it needs the cooperation and support of the other countries in the Gulf of Guinea. The cooperation is sometimes lacking because of the Anglophone and Francophone dichotomy in one hand and the influence of the world powers in influencing the Gulf of Guinea countries. For instance, countries like Benin and Cameroon pay much allegiance and cooperation to France in a far way Europe than Nigeria due to the impact of colonialism and international politics in the global era. This has been observed by several scholars including (Ukeje & Ela 2013, Gomez 2014, Nnadi, Nwokedi, Nwokoro, Ndikom, Emeghara & Onyemachi, 2016, Hassan & Hassan 2016, Xiao, Fan & Zu, 2017 and Aboh & Ahmed 2018).

4. **Corruption:** one of the major social problems that is affecting the entire fabric of the Nigerian state is corruption in all its characteristic features. Nigeria develops a notorious reputation for corruption as reported severally by the Transparency International with the recent Report in 2018 showing Nigeria as one of the low performances in Corruption Perception Index emerging as 144 out of 180 countries that were surveyed (Transparency International, 2018). Some studies (Ogundiya 2010, Mohammed 2013, Sule & Yahaya 2018 and Sule, Azizuddin & Mat 2018) identified

that corruption had permeated all the scope and levels of the Nigerian state including the security sector which is responsible for overseeing the safety of maritime industry in the country. Corruption allegations against public servants in Nigeria including the former NIMASA DG himself as reported by the EFCC (2018) can deter the laws of Anti-Piracy from succeeding. The offenders can be ignored or released by the security personnel if they are bribed, this a huge challenge. All the above challenges are clearly exhibited and explained by the Routine Activity and Failed State Theories because tendencies for crime always exist when there are challenges, and these can be actualized if the state is a failed one that cannot function effectively. The seafarers can be easy prey for the criminals in this perspective and absence of the custodian of security and safety in the maritime sector can cause piracy and armed robbery. The laws may face a significant challenge due to corruption, inexperienced and poorly trained personnel and lack of regional cooperation.

4.5 Prospects of the Legal Strategies of Combating Piracy and Armed Robbery in Nigerian Waters

There are several reasons or motivation that can make the legal strategies, especially the Anti-Piracy Suppression Law 2019 in Nigeria to succeed. These prospects are examined below

1. Technical Support from IMB: the IMB in one of its objectives set to provide technical support to world countries in tracking and tracing of ships and vessels that are travelling in international waters and to give a daily minute by minute report of the case of piracy or attempted piracy including the location and time. This can be of immense help to Nigeria by utilizing the reports and the supports to track piracy in Nigerian waters and international water under the SUA Convention in the Gulf of Guinea. The offenders can be brought before the law using the 2019 Anti-Piracy Act which already exists and provides for the punishment of the pirates according to the offence.

2. Regional Approach: Although regional cooperation is identified as one of the challenges, there is a tendency that the contagion effects of Nigerian law can help in promoting regional approach where other countries in the Gulf of Guinea too can emulate the Nigerian state and enact their anti-piracy laws similar to that of Nigeria. This may even lead to the adoption of uniform regional laws that can be unanimously applied in the Gulf of Guinea. This may drastically reduce the cases of maritime piracy in the Gulf of Guinea and in the long run or a broader perspective, and it will reduce the global insecurity incidence in the international waters.

3. Provision of strict punishment for the pirates and armed robbers: the 2019 Anti-Piracy Suppression Act provides strict and extreme punishment for the offenders on conviction. This can discourage and deter the offenders in undertaking their crimes even when opportunities are there for them to strike. This is because the sentence for life imprisonment or several years, charging of multi-million Naira and restitution as well as forfeiture can terrify the criminals, especially the smaller ones since they could not bear facing the consequences.

4.6 Practical Implications

The study has several practical implications. It is undertaken purposely as a guide for policy design and implementation. If the policymakers study the research carefully and analyze the suggestions made, it will help in addressing the issue of maritime piracy and armed robbery in Nigerian waters. The problem is a global phenomenon, and it is not expected to suddenly disappear no matter the level and effectiveness of the measures taken. The case of Nigeria is however alarming because the IMB reported that in 2018 and the first and second quarters of 2019, Nigeria is leading the phenomenon with nearly 30% of the global incidences located in the country. The study will guide in minimizing the incidences through the effective utilization of the strengths and prospects of the Anti-Piracy Suppression 2019 to achieve the security of the Nigerian waters. Proper use of legal strategies can help in doing so.

CHAPTER FIVE: CONCLUSIONS AND RECOMMENDATIONS

5.1 Conclusions

The work concludes that maritime piracy and armed robbery is an international crime that has security concern for the global key players and policymakers. The crime rate is increasing, especially in the 21st century, where it is expected to diminish due to the establishment of laws against it and a monitoring organisation. It is discovered from this work that the crime rate of maritime piracy is flourishing in two major zones; the Gulf of Aden and the Gulf of Guinea which together make almost about 40% of the total global world incidences. It is realized that piracy is affecting international travelling in waters especially the ships, vessels, and seafarers and that it has economic implications for the international maritime industry.

It is concluded from this work based on the reports by several agencies that Nigeria is found to be the country with the highest rate of maritime piracy and armed robbery based on reports by international agencies in 2019 and the last quarters of 2019 and many academic researchers consisting of 29% of the total global incidences. Nigeria is located in the Gulf of Guinea, where the crime is the highest. The study also emphasized that Nigeria has made an enormous effort in tackling maritime insecurity through the introduction of the Anti-Piracy Suppression Act in 2019. This is a good effort especially if it is implemented effectively.

The study uncovers the fact that the law introduced by Nigeria or the legal strategies have their strengths and weaknesses. The target is for the policymakers to utilize the strengths to ensure that the laws succeeded in curtailing piracy in Nigeria while to pay much attention to the weaknesses in order to avoid their overcoming of the strengths to deny success in using the law for punishing criminals and in fostering peace and tranquillity in Nigerian waters and in international waters. Some of the strengths identified in the study are the fact the law has strong sanctions and punishment for the criminals. Another strength is the determination of the Nigerian state to cooperate with

all member countries in pursuing the criminals across international waters in the Gulf of Guinea based on the provision of the law. The major weakness identified is the lack of implementation of designed laws in the country for several decades and lack of political will in addressing the issue in addition to inadequate sophisticated and untrained security agencies that can undertake the assignment of monitoring the seas. Also, the work concludes that there are several prospects of the law on Anti-Piracy Suppression in Nigeria which can make it successful in achieving its targets such as technical support from IMB, regional approach and the strict provision of the law. Nevertheless, the study also concludes that there are challenges that may affect the strategies for effective utilization including regional disharmony, corruption, inexperienced and poorly trained NIMASA personnel and fragile security operations in the country due to multi-security challenges all over the country for many decades. The study concludes that there are practical implications that can be benefitted from the submissions of this work to the policymakers and for future researchers in the field to build upon in order to realize the objectives of securitizing the Nigerian waters effectively and beyond.

5.2 Recommendations

The study recommends that for proper security and protection of the Nigerian waters and by international extension waters, the country must adopt additional techniques on that of the law introduced on sea piracy. The law is well-articulated and adequately designed, but the issue is the effective utilization. For instance, the country must have modern and adequate equipment and gadgets to counter-piracy. Information supplied by the IMB cannot be accessed if there are no sound and effective regular internet services. The incidence might be taking place in Nigerian waters unawares by the country if there is no information flow.

It is also recommended that the NIMASA personnel should be regularly and constantly trained and retrained locally and internationally to acquire advanced skills, knowledge, and information in addition to the recruitment of experts in law and law-related field

for interpretation of legal disputes concerning the maritime piracy armed robbery. This can help in making the legal strategy to work as expected.

The study also recommends that there is a need for a special force that is specially trained in antipiracy combat in Nigerian waters and the Gulf of Guinea to cater for the cases that may emerge. The inadequate security personnel and poorly equipped and trained security operatives are one of the reasons why the incidence is recorded at its highest level in Nigerian state continuously.

Furthermore, the study suggests for thorough applicability and implementation of the 2019 Anti-Piracy Act to ensure the protection of the Nigerian waters from the pirates. The country should provide an effective and well-trained security agency for the monitoring and apprehending the criminals to face the law. A regional approach towards securitizing the Nigerian waters and the Gulf of Guinea is also recommended which should be pursued by Nigeria as the leading country in the region.

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APPENDICES

Appendix I: An Act for the Suppression of Piracy and other Maritime Offences Part I

Provision of Bill
<p>Part I: Objectives of the Bill.</p> <p>1. Part I: Objectives of the Bill.</p> <p>To prevent and suppress piracy, armed robbery and any unlawful act against a ship and other maritime equipment.</p> <p>2. Scope of Application</p> <p>1. The Bill is applicable to any person onboard a ship or aircraft and fixed or floating platform navigating on or above the territorial and internal waters of Nigeria or on or above international waters.</p> <p>2. This Bill applies in the following circumstances to a person, ship, aircraft in or above international waters in relation to piracy; offender is found outside Nigeria but is in the territory of a state party to SUA Convention, or any other similar Convention and offence has been committed onboard a ship or vessel flying the flag of a party to SUA Convention</p> <p>3. Where a state of armed conflict exists to which Nigeria is a neutral party or a party to the armed conflict and is related to maritime, the armed conflict shall be involved and</p> <p>4. Where in the state of the conflict, any of the provisions of the Bill is incompatible with the armed conflict, then the law of armed conflict shall have priority.</p> <p>3. Acts of Piracy in line with UNCLOS provision</p> <p>a. The illegal act of violence, an act of detention, or any act of depredation committed for private ends by the crew or any messenger of a private ship or private aircraft and directed in international waters against another ship or aircraft against a person onboard a ship or aircraft</p>

b. Act of voluntary participation in the operation of a ship or an aircraft with knowledge of facts making it a pirate ship or aircraft and

c. Act of inciting or intentionally facilitating an act described in subparagraph (a) or (b) of this section.

4. Maritime Offences and Unlawful Acts at Sea

Maritime offences include armed robbery at sea and any other act, other than piracy under this Bill, committed by any person or group of persons where that person or group of persons or their sponsors unlawfully within the Nigerian maritime zone or Nigerian jurisdiction:

a. Seizes or exercises control over the ship, aircraft or fixed or floating platform

b. Performs any act of violence against a person onboard a ship, an aircraft or fixed floating platform

c. Destroys a ship or an aircraft or causes damage to a ship or an aircraft or its cargo

d. Places or causes to be placed on a ship, an aircraft or a fixed floating platform a device or substances which is destructive

e. Destroys or damages any maritime navigational facilities or seriously interferes with its operation

f. Communicates information which he knows to be false, thereby endangering the safety of navigation of a ship, an aircraft or a fixed floating platform

g. Receives whether in banks or any financial institutions or demands a ransom of any payment in respect or connection with piracy

h. Falsely pretends to have suffered or become a victim of piracy, any maritime offence or an unlawful act under this Bill

i. Discharges or allows to escape from a ship, an aircraft or a fixed floating platform, oil, petroleum products, liquefied natural gas, or any other hazardous or noxious substances in a quantity or concentration that causes death or serious injury

j. The use of a ship, aircraft or a fixed floating platform in a way that causes serious injury or death

5. Trial of Offences

Subject to the provision of the Constitution and Administration of Criminal Justice Act that relates to the powers of prosecution by Attorney-General of the Federation,

1. prosecution of all offences under this Bill shall be carried out by the Attorney-General of the Federation, any law officer so designated from the Attorney-General of the Federation's Office and the agency with the consent of the Attorney-General of the Federation

2. The Federal High Court in Nigeria with the exclusion of all other courts shall have jurisdiction to consider matters under this Bill

3. The court may try any of the Offences under this Bill committed against a ship registered in Nigeria or flying Nigerian flag, against a ship or fixed floating platform within the continental shelf of Nigeria, against a citizen of Nigeria, in Nigerian territory, including its territorial waters, by a Nigerian citizen and in the case of piracy, against any ship or aircraft outside.

Source: Adapted from (The Federal Government of Nigeria: An Act for the Suppression of Piracy and other Maritime Offences 2019)

Appendix II: Act for the Suppression of Piracy and other Maritime Offences Part II

<p>Provision of Bill</p>
<p>Part II: Offences, Punishments, Forfeiture, and Restitution</p> <p>1. Offences by persons and ships</p> <p>Commits or attempts to commit, facilitates, aids, abets, conspires or participates in an act of piracy or any maritime offence or unlawful act under the Bill shall be liable on conviction to any penalty or punishment as provided for under this Bill.</p> <p>2. Exclusion of certain acts</p> <p>It shall not be an offence under this Bill to transport:</p> <ol style="list-style-type: none">1. An item or material or equipment or specially designed material or prepared for the processing, use or production of special fissionable material2. Any equipment, material software or related technology that significantly contribute to the design, manufacture or delivery of a BRCN weapon which relates to a nuclear weapon or other nuclear explosive device intended to be used for the purpose specified in paragraph a <p>3. Punishment for piracy, maritime offences and other unlawful acts</p> <ol style="list-style-type: none">1. Any person who commits an act of piracy, armed robbery at sea or any unlawful act under this Bill whether he was armed with firearms during the commitment of the crime or not, shall be liable on conviction to life imprisonment and a fine of not more than N50, 000, 000 (fifty million Naira) (\$138, 015) in addition to the restitution to the owner or forfeiture to the Federal Government of Nigeria or whatever the person has obtained or gained2. Anybody corporate or entity that commits an offence of piracy shall be liable on conviction to a fine of not less than N500, 000, 000 (five hundred million Naira) (\$1, 380, 150) and each of its directors or principal officers or any person responsible

for its management and control, shall be liable to a fine of not less than N100, 000, 000 (one hundred million Naira) (\$276, 030) and imprisonment for not less than 15 years each in addition to restitution to the owner or forfeiture to the Federal Government of Nigeria of whatever property gains

3. Any other maritime offence or unlawful act as defined under this Bill, shall be liable on conviction to a fine of not less than N350, 000, 000 (three hundred and fifty million Naira) (\$966, 105) and each of its directors or principal officers or any person responsible for its control or management shall be liable on conviction of not less than N100, 000, 000 (one hundred million Naira) (\$276, 030) and imprisonment for not more than 12 years in addition to restitution or forfeiture to the owner or the Federal Government of the gains.

4. Punishment for attempted piracy, maritime offences, and other unlawful acts

1. Any person who attempts to commit any act of piracy on conviction to not less than 12 years imprisonment and a fine of not less than N100, 000, 000 (one hundred million Naira) (\$276, 030)

2. A maritime offence or any other unlawful act shall on conviction be liable to 10 years imprisonment and a fine of not less than N75, 000, 000 (seventy-five million Naira) (\$207, 022.50)

Source: Adapted from (The Federal Government of Nigeria: An Act for the Suppression of Piracy and other Maritime Offences 2019)

