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AN EXAMINATION OF INTERNATIONAL LEGAL FRAMEWORK FOR MARITIME SAFETY AND SECURITY WITH SPECIFIC REFERENCE TO CHALLENGES AND IMPEDIMENTS TO THEIR ENFORCEMENT: NIGERIA IN PERSPECTIVE

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Abstract

With an emphasis on Nigeria's experience, this paper reviews the evolution of maritime security legislation worldwide and at local level with a view to identifying challenges which hinder its effectiveness in dealing with safety risks in global maritime waters. The study was based on primary and secondary sources of information, mainly sourced from international and domestic legal frameworks including the United Nations (UN) Convention on the Law of the Sea (UNCLOS), Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, the Convention for the Safety of Life at Sea (SOLAS) among others; secondary sources include books, journal articles, conference proceedings and Internet materials. The study has shown that maritime safety and security are subject to a number of international laws. The deficiencies in the implementation of these International Maritime Law which arise from socio-legal, institutional and policy issues in Nigeria were also pointed out to undermine its effectiveness. The study also recommends the adoption of operational legal, institutional and policy measures to tackle a number of implementation challenges such as maritime security risks in Nigeria's territorial seas with a view to maximising its maritime resources for national development.

Keywords: Laws of the Seas, Maritime Safety and Security, Enforcement, International Legal Framework

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Background

In order to fully exploit the enormous potential of this sector, safety is a vital aspect of management and practice at sea. In order to fully exploit the potential of the maritime sector, it is essential that a safe maritime environment conducive to global peace and stability be available. In view of growing world population needs for food, employment, energy and marine biodiversity, maritime practice and conservation can only be maximized if sea areas are safeguarded, as Gilpin rightly points out.[1]

In the government's view, maritime security is a matter of protecting the nation's marine resources, space and operations against all forms of man made threats. The achievement of this objective is to prevent and combat all forms of criminal activities through Internal and External Mechanisms, in order to preserve National Territorial integrity, Peace and Order on the Maritime Sector. On the other hand, maritime security at a global level focuses on eliminating all forms of crime and transnational organised crime carried out within the maritime environment that may endanger the marine environment or prevent the realisation of the blue economy.[2]

The adoption and implementation of regulatory and policy measures to safeguard national integrity and promote good order on the sea is an important element in ensuring marine safety. There are no external boundaries to the ocean or its resources, and the different maritime security threats have a global nature. Consequently, this is dealt with in the region and worldwide through supranational legislation. It is as old as man's civilization to use the ocean for transport of goods and people. From bulk transport, it was necessary to adopt codes to regulate the peaceful use of the sea. The first codified law of the sea was the Rhodian Law of the Sea to regulate trade in the Mediterranean, and later mediaeval naval laws of such as the Wisby Laws were introduced.[3]

As maritime business has grown, however, so have threats to security such as piracy and others. The sea's laws have been evolving over the past century in response to new and emerging threats. The main international instrument for maritime practice and management today is the UN

[1] Gilpin R., 'Enhancing Maritime Security in the Gulf of Guinea' (2007) (6) Strategic Insights, 2-14.

[2] Bueger C. and Edmunds T. 'Beyond Sea-Blindness: A New Agenda for Maritime Security Studies', (2017) (93) *International Affairs*, 1293-1294

[3] Babatunde E. and Abdulsalam M. 'Towards Maintaining Peacefulness of the Sea: Legal Regime Governing Maritime Safety and Security in Nigeria', (2021) (12) *Beijing Law Review*, 529-559

Convention on the Law of the Sea UNCLOS of 1982. The conclusions of the research paper should summarise key points, providing readers with a sense of context. Although conclusions are not usually indicative of new information which was not already mentioned in the article, they can often refer to other issues or may provide a fresh perspective on them. Insecurity at sea has traditionally been a major challenge, affecting the utilisation of the socio-economic benefits of the marine ecosystem. In recent centuries, as there was no great naval power in this area, the sea has been recognized as a potential danger zone throughout the Second Century, especially within the Mediterranean. As the Romans acquired slaves from pirates, pirate activities became more severe and disrupted shipping of wheat between Egypt and Italy. After that, pirates took over the Mediterranean and set up a base in Cilicia. Pirates were known to kidnap ship crews as hostages who were then sold into slavery.

In addition to piracy, other forms of violence on the seas that cover continents are also posing a maritime security threat. Piracy, armed robbery of ships and illegal, unreported and unregulated fishing are the main threats to maritime security. In addition to piracy, other forms of violence on the seas that cover continents are also posing a maritime security threat. Piracy, armed robbery of ships and illegal, unreported and unregulated fishing are the main threats to maritime security.[4] To cite an example, the International Maritime Bureau of 2008 indicates that the global shipping industry reported 293 incidents of piracy and armed robbery of ships, during which 49 ships were hijacked and 889 crew members were taken hostage in that year alone. Similarly, between 2006 and 2010, the shipping community suffered huge losses due to maritime insecurity, reaching millions of dollars in cargo and money paid as ransoms for the release of kidnapped individuals. Therefore, a global problem for the world community that has remained unresolved is sea insecurity from the Mediterranean to the Indian Sea, East China Sea, South China Sea and Atlantic Ocean.[5]

When it comes to maritime security, the Gulf of Guinea is one of the most dangerous places in the world. This is despite concerted efforts from all sides to solve this issue, both at home and abroad. In 2017, the region recorded 97 incidents of pirate attacks affecting 1,726 seafarers and

[4] Babatunde, E. and Abdulsalam, M. (n 5)
[5] Ibid

causing total damage of around US$13.2 million, the second highest rate of maritime insecurity compared to other regions. Between 2015 and 2018, the frequency of attacks increased from 54 to 112 in West African waters. The majority of attacks take place in Nigeria and other neighbouring West African states, such as Benin, Ghana, Congo or Cameroon[6]. Similarly, the International Maritime Bureau (IMB), the global maritime community in 2019 recorded 75 incidents of kidnappings and kidnappings for ransom, including 62 in West Africa and 8 of the 9 ship attacks in Nigerian waters. In the 1st and 2nd quarters of 2019, 21 incidents occurred in the country.[7] In the meantime, since 1986, Nigeria has been a signatory of the UN Convention on Bilateral Cooperation which came into force in 1994. The African most populous nation has also incorporated UNCLOS through the Counter Piracy and Other Marine Crimes Act (SUPMAO) in 2019. There are still serious security risks in the UNCLOS's robust provisions, current maritime practice and administration. Maritime safety challenges remain a major obstacle to realising the long awaited "blue economy" throughout West Africa and particularly in Nigeria.

The provisions of UNCLOS have proven insufficient to address the many emerging maritime security issues such as maritime terrorism, migrant smuggling, port security and transfer of Weapons of Mass Destruction (WMD) and jurisdictional issues that seem to have become obsolete under the UNCLOS regime. The persistence and severity of the security challenge points to limited progress, although international support arrangements may be able to overcome limitations in the UN Convention on Climate Change. The security provisions of the UNCLOS, in order to determine whether there is a gap between them and which has made it difficult for them to fulfil their stated maritime safety objectives in Nigerian waters, need to be taken into account with regard to the growing problems concerning maritime safety in Nigerian waters.[8]

Existing studies address the Nigerian marine environment with a focus on insecurity in the Niger Delta region of Nigeria. However, there is a lack of literature on the development of the law of the

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[6] Udodiong I., 'Here's why West Africa is Becoming the World's Piracy Hotspot Pulse (2019) <https://www.pulse.ng/bi/politics/heres-why-west-africa-is-becoming-the-worlds-piracy-hotspot/n93c02z> accessed 12 May 2022

[7] Bartlett C., 'IMB: West Africa Remains World's Top Piracy HotSpot', (2019) Safety at Sea. Cited in Babatunde, E. and Abdulsalam, M. (n 5)

[8] Ukeje C., and Ela W. M., *African Approaches to Maritime Security-Gulf of Guinea*' (Bonn: Friedrich-Ebert-Stiftung, 2013)

sea to determine the inherent limitations of the current international law of the sea regime, its impact on the effectiveness of maritime security regulations and the challenges that undermine its effectiveness in Nigeria.

Development of International Maritime Law: the UN Convention on the Law of the Sea (UNCLOS III)

Traditionally, in order to import goods and passengers into foreign trade, traders relied on the sea. Rules on ocean use and its resources have not yet been established. Various empires have been forced to build some sort of maritime code in order to define rules about how the sea is used. Laws of the Sea of Rhodes 900 AD, Laws of Wisby passed in the Baltic Sea, Laws of the Hanseatic Towns of the German League, Laws of Oléron of the French Isles, both inspired by Consolato del Mar, are among the ancient laws of the sea.[9] The International Maritime Council, which was founded in 1897 under the auspices of a number of UN bodies including the Intergovernmental Marine Organisation IMO, has taken certain steps to encourage the adoption of common marine legislation. Such legislation has also helped to create international tools, for example The Hague Rules, Visby Regulations or Salvage Conventions.

The 1958 Geneva Convention on the Law of the Sea was the first codified multilateral law of the sea instrument. The Conventions were adopted in a first United Nations conference on the Law of the Sea, which took place from 24 February 1958 to 27 April 1958 in Geneva, Switzerland and an additional protocol has been opened for signature. These instruments were:

(a) the Convention on the Territorial Sea and Contiguous Zone (CTS);
(b) the Convention on the High Seas (CHS);
(c) the Convention on Fisheries and Conservation of Living Resources of the High Seas (CFCLR);
(d) the Convention on the Continental Shelf (CCS); and
(e) the Optional Signature Protocol in the context of Mandatory Dispute Resolution (OPSD).

[9] Vitzthum W. G., *From the Rhodian Sea Law to UNCLOS III* (Ocean Yearbook Online, 2013) 56-69 <https://brill.com/view/journals/ocyo/17/1/article-p56_.xml> accessed 23 June 2022

The Second United Nations Conference on the Law of the Sea, which took place between March 16 and April 26, 1960 in Geneva, Switzerland, was necessary as a consequence of unresolved issues from the previous conference. It was nevertheless not possible to carry out the other UNCLOS. Efforts to replace GCLOS, which is now replaced by UNCLOS III, were launched in 1967 when the third UN Convention on the Law of the Sea UNCLOS III was adopted at the United Nations General Assembly.[10]

The most important global instrument in the area of maritime practice and administration, also known as the Ocean Constitution, is the 1982 United Nations Convention on Sea Law UNCLOS. UNCLOS was negotiated at the Third UN Conference on the Law of the Sea, negotiations concluded in Montego Bay, Jamaica in 1982, but the Convention only entered into force in 1994. It codified the provisions of the previous instrument, the 1958 Geneva Convention on the Law of the Sea (GCLOS), concerning the status of the territorial sea, the contiguous zone, the continental shelf and the high seas. Shelf, seabed and seabed as a common heritage of humanity. This Regulation establishes the legal boundaries and regime concerning coastal states' claims, which include 12 nautical miles of territorial sea, 200 kilometres of exclusive economic zones or 350 km of continental shelf area.[11]

Challenges Militating Against the Effective Implementation of UNCLOS Security Provisions in Nigeria

Issues Bordering on Domestication of UNCLOS

The Federal Republic of Nigeria is a single state governed by the dualistic principle of international law. It follows from this that only at the time of domestication can an international instrument signed and ratified by a Nigerian State be used. Section 12(1)(2) of the 1999 Constitution unequivocally states that no treaty between the Federation and any other country shall have the force of law to the extent that such treaty has been enacted by the National Assembly. It also allows

[10] Boyle A. 'Further Development of the Law of the Sea Convention: Mechanisms for Change' (2005)(54) *The International and Comparative Law Quarterly*, 563-584

[11] Ahmed A., 'International Law of the Sea: An Overlook and Case Study', (2017) (8) *Beijing Law Review*, 21-40

the national legislature to legislate for or on behalf of the Federation in matters not falling within the exclusive list of legislation relating to the implementation of a treaty. This constitutional position has been confirmed by the courts in a number of court rulings. For example, in the Nigerian case of *Abacha v Fawehinmi*[12] the Supreme Court ruled that a treaty has no binding force until domesticated by the Nigerian legislature into Nigerian law.

The Convention was ratified in Nigeria in 1986, but it has not been explicitly domesticated until 2019 at the latest. UNCLOS was domesticated through the instrumentality of the Suppression of Piracy and other Related Offences Act (SUPMAO) of 2019. Although the nationalisation of UNCLOS is a welcome development, the Act does not address the details of the provisions of the Convention which need clarification and which a signatory State may improve upon by adapting its version of the Convention.

The SUPMAO is an instrument implementing the provisions of UNCLOS, the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) 1988 and its protocols. However, it fails to fulfil the obvious limitation of UNCLOS security regulations in its attempt to combat piracy, armed robbery and other forms of maritime crime against vessels, aircraft, fixed or floating platforms. Nigeria's poor stance on nationalising the Convention has been one of them. Moreover, there was no explicit reference to UNCLOS in the national instrument that introduced it into law. Instead, it was only a simple adoption that did not explicitly adapt the provisions of the Convention with regard to Nigeria's needs or improve the different limitations provided for by the United Nations Convention on Law and Order. National rules and policy need to be matched by regulations such as piracy control, illicit transits, pollution or transfers of harmful substances.[13]

Security Problem Posed by the UNCLOS Innocent Passage Regime

It is argued that innocent passage is not a fundamental right, but rather a privilege which the coastal State is willing to grant or tolerate. It makes it difficult for a coastal State to refuse innocent passage to a ship, although UNCLOS specifically mandates that such passage be free of harm. For instance,

[12] [2000]6 NWLR [pt 660] 228-288

[13] Babatunde E. and Abdulsalam M. (n 5)

there must be a harmful act committed by a ship that is to prevent innocent passage. On the whole construction is considered to be of no concern.[14]

The UNCLOS Safe Passage Regulations, on the other hand, appear to provide excessive protection to the coastal State. For example, according to the interpretation of Article 19(2) UNCLOS, virtually all forms of unarmed travel by naval ships present a threat to the coastal state and thus are perceived as unfair. Accordingly, certain West Coast States impose a condition on ships intending to make peaceful crossings requiring them to inform the coast state in advance and seek authorisation prior to their arrival. Notice and approval are not included in the UNCLOS as this is commonly practised by western nations, particularly if the ship enjoys innocent passage warship grants under customary international law status.[15]

In addition, the Coastal State laws and regulations to be complied with by a vessel pursuant to Article 21 of UNCLOS may also validate the requirement for prior notice and consent as a condition precedent in exercise of an innocent passage. Such a condition, when codified, constitutes an unreasonable obstacle to innocent passage, which the coastal State may not resort to under Article 24 provisions such as a condition before granting innocent passage. There are certain aspects of innocent passage which need to be laid down in detail, and issues must be solved via the codification of regulations. Moreover, the power to adopt laws regulating various aspects of unaccompanied travel is vested in a Coastal State. Furthermore, it is entitled to legislate in order to regulate marine scientific research and hydrographic surveys with a view to preventing infringements of the rules on Customs, Immigration, Taxation activities and Sanitary Regulations.[16] In cases where a coastal State is required to comply with the conditions that must be fulfilled before it may exercise both civil and criminal jurisdiction in respect of an anchored vessel during safe passage.

First, the civil crime must directly concern the coastal State or peace and order in the territorial waters, and the ship must have left the territorial sea for inland waters in the case of civil jurisdiction and out of territorial waters in the case of criminal jurisdiction. This allows for a vessel

[14] Ibid
[15] Ibid
[16] UNCLOS Article 29(2)

which commits criminal acts in the course of an orderly crossing, and its passengers to avoid liability on time. The failure of the Nigerian State to implement the necessary legislation for this purpose leads to insecurity and the uncontrolled commission of transnational organised crime by ships in the celebrated Innocent Passage. The riparian countries have responsibility for protecting their waters, but the UN Convention on Biological Diversity has so many conditions that this can't be achieved. Also, it is necessary to ensure that there are appropriate controls on the accidental passage of warships and commercial ships.[17]

Failure to Address Security Challenge of the UNCLOS Continental Shelf Regime

There are two tightly connected parts of the sea, an exclusive economic zone EEZ and a continental shelf. There is a limit of 200 nautical miles in the EEZ regime[18], whereas the continental shelf regime may extend to 350 nautical miles from baselines in addition to 200 nautical miles.[19] It is also necessary to extend the State's jurisdiction, up to a distance of 350 nautical miles, with regard to monitoring and securing the outermost boundary of the sea floor for marine security purposes.

The UNCLOS prescribes the procedure for extending the boundary of the continental shelf beyond 200 nautical miles.[20] It is by drawing straight lines at a length of up to 60 kilometres and linking fixed points according to the Longitude and latitude coordinates, that Coastal States limit this scope.[21] According to equitable geographic representation, the continental shelf boundaries are defined. The Commission then makes recommendations concerning the demarcation of continental margins, which bind the thickness of seafloor sedimentary rocks, calculation of surface slopes, bathymetry and properties of the margin's natural constituents.

These are complicated legislative requirements, which rely on technological calculations to determine them. The continental shelf, the continental slope and the continental uplift should be taken into account. In order to accept an application from a Republic of the River Basin, the Commission must ensure full compliance with these requirements. Likewise, in the event of a

[17] Babatunde E. and Abdulsalam M. (n 5)
[18] Article 57 UNCLOS III
[19] Article 76(4-6) Ibid
[20] Ibid
[21] Article 76(7)

demarcation dispute among the applicants and their neighbours, such an application shall be refused. Legal and scientific expertise, using special equipment, is needed to extend the outer limits of the continental shelf. This will lead to significant financial consequences for the Coastal States concerned.

These requirements cannot be met by Nigeria. This limits the area in which she enforces safeguards and widens the area from which threats can spread into the national maritime space. In addition, in order to monitor its maritime space, Nigeria has insufficient equipment, facilities and resources for navy and law enforcement officers. For this reason, the trawler and other international vessels are entitled to use submarines or other means of navigation when they commit crimes such as illegal, unreported and unregulated fisheries. Furthermore, other forms of maritime crime such as transnational organised crime, the transfer of hacked weapons of mass destruction and armed robbery are likely to occur because of an enlarged continental shelf and third countries' rights thereon. The flag of convenience may be flown on board a ship engaged in illegal activity.[22]

In spite of the government's efforts to provide security and surveillance equipment via fleet recapitalization through navy boats, there is still a significant problem in Nigeria with sea insecurity. To improve the safety posture, unmanned aerial vehicles and drones are needed. Expanding the outer limits of its Continental Shelf will add to Nigeria's security responsibilities which it does not yet have in place as a result of an inadequate protection of its sea space. In order to expand Nigeria's continental shelf from 200 nautical miles to 350 nautical miles, the Senate through the Maritime Transport Committee is seeking to do so. This was done in the context of exclusive rights for exploring and exploiting Continental Shelf resources on an expanded continental shelf which Nigeria would enjoy as a state coast.[23] Exclusive rights to oil and gas exploration will also be granted to Nigeria in the Continental Shelf.[24]

Nonetheless, the authors expect that this expansion of Nigeria's continental shelf approved by UNCLOS will be followed by an increase in security equipment and facilities which are not yet able to protect Nigerian territorial waters. Moreover, the potential of security threats to penetrate

[22] Babatunde E. and Abdulsalam M. (n 5)
[23] Article **77**
[24] Article 81

Nigeria's territorial waters is created by a number of rights which can be acquired by Other States on the continental shelf.

Limitation on Use of Force for Securing National Maritime Space

While enforcement is of the utmost importance to any legislation, it can only enter into force when full application has been made. But enforcing its provisions is one of the most pressing challenges for international law. Piracy and armed robbery of ships are the most common maritime offences, which is why the UNCLOS contains a wide range of provisions on piracy, including measures taken by the States concerned, inter alia, intergovernmental cooperation to combat piracy and the right to be prosecuted.

Before crimes can be punished, the process between surveillance, arrest and prosecution must be precisely timed, and this relates to execution. These processes do not need to be difficult to explain, where the offence concerned is a domestic crime. There will be no such principle for piracy, which is an international crime. A number of countries have been affected by the surveillance, apprehension and prosecution process. The Convention's position on the prohibition of use of force makes it especially difficult to fight piracy and Armed Robbery in accordance with UNCLOS. Piracy and armed robbery of ships are violent crimes that often result in massive loss of life and money. It is common that perpetrators are predisposed to fighting, and therefore the law allows for use of force in certain circumstances.[25] The resort to the use of force in combating the crime of piracy has been repeatedly disapproved of by Nigerian courts.[26]

The Principles of Law of the Sea Enforcement expressly prohibit the use of force when it is avoidable. Where necessary, the rules established by international law and jurisprudence should apply in relation to the issuance of appropriate notifications as well as compliance with Human Rights. The use of force to enforce at sea should be a last resort and proportionate, according to

[25] Article 19(2)(a); 39(1)(b) and 301.

[26] *I'm Alone Case* McLaughlin R. 'Authorizations for Maritime Law Enforcement Operations', (2017) (98) *International Review of the Red Cross,* 465-590; *Saint Vincent and Grenadines v Guinea* ICGJ 336 (ITLOS 1999).

scholars such as Helmut.[27] This study argues that the key limitation of the Convention in terms of hampering efforts to tackle sea insecurity is its clear prohibition on use of force under UNCLOS. This above dissenting opinion is more especially with reference to a high-risk area like Nigeria, where a ship or boat has been determined to be owned by pirates, the explicit legal requirement that that ship be properly notified and that force be used as a last resort puts officials at risk. There is a struggle going on between law enforcement agencies and the crew of the ship. In attacks in Nigerian waters, pirates are notoriously ruthless and often ready for battle. In the course of their voyage through the Gulf of Guinea, an offshore supply vessel DSV E. Francis came under attack by pirates at Brass Port in Nigeria's territorial waters during March 9, 2019. In 24 hours, this incident was the 3rd attack of its kind. The pirates, armed with machine guns, had approached the supply ship in two speedboats, and the crew had alerted the captain of the Navy's security escort, who had manoeuvred the pirates. One of the pirate ships fired with the escort ship while those of the second speedboat boarded the ship via an extended ladder. The engine room where they took the five men.[28]

Again in April 2019, four pirates opened fire on an oil tanker along the Bonny River Inner Anchorage, the tanker's captain signalled his marine guard and this resulted in a shootout between the marine guard and the pirates, one of whom of the security guards was injured and the pirates then retreated. Cruel attacks are not confined to ships on the move, even ships at anchor are not spared. In April 2019, pirates attacked a product tanker at Bonny River Inland Anchorage in the Niger Delta. The pirates boarded the ship and opened fire on its shelter with an automatic weapon. The Nigerian Navy was notified, two Navy vessels responded to the distress call, leading to an exchange of fire between the Navy and the attackers, although a security officer was injured. The Niger Delta is considered the most active piracy zone. The region recorded six boat hijackings in 2018, 13 out of 18 boats were fired upon, 130 out of 141 hostages were taken from the region and 78 out of 83 seafarers held for ransom were in the region. As a result of the severity of attacks in

[27] Helmut T '*Combating Piracy: New Approaches to an Ancient Issue*', In L. del Castillo (Ed.), Law of the Sea, From Grotius to the International Tribunal for the Law of the Sea. (Netherlands: Brill Nijhoff, 2015)
[28] Edoza G., 'Pirates Kill Naval Officer; Kidnap Five Sailors in the Niger Delta, (2019) *Ships and Ports (United Kingdom*). <https://shipsandports.com.ng/pirates-kill-naval-officer-kidnap-5-sailors-niger-delta> accessed 23 June 2022

Nigerian territorial waters, which have spread to ports, Nigerian ports have recently been blacklisted by the United States Great Circle. A significant restriction and an escape route for pirates are the restrictions placed on ships exercising their right to pursue suspected pirate vessels in territorial waters of a third country.

Inadequate Funding and Poor Enforcement Capacity

The issue of insufficient enforcement capacity is one of the major challenges that undermines the effectiveness of security arrangements under UNCLOS in Nigeria. With the end of military rule in Nigeria, the defence sector also suffered from severe neglect and a lack of funding. This has thus had an adverse effect on professionalism, operational effectiveness, transparency and accountability in the defence sector to date. Before that, Nigeria was one of Africa's most powerful forces and its Navy is the continent's biggest, The Maritime Enterprise reports. The Navy has been left with a shadow of its own due to decades of underfunding and corruption. Vessels, equipment and facilities designed to perform security functions are poorly maintained and poorly repaired, while frequent recruitment and training under embezzlement has left the Navy ill-equipped, hampering officers' work dynamics and increasing openness to corruption in collaboration with the oil thieves or bunkers. There are also more opportunities in corruption because of the Navy's mandate to meet demand for private protection through collaboration with private security firms.[29] Nigeria's coast is approximately 400 nautical miles and the country has an EEZ with a continental shelf of about 200 nautical miles. These are major water resources that must, therefore, be secured in a proper way with the necessary facilities and equipment. As has been mentioned above, the Nigerian Navy and other support agencies are in need of certain state of the art equipment that is required to properly protect the nation's shipping sector.[30]

[29] Ostensen A. and Brady S., Capacity Building for the Nigerian Navy: Eyes Wide Shut on Corruption? (Bergen: The U4 Anticorruption Resource Centre, Michelsen Institute, 2018)

[30] Ibas I.E. 'Security of the Nigerian Maritime Domain-Issues and Options', Remarks Made at the West African Shipping Summit Held during the London International Shipping Week on 10 Sep. 19, 26 September 2019. <https://www.navy.mil.ng/2019/09/26/security-of-the-nigerian-maritime-domain-issues-and-options> accessed 23 July 2022

Due to insufficient training of law enforcement agents as well as a lack of funding for the relevant agencies concerned, it is also difficult to implement UNCLOS security provisions in Nigeria's territorial waters. Although the Navy has been working with other agencies to ensure maritime safety, including Nigeria's Maritime Authority and Safety Agency, it does not have sufficient funding or adequate training of its staff in this area. Law enforcement officers are required to receive adequate and regular training in order to cope with the frequency and seriousness of armed robbery in the Nigerian maritime sector. These officers must be able to identify possible security threats and react in a spontaneous manner, at any time of the day or night, against attacks that are effectively repelled. In general, there is an inadequate amount of resources and facilities available to train police officers. At the same time, oil thefts and bunkering activities are stealing billions of dollars a year. Efforts to comply with UNCLOS security provisions have been unsuccessful, due to lack of adequate training by law enforcement personnel.[31]

Vague Rules of Jurisdiction over Maritime Crimes within Various Zones

Jurisdiction for offences relating to security of navigation is an issue from which there is no clear definition within UNCLOS, leading to conflicts between the States Parties on several occasions affecting the seriousness and penalties imposed by a reform. The jurisdiction to decide on a matter lies with the State. From which the state can derive authority to formulate and implement laws, is an aspect of its sovereignty. In accordance with the International Law, jurisdiction lies in the competence of a country to lay down and enforce measures aimed at ensuring that those norms are respected by it.s[32] By imposing a penalty for failure to fulfil obligations, the State's international jurisdiction may lay down or enforce legislation. This principle permits the State to assume jurisdiction over its nationality with respect to acts of crime committed by and on behalf of its nationals in other countries, or those that have an effect on national interests.

As far as maritime law is concerned, the theory of the freedom of the high seas and the corollary of the limited rights of coastal states to exercise jurisdiction over exposed inland waters is the basis

[31] Martin M. 'The Troubled Waters of Africa: Piracy in the African Littoral', (2011) (2) Journal of the Middle East & Africa, 65-83.

[32] Lenhoff A. International Law and Rules on International Jurisdiction (1964) (50) *Cornell Law Review* 1

for jurisdiction, based on Hugo Grotius's Mare Liberum.[33] Regarding maritime jurisdiction, the Permanent Court of Justice of International Affairs (PCIJ) established in the 1927 Lotus case that while a state may have prescriptive extraterritorial jurisdiction, it does not have the right to enforce its laws outside its territory, it be so for, such being the case, derives authority and jurisdiction to do so by a permissive rule of international custom or convention. However, the court found that the effects doctrine entitles a state agency to exercise jurisdiction over a crime where the main elements of the crime took place within the state or its effects are considered to be within the state.[34] The position in the Lotus case was countered in the 1958 GCLOS, which arose in after the Second World War and limited the jurisdiction of the coastal state to territorial waters, inland waters and the adjacent coastline, while jurisdiction on the high seas rested with the flag state.[35]

In the framework of the UNCLOS, further variations in maritime jurisdiction have been introduced. In the case of an archipelagic state, it is entitled to sovereignty over its own internal waters, archipelagic waters or adjacent sea areas which are determined on the basis of territorial seas. Furthermore, it is for each State to determine the extent of its territorial sea which can be up to 12 nautical miles from the baseline. In its territorial seas, a coastal state has unrestricted regulatory and enforcement powers.[36]

The High Sea is a common area for all countries, so the principle of freedom of navigation, fishing, scientific research, construction of man-made structures and so forth are inherent in it.[37] Moreover, the flag State has exclusive jurisdiction in relation to both regulation and enforcement at sea.[38] It is a subject for considerable discussion and, when referring multipartite cases to the Court, it can lead to conflict. The debate argues whether it is based on the nationality principle, the territorial principle, while the International Tribunal of the Laws of the Seas (ITLOS) treats the ship and people on board as a single entity under the jurisdiction of the flag state.[39] In view of the numerous

[33] Thornton H. 'Hugo Grotius and the Freedom of the Seas (2005) (6) International Journal of Maritime, 17
[34] Hertogen A. 'Letting Lotus Bloom', (2015) (26) The European Journal of International Law, 901.
[35] UNCLOS Article 11
[36] Ibid Articles 2 and 3
[37] UNCLOS Article 86
[38] UNCLOS Article 92
[39] Honniball A. 'The Exclusive Flag State Jurisdiction: A Limitation on Pro-Active Port States?' (2016) (31) (III) *The International Journal of Marine and Coastal Law*, 499

factors which can affect maritime boundaries, there are a number of differences affecting state jurisdiction and these frequently create jurisdictional problems that impede efforts to settle disputes and address insecurity. To illustrate is an instance of a fishing boat of two Italian marines aboard an Italian oil tanker along the coast of the Indian state of Kerala in 2012. The jurisdiction of the court in relation to the case, the nature of the crime affecting maritime terrorism or assassination and the appropriate judicial forum for resolving the issue were at variance between India and Italy. According to Italy, based on Articles 33 and 57 of the UNCLOS, the scene of the incident is outside Indian territorial waters, but within its contiguous zone, outside Indian jurisdiction and the Italian courts are the appropriate place for a decision. India was, however, entitled to jurisdiction because the victims of the offence were foreign nationals as well as the place where the crime had occurred.

Although UNCLOS does not expressly govern jurisdiction in this case, it has been alleged that India and Italy may exercise concurrent jurisdiction by combining the effect of Article 57, 91, 92, 94, 97 and 99. In such a case, however, it would have been necessary for both states to reach agreement on an appropriate dispute settlement forum. The law in the course of the proceedings, the sentence and the execution of the sentence. It's possible that the two countries do not trust each other, since India is seeking a fair trial while Italy wants citizens to be protected.[40] In addition, where due to the limitations of the UNCLOS jurisdictional provisions there is not sufficient attention being paid to threats to sea safety, a number of other events may occur. Diplomatic negotiations can be pursued, but other factors like the asymmetry in power among states and their effects on global governance are still capable of leading to an impasse. In the case of Nigeria, the general lack of adequate maritime security equipment and modern equipment for patrolling territorial waters poses an obstacle to the ability of nations to exercise the necessary jurisdiction over their territorial waters under UNCLOS. The nation may also not be able to detect an invasion in its sea space in time.

Impediments to the Implementation of UNCLOS Provisions on Piracy

[40] Ghandi M. 'The Enrica Lexis Incident: Seeing beyond the Grey Areas of International Law', (2013) (53) *Indian Journal of International Law* 1-26

Nigeria's marine space is of unique importance due to its geostrategic and resource potential. It accounts for more than 70% of West Africa's crude oil production and lies within the Gulf of Guinea shipping route, an international route that serves as an alternative to the Suez Canal.[41] While the Gulf of Guinea is a hotspot for naval piracy, Nigeria's maritime space is a notorious part of the Gulf, accounting for 80% of attacks in the region. The complex romance between piracy and oil legacy in the Niger Delta and the general state of insecurity in the region has led to the growth of piracy in the region.

Militants and other criminal elements in the Niger Delta specialise in kidnapping for ransom and hostage-taking, in addition to boat hijacking and cargo theft.[42] However, the anti-piracy and armed robbery regime under UNCLOS suffers from several limitations that hamper the success of States parties in solving the problem. States are often reluctant to take jurisdiction over piracy because the convicted pirate has the option to seek asylum rather than prosecution, hence the catch-and-release practice that holds pirates back. In the system. In addition, the UNCLOS piracy rule has some inherent limitations that often undermine its effectiveness.

The requirements that piracy must be committed on the high seas, must be an act of violence committed for private gain, must involve two vessels, these restrictions undermine the effectiveness of the UNCLOS piracy regulations and are unable to accommodate multiple contiguous assessing attacks seen in the 1985 Achille Lauro. Although these limitations appear to have been removed by the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (SUA) Convention and its Protocol, the obligation to extradite an offender limits the enforcement jurisdiction of the Convention.[43] The UNCLOS 1982 is the constitution of modern maritime practice and administration.

There are several provisions of UNCLOS that relate both directly and indirectly to maritime security. The UNCLOS established the rule for the delimitation of maritime boundaries, which is

[41] Hodgkinson S., 'Current Trends in Global Piracy: Can Somalia's Successes Help Combat Piracy in the Gulf of Guinea and Elsewhere?' (2013) (46) *Western Reserve Journal of International Law* 145-160.
[42] Onuoha F. 'Piracy and Maritime Security in the Gulf of Guinea: Trends, Concerns, and Propositions', (2013) (4) *Journal of the Middle East & Africa*, 267-293.
[43] UNCLOS Article 11

the basis for determining the rights and obligations of states in relation to the different maritime zones and the resources contained therein. The demarcation of sea borders also forms the basis for determining government jurisdiction within the different sea zones, which is crucial for detecting crime and maintaining maritime security. UNCLOS provides the basis for the settlement of maritime disputes, exploration, exploration and conservation of marine resources to ensure sustainability. It also establishes the two main navigation regimes, transit passage and innocent passage, which aim to equalise the rights of coastal states to those of flag states to navigate the ocean freely.

However, there are several limitations in the UNCLOS regulations that undermine the effectiveness of the maritime security regulations. Among other things, the restrictive definition of piracy, the ambiguity of the rules determining the criminal jurisdiction of states for maritime crime and restrictions were noted on exercising the right of prosecution in the territorial sea of a third country and thus creating a safe haven for pirates. Although there are other international instruments such as the SUA Conventions that attempted to remove the limitations of UNCLOS, particularly in relation to maritime safety, these instruments do not enjoy the same wide acceptance and ratification as UNCLOS and therefore may not be compliant the desired purpose if the disputing parties are not party to this agreement.

Ambiguity in the Definition of Piracy

The UNCLOS explicitly defines piracy, with the judicial restriction that it occurs on the high seas.[44] The further implication is that any other crime that occurs on the high seas does not constitute piracy. However, the Convention does not explicitly define the armed robbery of ships, while this study focuses on the insecurity in Nigeria's inland waters, which encompasses the armed robbery of ships in the various ports, inland waterways, territorial seas and the Nigerian sea area in general. Hence, other international instruments relating to armed robbery must be consulted. Armed robbery, on the other hand, is any unlawful act of violence, arrest or confiscation committed against a ship, persons or property on board a ship in the internal waters of a State, in archipelagic

[44]UNCLOS Article 10

waters or territorial seas. In addition to piracy, it includes above all forms of violence committed within the national maritime space. While piracy is committed on the high seas, armed robbery is committed in territorial waters. Also, piracy is supposedly done for private purposes and mostly includes two ships.

Conversely, the International Maritime Organisation (IMO) defines armed robbery of ships as any unlawful act of violence or detention or any act of plunder or threat thereof, except for piracy committed for private purposes and directed against a ship or persons or property on board such a ship in the internal waters of any State, archipelagic waters and territorial sea. The offence includes any act of wilful incitement or facilitation of any act described above.[45]

Like piracy, armed robberies in Nigerian waters remain alarming. The country recorded more than nine armed robberies of ships docked at various terminals in Apapa between March and April 2018. Due to insecurity in Nigerian ports, the United States Coast Guard (USCG) withdrew its praise of Nigeria for the commendable level of implementation of the ISPS Code in February 2018. Conversely, sanctions were imposed on Nigeria for port security lapses prior to April, 2019 in response to incidents of frequent attacks by armed robbers on ships anchored at various port terminals around the country. In a three-month period, more than nine ships were attacked by armed robbers in Nigeria's sea area, and there were no decisive steps by the NPA, NIMASA and other port security authorities to prevent the situation from repeating itself in the future. The Nigerian government treated the attacks simply as part of the general insecurity in the country. These were not isolated incidents, and they revealed the alarming insecurity in Nigerian territorial waters. As a result, Nigeria was ranked among nations with a poor response to port and ship security.

The Non-Applicability of UNCLOS to Third States

Like other aspects of international law, for several centuries the operational basis of the law of the sea has been based on customs that have evolved from popular state practices that gradually gained general acceptance and thus became mandatory. In the 19th century, the international community

[45] IMO Code of Conduct for Investigating Crimes of Piracy and Armed Robbery of Ships, Article 2(2) (3)

agreed on the need to codify these customary norms. Although there have been disputes between academic codification efforts for a variety of reasons, the unified negotiation of multilateral treaties does not date back to the 19th century. Hence the 1930 Hague Codification Conference and the three subsequent Law of the Sea Conferences organised under the auspices of the UN.[46]

The 1958 Geneva Conventions are largely a collection of international customary rules, parts of which were repeated in the 1982 UNCLOS. The UNCLOS was enacted to remove the limitations of the GCLOS, as such it acts as a substitute for it. However, the interactions between GCLOS, UNCLOS and rules of sea custom remain critical for a number of reasons, including their implications for maintaining maritime safety. Security of States Parties to the Convention. The rule on the applicability of international treaties to third countries is established by Article 34 of the 1969 Vienna Convention on the Law of Treaties, which states that a treaty shall not create any obligations or rights for a third country without its consent.[47] This is based on the maxim *pacta tertiis nec nocent nec prosunt*. However, this provision was amended by Article 38, which states that nothing in Articles 34 and 37 shall prevent a rule laid down in a treaty from becoming binding on a third country as a rule of customary international law.

The implication of Articles 34 and 37 of the Vienna Convention is that where the provisions of a multilateral treaty are based on customary law, those provisions may be applicable to a third country. Therefore, the same provisions can apply to contracting states as treaty and to non-state contracting parties as common law. This simply implies that, in order for the provisions of the contract to apply to third parties, they must reflect the norms of common law. The task here is how to identify the rules of customary international law in a treaty.[48] It can be difficult to distinguish between pre-existing common law and new law. Therefore, in order for a contractual provision to be applicable to a third party, it must either reflect pre-existing common law rules or contribute to the creation of new common law rules. The elements for determining whether treaty provisions have assumed the status of new common law rules were considered in the case of the North Sea Continental Shelf Cases to be unity, coherence, *Opinio Juris* and time. As regards codification of

[46] Babatunde E. and Abdulsalam M. (n 5)
[47] Vienna Convention on the Law of Treaties, 1969, Article 34
[48] Babatunde E. and Abdulsalam M. (n 5)

pre-existing rules of customary law, it is argued that, as a result of the UNCLOS negotiations, the established principles of customary international law codified in GCLOS may have lost the customary law status that forms the basis for their application to third parties.

Another problem is the fact that most of the provisions of the Convention are interlinked due to the package nature of the provisions. The provisions of UNCLOS are largely indivisible. The legal implication is that the provisions of UNCLOS can only be applied to a third country in two circumstances. That is, there are two types of UNCLOS customary rights and duties that are unaffected by the global agreement as it may apply to a third country. Firstly, when such provisions are common law GLOS provisions taken verbatim from GCLOS without being subject to negotiation of amendments during the UNCLOS negotiations.[49] This is simply because they reflect the customary law provisions that existed prior to the negotiation and adoption of UNCLOS. However, when such common law provisions have changed, particularly when they have undergone significant changes, they no longer apply to third countries. Examples are UNCLOS Article 17 on the right of innocent passage is a reflection of common law.

However, Articles 18 and 19 of UNCLOS have been heavily modified. Those innovative provisions of UNCLOS that became rules of customary international law through the UNCLOS negotiations are also applicable to third countries. Beginning of the 1973 Conference and adoption of the Convention in 1982. This includes customary rules that emerged between UNCLOS I in 1958 and the start of negotiations for UNCLOS III in 1973. The argument put forward by Hugo Caminos is simply that any principle expressed under GCLOS that reflects customary international law of the sea and is incorporated verbatim into the provisions of UNCLOS III constitutes customary international law applicable to third countries. This provision can be asserted against third countries. On the other hand, any provision of GCLOS that has been amended in the course of the UNCLOS negotiations to alter its original customary international law form of will no longer be a binding customary international law provision for third countries. Therefore, no provision on the security of UNILOS which is not provided for by GCLOS or other internationally customary laws can be relied upon in respect of Third Countries.[50] As a consequence, if these third countries

[49] Ibid.

[50] Ibid

do not explicitly take responsibility in accordance with UNCLOS, the security of its members may be jeopardised by their actions.

Constraints Undermining the Enforcement of UNCLOS Safety Provisions in Nigeria

Inherent Limitations of UNCLOS

The environmental regime of the UNCLOS applicable to coastal states is subject to certain obvious limitations. This includes the application of pollution controls, which are subject to classification as pollutants rather than zones where they occur. The provisions are fragmented, confusing and do not seem to have been sufficiently harmonised due to the fact that UNCLOS environmental protection measures take account of pollution classes. As a result, it was argued that the control of pollution within the EEZ is complex, easily misunderstood and so unclear as to be lacking in clarity on the rights of coastal states.[51]

It also raises the issue of whether a coastal state is entitled to protect its marine ecosystem, in principle, which it has jurisdiction over. The distinction between jurisdiction and sovereignty is a second factor that contributes to the complexity of the UN Convention against Corruption.[52] The coastal state shall have the right to investigate, use and conservation of living and non-living marine resources at sea, in subsoil, underwater or within its exclusive economic zone. Moreover, UNCLOS establishes a system of jurisdiction for Member States to build, use and operate artificial islands, marine scientific research sites, structures and facilities in order to safeguard the environment under article 56 of UNCLOS. It does not however define the meaning of sovereignty and jurisdiction, but it leaves this to the discretion of individual Member States. That means that definitions and the scope of operations are varied, creating a lack of clarity and consistency.

Failure to Exercise Jurisdiction against Marine Pollution

In principle, the UNCLOS provides that each State Party can exercise its powers and responsibility for doing so lies with it. As Nigeria joined UNCLOS in 1986 but the Convention has not yet been domesticated, it is only since 2019 that its ratification can be achieved. However, provisions

[51] Ibid
[52] UNCLOS Article **53**

specifically designed to domesticate the provision on ships carrying dangerous cargo pursuant to Article 21 of UNCLOS and pollution prevention provided for in UNSCR 102104 are not included in the domesticated law.

Nigeria shall endeavour to prevent pollution of the Marine Environment and Pollution which could be transmitted from it. Preventing unauthorised importations of toxins or hazardous wastes shall also be part of this. The 1980 shipment of toxic waste to Koko, a small fishing village in Nigeria, reflects this. In the agreement with Nana on whose land the waste has been dumped for $100 per month as compensation, 3,800 tons of hazardous industrial waste were sent to the country in five ships. During laboratory testing polychlorinated biphenyl PCBs, which are dangerous to human health, have been identified in 28% of the waste. Five thousand residents were evacuated from the community. However, the hazardous chemical, which also contained PCBs, dimethyl formaldehyde and asbestos fibres, had an adverse effect on the health of local residents who refused to move and those who had direct contact with it. The Koko boss' eldest son, David Okotie, was left deaf and blind, on Sunday Nana had throat cancer which later caused his death and the Nigerian Port Authority workers who helped load the chemicals onto ship to Italy also suffered chemical burns.[53]

Corruption in the Maritime Agency

Other maritime security agencies, such as the Nigerian Maritime Authority and the Ship Safety Agency NIMASA, are also plagued by corruption. Most of the regulations containing provisions related to sea safety shall be enforced by NIMASA, acting under the responsibility of the Government of Nigeria. Nonetheless, corruption impedes the Agency's effectiveness in delivering its tasks without prejudice to justice or favour. Corruption, which affects all sectors of Nigeria's economy, including the civil service, is a disturbing phenomenon. Direct contact with stakeholders in the maritime sector is part of all NIMASA's activities relating to safety, which makes access to

[53] Chicago Tribune, 1988

large amounts of capital and easy compromise possible. A major challenge remains the inspection of ship construction and seaworthiness standards, the enforcement of ship manning rules and the training of crew members, communication with ship captains and crew to avoid collision on the ship's route, etc.

Today, there are allegations of several forms of corruption against the leaders of Nigeria's NIMASA. For instance, in 2018, former Interim Managing Director of the Nigerian Maritime Safety Authority, Calistus Obi, admitted diverting N331 million that should have been spent to build a hotel. The Economic and Financial Crimes Commission brought charges against him in the Federal Court of Lagos.[54] Similarly, in 2020, the Federal High Court convicted and sentenced Captain Ezekiel Bala Agaba, former Executive Director of Maritime Safety and Development of the Nigerian Maritime Administration and Safety Agency, NIMASA, to seven years in prison for fraud amounting to N1.7 billion.[55] In order to effectively implement the security provisions of UNCLOS as a means of addressing Nigeria's maritime security challenges, there is a need to eradicate corruption and enhance maritime security within the Nigerian Maritime Domain.

Attempts towards the Application of UNCLOS Security Provisions in Nigeria

In the area of inland navigation, territorial waters and Nigeria's maritime economy in general, there are many national laws dealing with marine safety. These laws are governed by the main categories. There's some laws that don't directly include maritime security, but rather relate to the trial and punishment of criminals. The Nigerian Constitution of 1999, the Admiralty Act and the Admiralty Rules of Procedure 2011 are included in this list. For example, the exclusive jurisdiction of the Federal High Court to deal with maritime offences is conferred on it by Article 251(1) of the Nigerian Constitution.

The second category of law deals with the immediate implementation and active measures which need to be adopted for improving marine security in Nigeria's waters. These include:

(a) the Nigerian Maritime Administration and Security Agency Act (NIMASA)

[54] Obi C. N., 'NIMASA Ex-Oga Chop 42 Years Jail Sentence' (BBC News, 3 June 2019)

[55] Economic and Financial Crimes Commission 'Ex-NIMASA Boss Bags Seven Years For N1.7b Fraud' (2020) <https://www.efcc.gov.ng/news/5869-ex-nimasa-boss-bags-seven-years-for-n1-7b-fraud> accessed 19 September 2022.

(b) the Coastal and Inland Shipping (Cabotage) Act
(c) the Nigerian Ports Authority (NPA) Act 1999
(d) the Merchant Shipping Act (MSA) of 2007 and
(e) the National Inland Waterways Authority Law (NIWA).

The second category is more important, since it affects the sector in a tangible way and allows different bodies to be responsible for enforcement of relevant marine legislation. The NIMASA Act has established the National Maritime Safety Agency, which shall act on behalf of the Government as a competent authority for enforcement of the NIMASA legislation, the CABOTAGE law and the Merchant Vessels' Law. International instruments include SOLAS Convention, SIPS Code or ISAMS Code. A full chapter on safety and security is included in the NIMASA Act. In cases of reason to believe that the ship is unseaworthy, unsafe or poses a grave safety risk, NIMASA shall be empowered to stop ships at all ports in Nigeria. Where a vessel is undermanned by means of its machinery, equipment or parts and where the vessel has been overloaded or does not comply with other safety requirements as laid down in the ISMA Code or ISPS Code, it shall be considered to be unsafe for navigation.

If the person uses an unsafe barge, raft or vessel for navigation he will be found guilty of a criminal offence and is required to pay a fine which does not exceed One Million Naira as well as costs incurred resulting in passenger injury or death. The owner of a Nigerian-registered vessel owned by a Nigerian ensures that it is safe for navigation and used for secure purposes.[56] The owner who fails to comply with this responsibility is guilty of a felony and, if found guilty, shall be subject to a fine determined by the Agency and imprisonment for a term not less than six months. The chartering user and the vessel manager may also be subject to liability for failure to fulfil obligations.[57]

A ban on shipments of dangerous substances is also a significant provision of the Convention related to maritime safety. Technical requirements, such as the proper packing and labelling of any hazardous materials to minimize possible risks must be fulfilled before they can be transported.[58]

[56] Obi C. N. (n 58)
[57] NIMASA Law Section 41-42).
[58] NIMASA Act, Section 45

The provision of the hazardous materials register, storage facility plan, site and spill management measures as well as restrictions on volume are other requirements to be fulfilled. The flag of Nigeria, and the related crimes.

However, when it comes to the domestication of international laws that form the basis for applicability in Nigerian waters, those enacting the UNCLOS and subsequent international instruments, the Counter-Piracy and Other Maritime Crimes Act of 2019 and the Shipping Regulations (ISPS Code) of 2014.[59] On the other hand, it is not expressly mentioned in maritime safety that rules laid down by UNCLOS and prescribed anti-pollution regulations apply. However, the issue of marine pollution and the safety of ships in general is dealt with by national legislation. Among other things, the MSA and NPA Act are part of these laws which can be amended to UNCLOS.

Conclusion and Recommendations

This study sought to understand the origins and development of international law in the seas over several centuries from here on out. In addition, it has found that in Nigeria various security threats are detrimental to the effectiveness of maritime practice and administration. It also assessed whether such challenges, which are always a challenge to the International Maritime Policy and Administration, have undermined the effectiveness of an internationally based regime against these threats.

Based on the problems articulated above, the authors therefore suggest the following recommendations as way forward:

1. There is the imperative for a more effective approach at enforcing maritime laws towards curbing the rising trend of insecurity in the sector. On the international scene, there is the need for a Protocol to amend the UNCLOS III towards filling the lacuna and bringing it in tandem with modern realities.
2. In view of the growing links among them, maritime security cannot continue to be divided from or overlooked in wider National, Regional and International issues. The

[59] Decree No. 20 of 2013

interdependence between these two concerns is such that, for example, treating each concern separately does not appear to be possible anymore and prosecution of them on the ground is necessary as marine crimes occur at sea.

3. Clearly, the reason that maritime security remains vulnerable to wider governance concerns due to Nigeria's failure to fulfil its citizens' development expectations cannot be ruled out. Therefore, in the development of a national strategy that is alive to the transnational nature of maritime security problems, a clear commitment to sustainable economic growth and development of the citizens is required as a means of expanding opportunities for self-actualisation for the teeming population as well as disincentive against criminality.
4. There is also the need to strengthen the maritime institutions by equipping them with the much needed facilities to combat these challenges, in addition to amendment of the legal frameworks governing maritime safety and security both at the domestic and international levels.