
CONFRONTING INTERNATIONAL ORGANIZED CRIME AT SEA: LEGAL ENFORCEMENT AND JURISDICTIONAL COMPLEXITIES

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1. List of Abbreviations

UNCLOS – United Nations Convention on the Law of the Sea

IMO – International Maritime Organization

UNTOC – United Nations Convention against Transnational Organized Crime

EEZ – Exclusive Economic Zone

ITLOS – International Tribunal for the Law of the Sea

ICC – International Criminal Court

2. Introduction

The world's oceans covering more than 70% of the Earth surface which play a crucial role in global trade, energy security, and connectivity. However, The sea has always been both a highway of global trade and a peril of organised and unorganised crimes i.e piracy, drug trafficking, arms smuggling, human trafficking, and illegal fishing. This challenges arise because the ocean is a shared global space of all sovereign states where sovereignty is fragmented and often contested Which Overlaps maritime claims with weak enforcement capacity and political hesitation among states to cooperate and create significant barriers towards effective legal action. Criminal networks take advantage of these loopholes by conducting operations in international waters, registering ships under flags of convenience, and moving their activities across jurisdictions to evade prosecution. Although international framework such as the United Nations Convention on the Law of the Sea (UNCLOS) provide a foundation for maritime governance with their enforcement is uneven and jurisdictional ambiguities persist. As a result combating transnational organised crime at sea requires not only stronger international legal mechanisms but also enhanced cooperation among states to overcome jurisdictional and enforcement complexities.

This paper examines the legal enforcement and jurisdictional complexities in confronting international organised crime at sea, analysing the role of international law, enforcement mechanisms, and judicial interpretations.

3. Research Objectives

1. To analyse the nature and scope of international organised crime at sea.
2. To examine jurisdictional complexities under international maritime law.
3. To study legal enforcement challenges faced by states and international bodies.
4. To recommend reforms for effective international cooperation and enforcement.

4. Research Questions

1. What are the main forms of organised crime at sea and why do they thrive?
2. How does international law regulate maritime crimes and what jurisdictional challenges exist?
3. What are the enforcement difficulties faced by coastal states, flag states, and international organisations?
4. How have international courts and tribunals interpreted maritime jurisdiction in organised crime cases?

5. Research Methodology

This research adopts a doctrinal and comparative approach, relying on treaties such as UNCLOS and UNTOC, conventions of the IMO, international tribunal decisions (ITLOS), and scholarly commentary. Secondary sources include journal articles, reports from the United Nations Office on Drugs and Crime (UNODC), and case studies on piracy and trafficking.

6. Literature Review

- UNCLOS (1982) provides the primary framework for maritime zones, piracy suppression, and hot pursuit, but scholars argue it is outdated for modern transnational

crimes such as cyber-crime linked to shipping and illegal fishing.

- UNTOC (2000) extends to organized crime networks but lacks strong enforcement mechanisms at sea.
- Douglas Guilfoyle (2009) highlights the limitations of national courts in prosecuting piracy and trafficking due to jurisdictional and evidentiary gaps.
- UNODC Reports (2010–2024) document rising drug and arms trafficking via sea routes, particularly in the Indian Ocean and West Africa.

Nature of International Organized Crime at Sea

International organised crime at sea takes many forms, and each one creates different problems for global security, governance, and maritime law. The points below show how complex this issue is.

1. Piracy and Armed Robbery

Piracy and armed robbery are two major crimes at sea. Under the United Nations Convention on the Law of the Sea (UNCLOS) 1982, piracy is defined under Article 101 as any illegal acts of violence, detention or robbery done for private purposes on the high seas on outside the control of any one country is known as piracy , the punishment of piracy has been defined under the same convention under Article 105 which states that any state can capture pirate ships and punish the offenders under its own national laws. Regions like the Horn of Africa and the Gulf of Guinea are hotspots, where pirates attack ships, hold crew members hostage, and demand ransom. These acts disrupt trade, increase shipping costs, and put seafarers' lives in danger.

Armed robbery at sea is different from piracy because it takes place in a country's territorial waters (not on the high seas). While UNCLOS does not give a specific definition, the International Maritime Organisation (IMO) describes it as illegal acts of violence or robbery against ships within coastal waters. In such cases, punishment is given under the domestic criminal laws of that coastal state. Weak coastal governance, corruption, and poverty often make it easier for such crimes to continue, even though international naval patrols and cooperation have reduced incidents in some regions.

2. Drug Trafficking

Unlike piracy, drug trafficking is not specifically defined in UNCLOS, but it is recognised as part of transnational organised crime. The main international law is the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (Vienna Convention). This convention requires states to make drug trafficking a crime, cooperate in searches and seizures at sea, and punish offenders under their own domestic laws. Punishments usually include long prison terms, heavy fines, and confiscation of vessels or goods.

Drug trafficking by sea not only fuels addiction in consumer countries but also leads to corruption, violence, and instability in transit regions, especially in places with weak governance such as parts of West Africa.

The maritime domain is central to the global narcotics trade. A major route runs from South America through West Africa to Europe, where organized crime groups use weakly regulated ports and poor enforcement systems. Large shipments of cocaine and heroin are hidden in containers or carried on small fishing boats, making detection difficult.

3. Human Trafficking and Migrant Smuggling

Human trafficking is defined under the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000) as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means such as threat, force, coercion, abduction, fraud, deception, abuse of power, or giving payments, for the purpose of exploitation.” Exploitation includes forced labour, slavery, sexual exploitation, removal of organs, or other forms of abuse.

Migrant smuggling is defined under the Protocol against the Smuggling of Migrants by Land, Sea and Air (2000) as “the procurement, in order to obtain a financial or material benefit, of the illegal entry of a person into a State of which that person is not a national or permanent resident.”

These crimes are addressed under the United Nations Convention against Transnational Organised Crime (UNTOC), 2000 and its two key protocols:

- Protocol against the Smuggling of Migrants by Land, Sea and Air (2000) – criminalises

assisting migrants to enter a country illegally for financial or material benefit.

- Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children (2000) – focuses on human trafficking for exploitation, including forced labor, slavery, and sexual exploitation.

Under these instruments, states are required to make trafficking and smuggling criminal offences, cooperate in investigations, and punish offenders through long prison sentences, fines, and confiscation of vessels or transport used in the crimes.

These offences are especially complex because they affect both security and human rights. Migrants are often charged exorbitant fees and forced to travel in unsafe boats, where they risk abuse, exploitation, or even death.

The Mediterranean Sea crisis highlights this issue: thousands of people are smuggled across dangerous waters each year in unseaworthy boats, with organised crime groups profiting from human desperation.

4. Illegal, Unreported, and Unregulated (IUU) Fishing

Illegal fishing refers to fishing without permission of the coastal state in terms violating its laws or international agreements.

- Unreported fishing → fishing activities that are not reported or are misreported to national authorities.
- Unregulated fishing → fishing by vessels in areas or for species where no rules exist, or by vessels flying a “flag of convenience” (registering in a country with weak controls).

The issue of IUU fishing is addressed through several important international frameworks. The FAO International Plan of Action (2001) provides global guidelines to prevent, deter, and eliminate IUU fishing. The UN Fish Stocks Agreement (1995) focuses on the conservation and sustainable use of fish stocks in areas beyond national jurisdiction, ensuring that shared resources are managed responsibly. In addition, the Port State Measures Agreement (2009) is the first legally binding international treaty that aims to block fish caught through IUU practices from entering ports and markets, thereby cutting off their access to global trade.

Punishments:

Enforcement depends on each country's laws, but common measures include confiscation of vessels, heavy fines, banning repeat offenders from fishing, and imprisonment in serious cases. International cooperation also allows states to deny port entry to IUU fishing vessels.

Impacts:

IUU fishing undermines marine ecosystems by overfishing and destroying habitats, depletes fish stocks, and threatens the food security of millions who depend on fisheries. It also weakens the sovereignty of coastal states by ignoring their laws, and causes huge economic losses—billions of dollars each year.

Examples:

In the South China Sea and the Indian Ocean, organised groups carry out large-scale fishing without authorisation, often using destructive methods like bottom trawling. These operations not only damage the environment but also cause conflicts between local fishing communities and foreign fleets.

5. Arms Smuggling and Terrorism Financing

Arms smuggling refers to the illegal movement of weapons, ammunition, and related materials across borders without authorization, while terrorism financing involves providing funds or resources to groups that carry out terrorist acts. At sea, criminal networks exploit maritime routes to transport small arms and light weapons, often supplying them to conflict zones and terrorist organizations.

These crimes are addressed under several key international instruments. The United Nations Programme of Action on Small Arms and Light Weapons (2001) provides measures for states to prevent and combat the illicit trade in small arms. The Arms Trade Treaty (2014) is the first legally binding global treaty regulating the international trade in conventional arms, aiming to stop their diversion to criminal or terrorist groups. In addition, the International Convention for the Suppression of the Financing of Terrorism (1999) requires states to criminalize and punish all forms of financial support to terrorism.

Punishments under national laws include long prison terms, confiscation of weapons and vessels, and heavy fines, while international cooperation allows for interdiction at sea and prosecution under anti-terrorism or arms control laws.

The impacts of arms smuggling are severe, as these networks sustain regional conflicts, empower non-state armed groups, and strengthen terrorist organizations. By financing terrorism and fueling wars, maritime arms trafficking becomes a direct threat to international peace and security.

Examples include cases in the Horn of Africa and the Middle East, where arms shipments have been intercepted en route to armed groups, showing how maritime routes remain a lifeline for conflict economies.

Jurisdictional Complexities in Maritime Law

The enforcement of law at sea is complicated by overlapping jurisdictions, fragmented authority, and gaps in the international legal framework. These complexities provide fertile ground for organised criminal activities.

1. High Seas Jurisdiction

The United Nations Convention on the Law of the Sea (UNCLOS, 1982) establishes that vessels operating on the high seas are governed exclusively by the jurisdiction of their flag state, meaning the country in which they are registered. This principle of exclusive flag state jurisdiction is intended to maintain order and prevent overlapping authority, but in practice it severely limits the ability of other states to intervene when a ship is suspected of involvement in organized crime. The only universally accepted exception is piracy, where international law allows the exercise of universal jurisdiction. This means that any state, regardless of nationality or location, can intercept a pirate vessel, arrest the offenders, and prosecute them under its domestic law.

For most other maritime crimes, however, jurisdiction remains uncertain and fragmented. In cases of drug trafficking, human trafficking, or arms smuggling, the right to intervene often depends on agreements between states, the cooperation of the flag state, or specific international conventions such as the 1988 Vienna Convention on Narcotic Drugs or the 2000 UN Convention against Transnational Organised Crime (UNTOC). Without such agreements,

coastal and port states may find their hands tied, unable to act against suspicious foreign vessels in international waters. This creates enforcement gaps, which are routinely exploited by organised crime groups. Criminal networks take advantage of these legal loopholes by registering vessels under flags of convenience (from states with weak regulation), moving across multiple jurisdictions, and using the complexity of international law to avoid capture.

2. Territorial Waters vs. Exclusive Economic Zone (EEZ)

The United Nations Convention on the Law of the Sea (UNCLOS, 1982) is the primary international treaty that defines the maritime zones of coastal states and their rights within them. Under Article 2 of UNCLOS, coastal states exercise full sovereignty in their territorial sea, which extends up to 12 nautical miles from the baseline. This sovereignty is similar to that exercised on land and airspace, giving the coastal state authority to enforce criminal, civil, and administrative laws, including customs, immigration, and environmental regulations. The only limitation is the principle of innocent passage (Article 17), which permits foreign ships to pass through as long as they do not threaten peace, order, or security.

Beyond the territorial sea lies the Exclusive Economic Zone (EEZ), established under Part V of UNCLOS (Articles 55–75). The EEZ extends up to 200 nautical miles from the baseline but does not grant full sovereignty. Instead, coastal states enjoy sovereign rights for the purpose of exploring, exploiting, conserving, and managing natural resources, both living (such as fish) and non-living (such as oil, gas, and minerals), as well as certain jurisdiction over artificial islands, marine scientific research, and protection of the marine environment. However, unlike in the territorial sea, the EEZ remains part of the high seas regime in terms of navigation, meaning foreign vessels retain freedom of navigation and overflight.

This limited sovereignty in the EEZ creates practical challenges. While states may suspect activities such as illegal, unreported, and unregulated (IUU) fishing, smuggling, or even trafficking within the EEZ, UNCLOS does not grant them unrestricted enforcement powers against all types of crime. Their authority is mostly confined to resource-related issues. For non-resource crimes, enforcement generally requires cooperation through international conventions, agreements, or flag-state consent. This legal gap has become one of the most debated issues in maritime governance, as organized crime groups exploit the EEZ's semi-open status to conduct unlawful activities with reduced risk of interdiction.

3. Flags of Convenience

One of the most significant loopholes in maritime governance is the practice of using flags of convenience (FoCs). This occurs when shipowners register their vessels in states that offer cheap registration, weak regulatory oversight, and minimal enforcement capacity. Countries like Panama, Liberia, and the Marshall Islands are well-known examples of flag states with open registries, where vessel owners do not need to have any real connection to the state of registration.

Under UNCLOS (Article 92), vessels are subject to the exclusive jurisdiction of their flag state on the high seas. This means that if the flag state fails to exercise effective control, the vessel effectively operates with little or no legal oversight. Criminal groups exploit this system in several ways:

- Hide true ownership → Shipowners often use shell companies or front companies in offshore jurisdictions to conceal the actual individuals or organisation's controlling the vessel. This makes it extremely difficult for authorities to trace accountability when the vessel is used for crime.
- Change vessel registration frequently ("re-flagging") → Vessels are sometimes registered in one country today and then quickly shifted to another tomorrow. This tactic, known as "re-flagging," allows shipowners to constantly escape scrutiny, erase past records, and take advantage of weaker flag states that ask fewer questions.
- Avoid prosecution → Because international law places enforcement responsibility on the flag state, weak or corrupt flag states rarely investigate or prosecute crimes committed by their flagged vessels. This enables criminals to operate with impunity, knowing that other countries have limited authority to intervene.
- Carry out illicit activities → With little risk of oversight, these vessels are used to transport drugs, weapons, trafficked persons, or illegally caught fish. The high seas become safe routes for organised crime groups, as the flag of convenience effectively acts as a shield against enforcement.

This practice creates a major enforcement gap in international maritime law. Since other states cannot easily interfere with a foreign-flagged vessel without the consent of the flag state, FoCs

provide a safe cover for criminal activity. In practice, this undermines international cooperation, weakens monitoring mechanisms, and enables organised criminal networks to exploit the oceans for illicit trade.

Thus, flags of convenience not only erode the principle of responsible flag-state jurisdiction under UNCLOS but also represent one of the most pressing obstacles to confronting transnational organised crime at sea.

4. Non-State Actors and Legal Ambiguities

The United Nations Convention on the Law of the Sea (UNCLOS, 1982) and related legal frameworks were primarily designed to regulate the conduct of states, focusing on navigation rights, resource exploitation, and maritime boundaries. They were not built with the rise of non-state actors in mind. Non-state actors are entities or groups that operate independently of state authority, such as transnational organized crime groups, terrorist organizations, private militias, or even commercial networks that engage in unlawful activity. Unlike states, they do not carry legal personality under international law, which makes it difficult to directly regulate or prosecute them through treaties meant for state conduct.

This gap raises three major challenges:

- Attribution → International law usually assigns responsibility to states. But since non-state actors operate outside government control, their crimes cannot easily be attributed to a specific state. This leaves questions about who is legally responsible for their actions at sea.
- Enforcement authority → UNCLOS restricts the power of one state to act against vessels flagged by another state on the high seas. Unless the crime falls under universal jurisdiction (like piracy), states cannot intervene without the flag state's consent. Criminal groups exploit this gap by operating just beyond territorial waters, making enforcement difficult.
- Accountability → Non-state actors use tactics like flags of convenience, shell companies, and shifting vessel registrations to conceal identity and avoid prosecution. Even if intercepted, disputes arise over which state has the right to prosecute offenders, often leading to weak or no punishment.

Because UNCLOS was not designed to address these challenges, organized crime networks at sea exploit its structural gaps, making the oceans a convenient space for illicit operations beyond effective international control.

9. Legal Framework Governing Maritime Crime

The fight against international organized crime at sea is supported by a network of global and regional legal instruments. These frameworks aim to balance state sovereignty with the need for international cooperation in ensuring maritime security.

1. United Nations Convention on the Law of the Sea (UNCLOS), 1982

The United Nations Convention on the Law of the Sea (UNCLOS, 1982) is often described as the “constitution of the oceans” because it lays down the basic rules governing maritime zones—such as territorial waters, the Exclusive Economic Zone (EEZ), and the high seas—and establishes principles for regulating activities at sea. Although UNCLOS was primarily designed to regulate state behaviour and maritime boundaries, it also provides important tools for addressing international crime at sea.

Most importantly, Articles 100–107 of UNCLOS create the legal foundation for the suppression of piracy. These provisions require all states to cooperate in combating piracy and recognise universal jurisdiction over pirate vessels. This means that any state, regardless of the nationality of the pirates or the victims, can seize pirate ships on the high seas, arrest offenders, and prosecute them under its national law. This principle is crucial because piracy is a transnational crime that often occurs in waters beyond the sovereignty of any single state.

By defining maritime zones, UNCLOS also clarifies which state has enforcement rights in which area. For example:

- In territorial waters (12 nautical miles), the coastal state has full sovereignty and can enforce its laws against crimes such as smuggling or human trafficking.
- In the EEZ (200 nautical miles), the coastal state has sovereign rights over natural resources and environmental protection, enabling it to take action against crimes like illegal fishing.
- On the high seas, UNCLOS allows only limited enforcement, but piracy is the key

exception where all states have authority.

However, the role of UNCLOS in confronting organised maritime crime is limited. Apart from piracy, it does not directly regulate other crimes such as drug trafficking, human smuggling, arms smuggling, or IUU fishing. For these crimes, states must rely on other conventions (like the 1988 Vienna Convention on Narcotic Drugs or the 2000 UNTOC) or bilateral/multilateral agreements.

Thus, UNCLOS helps by:

1. Providing universal jurisdiction for piracy, making global cooperation possible.
2. Defining maritime zones, which determine where states can enforce laws.
3. Establishing a baseline legal framework upon which other treaties and cooperative mechanisms are built.

But at the same time, its narrow scope leaves gaps that organised criminal groups exploit, highlighting the need for stronger supplementary agreements and enforcement mechanisms.

2. United Nations Convention against Transnational Organized Crime (UNTOC), 2000

The United Nations Convention against Transnational Organised Crime (UNTOC, 2000), also known as the Palermo Convention, provides the most comprehensive international framework for combating organised crime across borders. Unlike UNCLOS, which is focused on regulating state behaviour and maritime zones, UNTOC is specifically designed to address the activities of organised criminal groups. It requires states to criminalise participation in organised crime, adopt measures for prevention, and strengthen domestic legal frameworks so that crimes can be prosecuted effectively.

A key feature of UNTOC is its emphasis on international cooperation. The convention promotes mechanisms such as mutual legal assistance, extradition, information-sharing, and joint investigations, ensuring that organised crime cannot exploit weak or inconsistent national laws. It also calls on states to harmonise their domestic legislation to ensure that criminal networks cannot hide behind legal loopholes.

While UNTOC is not a maritime-specific treaty, its provisions are frequently applied to crimes

facilitated by the oceans, including:

- Drug trafficking → covered under UNTOC and complemented by the 1988 Vienna Convention.
- Human trafficking and migrant smuggling → addressed through two key protocols to UNTOC (the Trafficking Protocol and the Smuggling Protocol).
- Arms smuggling → indirectly tackled through provisions against illicit trade and cooperation with other arms control treaties.

By treating the ocean as a major route for transnational criminal activity, UNTOC strengthens the global response to organised maritime crime, filling many of the gaps left by UNCLOS. However, because it is broad in scope and not maritime-specific, effective enforcement at sea still depends on the willingness and capacity of states to cooperate and integrate its provisions into their domestic laws.

4. International Maritime Organization (IMO) Conventions

The International Maritime Organization (IMO), as the UN's specialized agency for maritime safety and security, has created a number of conventions to address threats to navigation and shipping. One of the most important is the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention, 1988). This treaty was adopted after high-profile incidents of maritime terrorism and unlawful interference, such as the 1985 Achille Lauro hijacking, where terrorists seized a passenger ship and killed a civilian.

The SUA Convention makes it a criminal offence to engage in acts that threaten maritime safety, including:

- Seizing control of a ship by force.
- Acts of violence against crew or passengers.
- Placing explosives or other devices on board that could endanger navigation.
- Damaging maritime infrastructure in a way that disrupts international shipping.

To strengthen this framework, the 2005 SUA Protocol was introduced in response to growing

concerns about terrorism, the spread of weapons of mass destruction (WMDs), and the misuse of maritime routes by organized crime. The protocol expanded the SUA Convention by criminalizing:

- The use of a ship as a weapon (for example, crashing into ports or naval vessels).
- The use of a ship to transport WMDs, materials, or delivery systems, as well as related equipment and technology.
- The transport of terrorists or their financing through maritime routes.
- Attempts, participation, and facilitation of these acts, not just the completed offence.

The Protocol also introduced boarding provisions, allowing a state to request permission from a flag state to board and search vessels suspected of carrying out SUA offences. This measure improved international cooperation by creating legal procedures for interdiction on the high seas, though it still required flag-state consent.

For enforcement, states are required to:

- Incorporate these expanded offences into their domestic laws.
- Establish jurisdiction over ships, nationals, or crimes linked to their territory.
- Cooperate internationally through extradition, prosecution, and intelligence sharing.

Overall, the 2005 SUA Protocol significantly broadened the legal tools available to confront both terrorism and organized crime at sea, ensuring that ships cannot be used as platforms for transporting dangerous materials or aiding extremist networks. However, its effectiveness depends on how widely it is ratified and implemented, as gaps in adoption still leave room for exploitation.

5. Regional Agreements and Codes of Conduct

Recognizing that maritime crime often has a regional character, several localized agreements have been developed to supplement global conventions like UNCLOS, UNTOC, and SUA. These agreements are designed to respond to the specific challenges of piracy, armed robbery,

and organized crime in particular maritime hotspots.

One major initiative is the Djibouti Code of Conduct (2009), established under the guidance of the IMO. It focuses on the Indian Ocean and the Gulf of Aden, regions heavily affected by Somali piracy. The Code provides mechanisms for regional cooperation, including information-sharing centers, joint naval patrols, and capacity-building measures such as training and technical support. By doing so, it has played a significant role in reducing large-scale piracy incidents in the region.

Similarly, the Yaoundé Code of Conduct (2013) was adopted by West and Central African states to address piracy and armed robbery in the Gulf of Guinea, now considered one of the world's most dangerous maritime zones. Beyond piracy, this Code also covers drug trafficking, arms smuggling, and illegal fishing, recognizing the broader spectrum of organized maritime crime in the region. It emphasizes collaborative security strategies, including coordinated naval operations, joint exercises, and shared maritime domain awareness.

Together, these regional instruments highlight the importance of tailored responses: while global conventions set broad principles, localized frameworks address the unique patterns of maritime crime in specific regions. By prioritizing information-sharing, capacity-building, and joint enforcement, they create practical tools for confronting international organized crime at sea in ways that reflect local realities.

Enforcement Challenges at Sea

Despite the existence of international conventions and regional mechanisms, the effective enforcement of laws against organized maritime crime remains a formidable challenge. These difficulties stem from both structural and practical barriers in maritime governance.

1. Jurisdictional Conflicts

One of the biggest hurdles in tackling international organized crime at sea is the clash of different jurisdictions, since multiple states may have competing or unclear authority over the same vessel or activity. International law, particularly under the United Nations Convention on the Law of the Sea (UNCLOS), divides the ocean into zones, and each zone determines which state has jurisdiction. However, when crimes occur in overlapping or ambiguous areas, disputes emerge, making enforcement difficult.

1. Coastal State Jurisdiction (Territorial Waters – up to 12 nautical miles)

- In territorial waters, the coastal state exercises full sovereignty, similar to its land territory. It can enforce criminal, civil, and administrative laws against vessels in this zone.
- For example, if drug trafficking or human smuggling is detected within 12 nautical miles of India's coast, Indian authorities have the full legal right to intervene, arrest suspects, and prosecute.
- The problem arises when crimes are planned offshore but executed partly within territorial waters, making it unclear where the offence "begins" and "ends."

2. Exclusive Economic Zone (EEZ – up to 200 nautical miles)

- In the EEZ, the coastal state has sovereign rights for resource exploitation (like fishing, oil, or seabed resources), but not full sovereignty.
- This means states cannot freely enforce criminal jurisdiction unless the crime affects their resource rights (e.g., Illegal, Unreported, and Unregulated (IUU) fishing).
- Organized crimes like arms trafficking or human smuggling that pass through EEZs are harder to prosecute because UNCLOS limits enforcement powers.

3. Flag State Jurisdiction (High Seas – beyond 200 nautical miles)

- On the high seas, vessels are under the exclusive jurisdiction of their flag state (the country where the ship is registered).
- If the flag state has weak governance (a "flag of convenience"), criminals exploit the loophole by registering ships in such states to avoid strong enforcement.
- Other states are generally barred from intervening unless universal jurisdiction applies (e.g., in the case of piracy under UNCLOS Articles 100–107).

4. Port State Jurisdiction

- When ships enter a port, the port state has jurisdiction to inspect, detain, or prosecute for certain violations, such as illegal fishing, smuggling, or safety violations.
- However, port states may hesitate to act if the vessel belongs to a powerful country or if enforcement could harm trade relations.

The Enforcement Gap

These overlapping jurisdictions create loopholes:

- A vessel may commit a crime on the high seas (flag state jurisdiction) but later dock in another country (port state jurisdiction). If the flag state is unwilling to act and the port state lacks evidence or legal authority, offenders escape punishment.
- Disputes between states often delay investigations. For example, a smuggling case might involve drugs loaded in South America (flag state), shipped across the Atlantic (high seas), and seized near West Africa (coastal state). Which country prosecutes?
- In many cases, offenders are simply released due to jurisdictional uncertainty, undermining deterrence.

2. Resource and Capacity Limitations in Enforcement

A major obstacle to confronting international organized crime at sea is the unequal enforcement capacity of states. While advanced naval powers maintain modern fleets, satellite surveillance, and trained coast guards, many developing countries, particularly in Africa, Southeast Asia, and small island regions, lack the resources to effectively police their vast maritime zones. This imbalance creates dangerous gaps in global maritime security.

The most obvious limitation is the lack of naval assets and surveillance technology. Patrolling maritime zones requires warships, aircraft, drones, and radar systems, which are expensive to acquire and maintain. Many states cannot monitor their entire Exclusive Economic Zone (EEZ), leaving large stretches of ocean vulnerable. Organized crime groups exploit these blind spots, moving drugs, arms, and trafficked persons with little risk of interception.

Equally important is the shortage of trained personnel. Maritime enforcement is not just about ships; it requires skilled officers capable of boarding vessels, collecting evidence, and handling suspects in line with international law. Underfunded or understaffed coast guards and navies in developing countries often struggle to match the sophistication of well-organized criminal networks.

Even when interdictions do take place, logistical and financial burdens make enforcement difficult. Detaining suspects requires secure facilities, while prosecuting maritime crimes demands legal expertise, translation services, and forensic evidence, all of which may be lacking. Holding seized ships, storing cargo, and managing long investigations further strain already limited budgets.

Adding to this, states also face humanitarian challenges when intercepting vessels carrying migrants or victims of trafficking. Criminal groups frequently use unsafe, overcrowded boats in regions such as the Mediterranean Sea, Bay of Bengal, and Gulf of Aden, forcing coastal states into rescue operations. Under international law, including the Safety of Life at Sea (SOLAS) Convention, 1974, and the Search and Rescue (SAR) Convention, 1979, states are obligated to rescue people in distress at sea. Rescued migrants require immediate humanitarian assistance (food, water, shelter, and medical care), screening and identification to separate trafficking victims from asylum seekers, and legal processing for asylum or repatriation. These responsibilities place heavy financial, logistical, and political burdens on states with limited capacity.

Criminal networks exploit this humanitarian dimension by deliberately overloading unseaworthy vessels, knowing that coast guards must prioritize saving lives. This diverts resources away from enforcement and prosecution, while shifting the burden of care onto already fragile states.

Together, these problems create a significant enforcement gap. Criminal networks deliberately operate in regions with weak maritime capabilities, where the risk of detection is minimal. For example, traffickers route cocaine through West Africa before sending it to Europe, exploiting limited coast guard presence and fragile governance structures. Piracy in Southeast Asia similarly thrives where enforcement is inconsistent. Wealthier states with advanced navies cannot unilaterally secure the world's oceans, leaving "safe spaces" where organized crime continues to flourish.

3. Evidentiary Problems

Maritime crimes pose unique evidentiary challenges that significantly complicate legal enforcement and prosecution. Unlike crimes committed on land, offences at sea often occur in remote or hostile environments, across multiple jurisdictions, and frequently involve foreign nationals. This complexity creates several obstacles for law enforcement and the judicial system.

Collecting admissible evidence is particularly difficult. Boarding vessels on the high seas or in foreign territorial waters requires careful coordination with flag states and sometimes port states, and the act of seizure itself must comply with international law to ensure that evidence remains valid. Failure to follow proper protocols can render critical evidence inadmissible in court.

Witness testimony presents another major challenge. Maritime crews often consist of multinational personnel, with differing languages, legal obligations, and contractual arrangements. Securing reliable and cooperative testimony from such crews is difficult, especially if witnesses fear retaliation from organized crime networks or if their home country's legal system is reluctant to assist in foreign prosecutions.

Preservation of forensic evidence is also a significant concern. Evidence can be degraded by saltwater, high humidity, motion of the ship, or delays in transfer to secure facilities on land. Maintaining the chain of custody from the moment of seizure at sea to presentation in court is particularly challenging, especially when multiple states are involved. Any lapse in documentation or handling can lead courts to dismiss or question the validity of the evidence.

Finally, jurisdictional complexities often compound these problems. Evidence gathered in one state's territorial waters or on a vessel registered to another country may not meet the domestic standards of proof required by the prosecuting state. As a result, courts are often reluctant to proceed, and offenders may escape prosecution despite clear criminal activity.

In the context of confronting international organized crime at sea, these evidentiary challenges highlight a critical gap in enforcement. They demonstrate that beyond naval patrols, legal frameworks, and international cooperation, effective prosecution relies on harmonized procedures for evidence collection, preservation, and admissibility across states, ensuring that

criminals cannot exploit maritime law loopholes to evade justice.

4. Political Reluctance

A significant barrier to effectively confronting international organized crime at sea is political reluctance on the part of states. Even when criminal activities are detected and suspects apprehended, states often hesitate to prosecute foreign nationals caught in their waters or on the high seas. This hesitation arises from several factors, including fears of diplomatic fallout, strained bilateral relations, or economic repercussions.

In many cases, rather than initiating a full legal process, apprehended suspects are repatriated without trial, creating a cycle of impunity. Criminal networks quickly recognize and exploit this pattern, knowing that enforcement may not lead to prosecution. This undermines the deterrent effect of maritime law enforcement and allows transnational organized crime to flourish with minimal risk.

Political considerations also influence international cooperation. States sometimes prioritize strategic alliances, trade relationships, or regional influence over strict legal enforcement. For example, a coastal state may be reluctant to detain a vessel registered in a powerful nation or prosecute a foreign national involved in piracy, drug trafficking, or human smuggling. Such choices often delay investigations, impede intelligence sharing, and reduce the effectiveness of joint operations.

In the broader context of legal enforcement and jurisdictional complexities at sea, political reluctance exposes a structural weakness in global maritime governance. Even the strongest legal frameworks, including UNCLOS, UNTOC, and the SUA Convention, rely on state willingness to implement and enforce laws. Without political commitment, organized criminal networks continue to exploit gaps in enforcement, perpetuating maritime insecurity.

11. Judicial and Tribunal Interpretations

1. The M/V Saiga (No. 2) Case (1999, ITLOS)

Facts:

The M/V Saiga, a tanker registered in Saint Vincent and the Grenadines, was intercepted by

Guinea while allegedly violating customs laws. Guinea detained the vessel and its crew, leading to a legal dispute over jurisdiction.

Judgment:

The International Tribunal for the Law of the Sea (ITLOS) ruled that Guinea had no right to arrest the vessel and violated the rights of Saint Vincent and the Grenadines as the flag state. The tribunal emphasized that only the flag state has the authority to exercise jurisdiction over its vessels on the high seas, reinforcing the principle of flag state sovereignty.

Significance:

This case clarified the extent of flag state jurisdiction in maritime disputes and reinforced the principle that vessels on the high seas are generally under the exclusive jurisdiction of their flag state.

2. Castro v. Cuba (Human Rights Court, 2012)**Facts:**

This case involved the interception of migrants attempting to reach foreign shores by sea. The plaintiffs alleged that Cuba failed to protect their human rights during repatriation, including violations related to migrant smuggling and the right to life and safety at sea.

Judgment:

The Human Rights Court held that states have obligations to protect migrants at sea, even when they are attempting illegal entry. States could not evade responsibility by citing territorial or flag jurisdiction alone and were required to ensure humane treatment and adherence to international human rights standards.

Significance:

This case expanded the understanding of state responsibility in maritime contexts, particularly for transnational crimes such as human trafficking and migrant smuggling. It underscored the intersection of maritime law and human rights law, prompting states to integrate both frameworks into enforcement policies.

3. United States v. Ali Mohamed Ali (2013, U.S. Court of Appeals)

Facts:

Ali Mohamed Ali was involved in piracy off the coast of Somalia. The U.S. courts asserted jurisdiction under the United Nations Convention on the Law of the Sea (UNCLOS), as piracy is one of the few maritime crimes subject to universal jurisdiction. Ali was apprehended on the high seas and brought to the United States for trial.

Judgment:

The court confirmed that piracy falls under universal jurisdiction, allowing any state to apprehend and prosecute pirates regardless of their nationality or the flag state of the vessel involved.

Significance:

This case reinforced the principle of universal jurisdiction for piracy and clarified practical mechanisms for enforcement under UNCLOS. It demonstrated that states can cooperate internationally to close enforcement gaps and prosecute crimes that otherwise exploit jurisdictional ambiguities.

These cases reveal judicial willingness to expand interpretation but also highlight inconsistencies across jurisdictions.

12. Case Studies of Transnational Maritime Crime

1. Somali Piracy (2008–2012)

Facts:

Between 2008 and 2012, Somali pirates hijacked commercial vessels in the Gulf of Aden and the Indian Ocean, holding crews hostage for ransom. This activity threatened one of the world's busiest shipping lanes.

Judgment and Response:

The United Nations Security Council authorised international naval patrols to protect vessels

and deter attacks. However, prosecutions were limited due to difficulties in apprehending pirates, jurisdictional issues, and lack of local courts willing or able to try offenders.

Significance:

This case highlighted the importance of international cooperation and joint naval operations but also revealed enforcement gaps caused by jurisdictional ambiguities and limited prosecutorial capacity.

2. Mediterranean Migrant Crisis (2015–present)**Facts:**

Thousands of migrants have attempted to cross the Mediterranean Sea in unsafe boats, often facilitated by organized smuggling networks. Many vessels are overcrowded, leading to frequent accidents and loss of life.

Judgment and Response:

European courts have struggled to prosecute migrant smugglers effectively. While there have been some successful prosecutions, enforcement remains inconsistent due to the transnational nature of the crime, difficulties in identifying perpetrators, and political sensitivities surrounding migration.

Significance:

This crisis demonstrates the intersection of humanitarian and legal obligations, emphasizing that maritime enforcement must balance human rights protection with the prosecution of organized crime.

3. West Africa Drug Routes (2010–2024)**Facts:**

West Africa has become a key transit region for cocaine and other drugs moving from South America to Europe. Traffickers exploit weak port controls and limited naval enforcement.

Judgment and Response:

While there have been increased seizures of drugs, prosecutions often fail due to weak domestic laws, corruption, and limited legal infrastructure. Criminal networks continue to exploit these enforcement gaps to maintain profitable operations.

Significance:

This case highlights the need for strong domestic legislation, regional cooperation, and capacity-building to close enforcement loopholes and disrupt transnational organized crime.

13. Recommendations

1. Strengthen UNCLOS by amending provisions on transnational maritime crimes beyond piracy.
2. Establish a specialized international maritime criminal court under UN auspices.
3. Enhance cooperation between naval forces, INTERPOL, and UNODC.
4. Regulate flags of convenience by stricter IMO oversight.
5. Encourage capacity building for developing coastal states.
6. Introduce shared databases for maritime intelligence among states.

14. Conclusion

International organized crime at sea presents unique challenges due to the ocean's transboundary nature and jurisdictional fragmentation. While UNCLOS, UNTOC, and regional frameworks provide partial solutions, enforcement gaps persist. Judicial interpretations show progress, but without stronger cooperation and institutional mechanisms, criminals will continue exploiting maritime loopholes. Effective reforms must therefore balance sovereignty, international cooperation, and practical enforcement.

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