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## Legal Analysis of The Hijacking of The Maersk Alabama Ship by Somalian Robbers

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## Abstract

The hijacking of the Maersk Alabama by Somali pirates in April 2009 attracted much attention worldwide and even revealed serious problems related to maritime security and the economic and political impacts in the region. The cargo ship sailing in Somali waters was hijacked by a group of pirates who intended to demand ransom. This case became the world's spotlight when Captain Richard Phillips was kidnapped, causing a crisis situation to develop, involving the United States military in his rescue efforts. This study aims to analyze the law of the hijacking of the Maersk Alabama ship by Somali robbers. This study uses a qualitative normative legal method with a conceptual and legislative approach. In this case study, an analysis was conducted of the factors that caused the piracy, including the political instability of Somalia, weak law enforcement in international waters, and poverty. Then, this study considers the international response to the threat of piracy and steps that can be taken to improve security in maritime areas, such as by conducting military patrols and cooperation between maritime countries. This case shows that ship hijacking can not only have an impact on the shipping sector but also has a broader connection to international relations and global trade. Therefore, an analytical or exploratory approach is needed that involves diplomatic, security, and economic efforts to address the problems in this case and the surrounding area.

## Keywords

Hijacking, Maersk Alabama, Piracy, Security

## 1. Introduction

Maersk Alabama is a cargo ship sailing in Somali waters, which have long been known as a shipping lane prone to piracy. Political instability in Somalia and widespread poverty are the main causes of rampant piracy in the region (Potgiete & Schofield, 2010). This condition makes ships crossing the waters around Somalia vulnerable. One of the ships affected is the Maersk Alabama, a container ship specifically designed to transport large quantities of goods using containers. This ship has a large capacity to transport various types of cargo, such as industrial goods and consumer goods, making it an important part of the global trade chain. The Maersk Alabama's shipping route often passes through strategic international trade routes, connecting ports in various parts of the world. However, this route is also vulnerable to attack by pirates who want to take advantage of the difficult economic and social conditions in Somalia. This situation shows the importance of maritime security to protect global trade from increasing threats.

Before the piracy incident, Somali waters were already known as an area prone to piracy, with many ships being targeted by pirates. Shipping companies, such as Maersk, have taken steps to improve security in vulnerable shipping areas. However, piracy reflects larger problems in Somalia, including political instability, poverty, and weak law enforcement (Percy & Shortland, 2013). Economic instability affects a country's level of well-being (Prasetyo, 2023; Subkhan & Hutajulu, 2023). This well-being can lead to increased crime. This relationship is supported by various economic and criminological theories that suggest that poor economic conditions can increase crime rates (Taylor, 2020; Chen & Zhong; 2021; Jonathan et al., 2021).

The inability of the Somali government to manage the stability of the country has created a lawless environment that facilitates illegal activities. Difficult socio-economic factors drive many people to turn to dangerous actions in order to survive (Ahmed et al., 2019; Jonathan et al., 2021). Poverty, limited employment opportunities, and minimal access to education and basic services worsen the welfare of the community. As a result, some people are forced to commit piracy and other crimes to meet their needs. This situation is further complicated by weak law enforcement and political instability. Therefore, international efforts are needed to address the root of this problem through policies that focus on improving welfare, stronger law enforcement, and political stability in Somalia. With a sustainable approach involving various parties, the threat of piracy and related crimes can be effectively minimized in order to create a safer and more stable environment in the region.

The incident that began in April 2009, the Maersk Alabama ship sailing from Oman to Mombasa, Kenya, attracted a lot of international attention regarding the hijacking incident of the Maersk Alabama ship in Somali waters, precisely in the Gulf of Aden. In this hijacking incident, the American crew of the Maersk Alabama were taken hostage (Viva, 2009). Before sailing, the captain of the Maersk Alabama, Richard Phillips, had been warned not to sail through Somali waters because at that point it was very prone to robbery, but Captain Phillips ignored the warning given. The Maersk Alabama was finally approached by several pirate ships, which then decided to turn back in the afternoon without any incident. The next day, the crew of the Maersk Alabama saw from a distance a small speedboat carrying about 4 pirates using AK-47 firearms (Sanjaya, 2024).

Seeing the movement, the crew of the Maersk Alabama took preventive measures by firing flares that sprayed fire hoses. It is unfortunate that the crew's efforts were in vain after two pirates managed to board the Maersk Alabama. In fact, the crew had time to defend the Maersk Alabama which was about to be controlled by the pirates, but Captain Phillips and several crew members were successfully taken hostage by the pirates on the bridge. According to analysis data, there are 3 Gulf of

Aden which are indeed international water traffic areas, at least 20,000 ships do cross the waters of the region every year with the aim of carrying out export-import activities, because this makes the waters of the region the busiest trade route in the world. As a result, the Gulf of Aden became the main target of piracy by Somali robbers. This piracy is included in the category of international criminal crimes because it stems from habits that have developed in two disciplines, namely international law and international criminal law. A number of international legal instruments have also regulated the problem of piracy at sea. Several international legal instruments have also regulated maritime piracy (Diantha, 2014). The act of hijacking the Maersk Alabama ship can be categorized as a violation of Human Rights, especially in the context of the right to freedom and security. From the background that has been described, this study aims to analyze the law of the hijacking of the Maersk Alabama ship by Somali robbers.

## **2. Methods**

This study uses a qualitative normative legal method with a conceptual and legislative approach (Zainuddin & Karina, 2023). The conceptual approach analyzes the hijacking of the Maersk Alabama within the framework of international law, focusing on universal jurisdiction and international maritime law. This approach aims to understand piracy as a transboundary crime governed by global legal instruments. Meanwhile, the statutory approach examines the application of international law in this case, particularly through the United Nations Convention on the Law of the Sea (UNCLOS 1982) and the Rome Convention 1988. These conventions establish the legal framework for prosecuting piracy in international waters, including the Gulf of Aden, where the Maersk Alabama hijacking occurred. The study relies on secondary data obtained through literature studies. Data sources include books on international law, journal articles, legal documents such as international conventions and regulations, and relevant news reports on the hijacking. Additionally, similar piracy cases are used for comparison to enrich the analysis. The analysis follows a descriptive-qualitative approach. The collected data is systematically identified, categorized, and interpreted within a legal context to explain the relationship between piracy, maritime security, and international relations. This study explores how piracy challenges state sovereignty, global security, and international cooperation, particularly regarding jurisdiction over maritime crimes. By applying these methods, the research highlights the legal complexities in prosecuting maritime piracy under international law. The study also underscores the role of UNCLOS 1982 and the Rome Convention 1988 in shaping global responses to piracy. The findings contribute to the discussion on strengthening legal mechanisms for combating piracy, emphasizing the need for international collaboration in enforcing maritime security regulations.

## **3. Result and Discussion**

Piracy at sea, from the perspective of international law, is explicitly regulated in Articles 100–107 of the United Nations Convention on the Law of the Sea (UNCLOS) (Ansari et al., 2014). Article 105 of UNCLOS states that any country has the authority to prosecute and punish perpetrators of piracy, as well as determine appropriate actions regarding ships, aircraft, or goods while considering the interests of third parties. This provision reflects the principle that piracy is a universal crime, allowing any state to take legal action regardless of where the act occurs. Apart from piracy, maritime crimes such as armed robbery at sea are regulated under the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention). This treaty extends legal provisions to acts of violence committed at sea that may not fall under the strict

definition of piracy under UNCLOS. The SUA Convention was established to address growing security threats, including terrorism, that endanger maritime navigation and global trade.

In international law, piracy is regarded as a severe violation of universal legal principles, giving all nations both the right and obligation to enforce legal measures against perpetrators (Paige, 2013). Unlike ordinary crimes that typically fall under a specific national jurisdiction, piracy is categorized as an offense against the international community as a whole. This classification grants states the authority to pursue and prosecute pirates regardless of nationality or location. The regulations outlined in UNCLOS and the SUA Convention illustrate a global commitment to maritime security. These legal frameworks provide a foundation for preventive measures, enforcement actions, and restitution for losses caused by piracy and related crimes. By addressing piracy as a threat to international stability, these conventions emphasize the importance of coordinated global efforts in ensuring safe and secure maritime navigation. Ultimately, maritime crimes are not merely offenses against individual nations but are considered significant threats to international peace and economic security (Song et al., 2019; Bueger & Edmunds, 2020; Melnyk, 2021).

In its implementation, the perpetrators of piracy in these waters refer to Article 6 Paragraph (1) letter (b) which states that each country concerned must take the necessary actions to establish jurisdiction over the criminal acts regulated in Article 3 of the Convention if the criminal act occurs in the territory of the country concerned. Article 6 Paragraph (2) also states that each state party may establish jurisdiction over violations that occur on ships flying its flag. In relation to international law, several principles of jurisdiction have emerged as the basis for the application of a country's jurisdiction to acts of piracy at sea, namely the principles of citizenship, territoriality, universality, and extraterritorial jurisdiction (Parthiana, 2014). These principles of jurisdiction play an important role in upholding international law and protecting human rights, especially the right to life and safety of individuals (Sasmito, 2017). Acts of piracy involving violence or threats against ships and crew often threaten the safety of human life, which is a basic right that must be protected. Therefore, the application of clear and firm jurisdiction over piracy at sea is an effort to guarantee the protection of human rights, ensure justice for victims, and prevent further violations of individual rights.

The hijacking of the Maersk Alabama by Somali pirates was one of the most famous ship hijackings of the 21st century, and has attracted international attention because it involved a dramatic hostage crisis. Legal repentance that can be done is through Rescue Efforts, Legal Processes carried out, Court Processes in the United States, Other Cases and International Courts and seeking international assistance (Rapp, 2009). The United States government immediately responded by deploying Navy SEALs (Sea, Air, and Land) to carry out the rescue. Captain Phillips was held hostage in a small lifeboat on the high seas, while the Somali pirates tried to escape to land. On April 12, 2009, a rescue operation was carried out by US Navy SEALs, who managed to shoot dead three Somali pirates who were holding the hostage (Captain Phillips), while the other pirates were captured alive. Captain Phillips was rescued in good health, although he suffered psychological trauma from the hostage-taking. One of the surviving pirates, Abduwali Abdukhadir Muse, was captured by United States forces and brought to the US to be tried. He was one of five pirates involved in the hijacking of the Maersk Alabama. Muse was tried in a federal court in New York. In 2010, Muse pleaded guilty to robbery and hostage-taking charges, and in 2011, he was sentenced to 33 years in prison by a US federal court. Muse claimed that he and the other robbers carried out the piracy because of the poor economic situation in Somalia, although they did not intend to kill, and that they were only trying to get ransom.

The decisive action taken by the United States government, including the rescue operation by Navy SEALs and the trial of the pirates, reflects a commitment to provide justice and prevent similar crimes. This case also highlights the relevance of international cooperation in dealing with piracy problems involving various countries, as well as the importance of considering socio-economic factors in resolving piracy problems in international waters (Banai, 2021; Broohm, 2021; Amao et al., 2024). The Maersk Alabama piracy incident emphasizes the importance of applying international legal principles related to combating transnational crimes, such as maritime piracy. Law enforcement and crime prevention must be carried out together (Burhanuddin, 2021; Widijowati, 2023). The legal actions taken by the United States government, from rescue operations to the trial process against the pirates, demonstrate the application of a firm and transparent criminal justice system in dealing with these serious crimes. This case emphasizes the importance of international cooperation in law enforcement, both through assistance in rescue operations and in the process of extradition and trial of perpetrators of crimes, which is also an effort to create a sense of global justice.

In addition to Muse, a number of other robbers were captured or killed during the rescue operation of the Maersk Alabama. Several of the captured robbers were later extradited or prosecuted by countries that have jurisdiction over the crime, whether it occurred in their territory or involved their nationals. The hijacking of the Maersk Alabama in 2009 became an international spotlight, revealing the serious level of threat from piracy in the Gulf of Aden and off the coast of Somalia. The hijacking illustrates the increasingly disturbing problem of piracy and disrupts international trade routes. In response to this threat, the international community has begun to increase efforts to overcome piracy by involving various international maritime patrols. One major effort is through Operation Atalanta carried out by the European Union, which aims to secure shipping in the region. In addition, the formation of an international working group involving countries with maritime interests, such as the United States, the United Kingdom, and other countries, is also an important step. This joint effort is designed to improve shipping security and reduce the number of piracy incidents that harm the global economy and the safety of seafarers operating in vulnerable areas (Jin & Techera, 2021; Riaz et al., 2022).

In the perspective of human rights law, ship hijackings that occur in international waters, such as the Maersk Alabama, involve not only threats to human life but also violations of basic human rights, such as the right to live and work in safe conditions. Therefore, efforts to address piracy by increasing maritime surveillance and international collaboration are essential, both to protect the rights of individuals, such as seafarers, and to maintain a fair and sustainable international legal order. From an economic perspective, crimes that disrupt international trade routes have the potential to cause huge financial losses to countries and the private sector, which can ultimately hinder global economic growth (Luo, 2021). Therefore, effective preventive measures and international cooperation to eradicate piracy will provide great benefits for economic stability and shared prosperity.

The case of the hijacking of the Maersk Alabama by Somali robbers highlights the importance of implementing international and national laws in addressing transnational crimes, human rights, and law enforcement against piracy and hostage-taking in international waters. The rescue actions taken by the United States Government, including the deployment of US Navy special forces, reflect the principle of international law that allows states to intervene in hostage or piracy situations that threaten the safety of their citizens. Handling this transnational crime also involves the application of international law that regulates the authority of states to take action outside their territorial territory. The trial of Abduwali Abdukhadir Muse in the US shows how states use the domestic justice system to deal with crimes outside their territory. The verdict against Muse reflects the state's

commitment to enforcing appropriate laws against the perpetrators of the crime (Gunawan, 2012; Sainchyn et al., 2021).

This case emphasizes the importance of international cooperation in combating piracy, especially in international waters. As well as international crimes that must be addressed together (Fahim, 2022). Operation Atalanta by the European Union and the formation of an international working group reflect the multinational approach needed to address this threat. Cooperation between maritime stakeholders is key to curbing piracy, which disrupts global trade routes. In addition, the piracy has sparked discussions about the establishment of an international tribunal or state courts with jurisdiction over perpetrators of crimes in international waters, to ensure accountability. Overall, this case illustrates how international law, national criminal law, and cooperation between states can be applied to address the crime of piracy. This not only ensures justice for victims, but also encourages collective efforts to protect global maritime security, a critical challenge in an increasingly connected world.

#### 4. Conclusion

The hijacking of the Maersk Alabama by Somali pirates in April 2009 highlighted significant challenges in international maritime security. This incident exposed the unstable political conditions, extreme poverty, and weak law enforcement in Somalia, which contribute to the proliferation of criminal activities at sea. The hijacking not only affected the shipping industry but also had broader implications for the global economy and international relations. Legally, ship hijacking is recognized as an international criminal offense, governed by conventions like the United Nations Convention on the Law of the Sea (UNCLOS 1982) and the Rome Convention 1988. These agreements allow countries to exercise universal jurisdiction over piracy, meaning any nation can prosecute piracy without regard to territorial boundaries. However, the Maersk Alabama case demonstrates the need for enhanced international cooperation to combat piracy effectively. Strengthening maritime patrols, enhancing legal frameworks, and bolstering diplomatic efforts are essential measures to tackle piracy at its roots. In addition, addressing the underlying political and economic instability in Somalia is crucial for reducing future piracy incidents. Improving the rule of law and economic development in Somalia will help mitigate the conditions that allow piracy to flourish. Improving the effectiveness of international law is vital. This can be achieved through harmonizing regulations, fostering cross-border cooperation, and implementing preventive strategies such as community education and empowerment in coastal regions. These steps will not only enhance maritime security but also contribute to a more stable and secure global trade environment, ensuring the safe movement of goods across international waters. By addressing both the immediate and underlying issues of piracy, the international community can work toward a safer maritime future.

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