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A study of the role of seafarers in combating piracy off the coast of Nigeria

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Abstract Piracy off the coast of Nigeria portends grave danger to the economic, security, and sociopolitical development of the country. It also threatens both international and regional trade as well as the stability of the West African sub-region. Despite Nigerian government's attempts to curb piracy caused by poverty, unemployment, including corrupt and weak maritime regulatory and security institutions, attacks by pirates have continued to occur off the country's coast. Consequent upon the adverse effects of piratical attacks on their day to day activities, seafarers can facilitate the suppression of piracy off the Nigerian coast. This paper uses statistics, provisions of international instruments and domestic legislations, the United Nations Security Council resolutions, soft laws, and opinions of researchers to examine the nature, causes, and effects of piracy on seafarers in Nigeria. The author argues that seafarers are necessary partners to curb piracy off the coast of Nigeria through enforcing maritime security conventions and other related instruments as well as testifying against pirates during trials. In conclusion, this paper contends that acts of piracy adversely affect crew members' life, health, family, job, and finance thereby providing an overwhelming motivation for seafarers to play a role in suppressing piracy off the Nigerian coast.

Keywords Seafarers · Piracy · UNCLOS · MLC 2006 (as amended) · Nigerian coast · Petroleum industry

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1 Introduction

Piracy incidences in the Gulf of Guinea[1] region are essentially linked to the petroleum[2] industry, the mainstay of the region's economy and the region potentially produces about 5.4 million barrels of crude oil per day.[3] The main objective of pirates in the Gulf of Guinea is to capture vessels, particularly oil tankers, with a view to reselling their cargo at the lucrative black market.[4] Pirates also hijack vessels, kidnap, and hold crew members hostage to obtain ransom payments. For instance, the International Maritime Bureau (IMB) piracy report for 2015 reveals that 9 seafarers were held hostage while 19 crew members were kidnapped off the coast of Nigeria.[5] According to the United Nations Conference on Trade and Development (UNCTAD) report, "(t)ankers are extremely vulnerable to pirate attacks in the Gulf of Guinea, given their high value cargo and their being stationary during ship-to-ship oil transfer. Thus, tankers and offshore energy exploration infrastructure have been the main targets of piracy… activities."[6] And seafarers most times are on the receiving end of such hijacks by pirates.

For illustrative purposes, the Ocean Beyond Piracy (OBP) report for 2014 states that the total economic cost of piracy in the Gulf of Guinea was about US$983 million, approximately US$314 million was spent on vessel protection, and the shipping industry was responsible for 47 % of this cost.[7] Moreover, acts of piracy in the Gulf

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[1] The Gulf of Guinea region here means the part of the Atlantic Ocean southwest of Africa made up of countries from West and Central Africa, namely Angola, Benin, Cameroon, Central African Republic, Cote d'Ivoire, Democratic Republic of Congo, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea-Bissau, Liberia, Nigeria, Republic of Congo, Sao Tome and Principe, Senegal, Sierra Leone, and Togo.

[2] In this paper, petroleum also means 'oil and gas' and 'energy resources'.

[3] Charles Ukeje & Wullson M. Ela, *African approaches to maritime security-the Gulf of Guinea* (Friedrich-Ebert-Stiftung: Abuja 2013) p. 9.

[4] Despite the fact that most of the piratical attacks in the Gulf of Guinea are targeted at the cargo of tankers, there are incidences where seafarers were kidnapped and taken as hostages for ransom and their properties were stolen. "Benin's maritime security challenge in the Gulf of Guinea," West African Report: Institute for Security Studies (ISS), Iss. 12, May, 2015, p. 3 <https://www.issafrica.org/uploads/ECOWAS12.pdf> accessed 26 May 2016. ICC-IMB "Piracy and Armed Robbery against Ships: Report for the Period of 1 January-31 December 2015," January 2016, hereafter referred to as "IMB Piracy Report for 2015," pp. 19/24–25 and ICC-IMB "Piracy and Armed Robbery against Ships: Report for the Period of 1 January–31 December 2014," January 2015, hereafter referred to as "IMB Piracy Report for 2014," pp. 20/24–25.

[5] In addition, a seafarer was injured while another was assaulted in 2015. IMB Piracy Report for 2015, p. 10. In 2014, 15 crew members were held hostage, 6 were kidnapped, 1 was injured and another was killed off the coast of Nigeria. IMB Piracy Report for 2014, p. 11. And in 2013, 43 seafarers were held hostage, 34 kidnapped, 4 injured and 1 killed off the coast of Nigeria. ICC-IMB, "Piracy and Armed Robbery against Ships," Report for the Period 1 January-31 December, 2013," January, 2014, hereafter referred to as "IMB Piracy Report for 2013," p. 11.

[6] UNCTAD, "Part I: an overview of trends, cost and trade-related implications," Studies in Transport Law and Policy, No. 1, 2014, p. 11 <http://unctad.org/en/PublicationsLibrary/dtltlb2013d1_en.pdf> accessed 26 May 2016. See also Keunsoo Jeong, "Diverse piracy patterns and different control mechanisms," a paper for the ISA Global South Caucus Conference, 2015, pp. 12–13 <http://web.isanet.org/Web/Conferences/GSCIS%20Singapore%202015/Archive/e6fad450-03e9-4946-9d3a-ee793d30de5b.pdf> accessed 26 May 2016.

[7] OBP, *The state of maritime piracy 2014* (One Earth Future Foundation: Denver, CO 2014) p. 37. See generally, Kalu K. Anele, "A study of the suppression of piracy off Nigeria through the instrumentality of port state control" a Dissertation submitted on February 2016 to the Graduate School of Korea Maritime and Ocean University, Busan, pp. 101–103.

of Guinea threaten about US$600 million worth of fishing exports.[8] The OBP report for 2014 further shows that 60 % of the attacks by pirates occurs off the coast of Nigeria,[9] which invariably affects the economy of the country. For example, the 2012 audit report by NEITI discloses that the total revenue that accrues to Nigeria yearly from the petroleum industry is estimated to be US$62.944 billion.[10] However, Nigeria losses approximately US$8 billion per annum to the activities of pirates and other maritime criminals.[11] Onuoha opines that as a result of piracy, Nigeria loses about US$9 billion per annum,[12] while Benin lost an estimated US$11 million between 2010 and 2012.[13] More pointedly, the OPB report for 2014 on 'human cost piracy key findings' in the Gulf of Guinea uncovers that 1,035 seafarers were subjected to attacks, 170 seafarers were detained, and 55 % of these attacks involved weapons.[14] Specifically, the number of violence to crew between 2011 and 2015 is 895 (2011), 662 (2012), 373 (2013), 479 (2014), and 333 (2015).[15] To buttress this point, the IMB piracy report for 2015 makes it known that pirates in the Gulf of Guinea are well armed and violent, while the waters in the region remain risky for navigation.[16] The paper submits that the above statistics and analysis lend credence to the fact that piratical acts off the coast of Nigeria are violent which adversely affects seafarers, hence a significant motivation for the crew to play a role in curbing piracy of the country's coast.

This paper is divided into six different parts. After the necessary introduction section, an examination of factors that facilitate seafarers' security competence and the

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[8] Piracy has significantly implicated on the fishing industry which has resulted in the continued loss of jobs in the fishing sub-sector of the Nigerian economy. Blessing S. Essien & Toakodi Adongoi, "Sea piracy and security challenges of maritime business operation in Bayelsa State, Nigeria: an empirical study," (2015) International Journal of Humanities and Social Science, Vol. 5, No. 2, p. 214; Kalu K. Anele, "The economic effect of piracy in Nigeria: an overview of the fishing industry," Winter Academy Seminar organised by the Korean Institute of Maritime Law held at the Korean Seafarers Welfare and Employment Center, 27 February, 2015, pp. 43–73; and Theo Neethling, "Piracy around Africa's west and east coasts: a comparative political perspective," (2010) Scientia Militaria, South African Journal of Military Studies, Vol. 38, No. 2, pp. 100–101 <http://www.ajol.info/index.php/smsajms/article/viewFile/70505/59109> accessed 26 May 2016.

[9] Nigeria is also the largest Gulf of Guinea country and the greatest recipient of maritime traffic. OBP (n. 7) pp. 39/43.

[10] Nigerian Extractive Industries Transparency Initiative's (NEITI's) financial, physical and process audit: an independent report assessing and reconciling physical and financial flows within Nigeria's oil and gas industry 2012, presented by Taju Audu & Co, 10 March, 2015, p. 15 <http://www.neiti.org.ng/sites/default/files/pdf_uploads/2012-OIL-GAS-REPORT/2012-Oil-Gas-Audit-Report-Exec-Sum.pdf> accessed 27 May 2016.

[11] Kalu K. Anele & Yun-Cheol Lee, "A study on strengthening control of maritime piracy in Nigeria's territorial waters" (2014) Maritime Law Review, Vol. 26, No. 2, p. 25. See also Sun Kerry, "Oil theft in Nigeria," International Policy Digest, 24 November, 2013 <http://www.internationalpolicydigest.org/2013/11/24/oil-theft-nigeria/> accessed 27 May 2016.

[12] Freedom C. Onuoha, "Piracy and maritime security in the Gulf of Guinea: Nigeria as a microcosm," Aljazeera Center for Studies, 12 June, 2012, p. 8 <http://studies.aljazeera.net/ResourceGallery/media/Documents/2012/6/12/201261294647291734Piracy%20and%20Maritime%20Security%20in%20the%20Gulf%20of%20Guinea.pdf> accessed 26 May 2016. Rider estimates that Nigeria loses an average of US$ 12 billion per annum to piracy. David Rider, "The thriving business of piracy in the Gulf of Guinea," Neptune, 2 April, 2014 <http://www.neptunemaritimesecurity.com/thriving-business-piracy-gulf-guinea/> accessed 27 May 2016.

[13] It is important to note that Benin derives its revenue from its maritime sector, which constitutes more than half of its gross domestic product (GDP). "Benin's maritime security challenge in the Gulf of Guinea" (n. 4) pp. 1–6.

[14] OBP (n. 7) p. 37.

[15] IMB Piracy Report for 2015, p. 9.

[16] IMB Piracy Report for 2015, p. 19. See also the IMB Piracy Report for 2014, pp. 20–21.

interrogation of the working condition and welfare of the crew in Nigeria through the prism of law and policy are conducted in Part 2 in order to determine the existence of features and conditions that motivate seafarers to play a role in suppressing piracy. Further, the nature, causes, and effects of acts of piracy on seafarers off the coast of Nigeria are critically analysed in Part 3. The objective of this pivotal section is to underscore the peculiar nature of piracy in Nigeria, explore the root causes of acts of piracy off the Nigerian coast, and through the adverse effects of piratical attacks on the crew, identify the motivating factors for seafarers to facilitate the suppression of piracy off the coast of Nigeria. Part 4 of this paper explores seafarers' challenges in curbing piracy off the Nigerian coast despite the adverse effects of piratical acts on crew members. In view of that, it is a truism that the absence of a conducive working environment and enhanced welfare condition due to lack of laws and policies discourages seafarers from playing a role in curbing piracy. In light of the above, Part 5 articulates workable recommendations toward enhancing the role of seafarers in suppressing piracy off the coast of Nigeria. And Part 6 concludes this paper by reiterating that piracy as a result of poverty, including unemployment, adversely affects crew members' life generally and by introducing as well as implementing the recommendations proffered in this paper, seafarers can complement the suppression of piracy off the coast of Nigeria.

2 An overview of factors that facilitate the role of seafarers in suppressing piracy

The author argues that the welfare of seafarers is relevant in curbing piracy.[17] This means that better welfare is one of the motivating factors for seafarers to effectively perform their security roles on board vessels. Thus, conditions of employment, hours of work and rest,[18] accommodation, recreational facilities,[19] food and catering, health protection, medical care,[20] living condition, social security for seafarers, and recruitment and placement services covered by the Maritime Labour Convention[21] are of

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[17] Thomas et al. conclude that enhanced and better welfare for seafarers culminates in 'positive consequences' for their employers. In other words, better welfare condition motivates seafarers to effectively perform their security and safety responsibilities on board vessels. Michelle Thomas et al., "Finding a balance: companies, seafarers and family life" in Heather Leggate et al. (ed.) *International maritime transport* (Routledge: New York 2005) p. 116. More so, Balbaa is of the view that there is a correlation between the welfare of seafarers and crew members' ability to effectively perform their safety and security functions on board ships. Alsnosy Balbaa, "Protecting seafarer's rights-the need to review the implementation of the ISPS Code" <http://iamu-edu.org/wp-content/uploads/2014/07/s2-balbaa.pdf> accessed 23 April 2016.

[18] For seafarers to contribute in suppressing piracy, fatigue as a result of long working hours and other harsh working conditions should be prevented. International Chamber of Shipping, "2014 annual review," p. 39.

[19] It is argued that where there is little loyalty to the company because of the failure of the company's management to promote and adequately provide for the health, safety and well-being of their crew, the vessel becomes easy target for pirates due to the laisser-faire attitude of crew members toward the security of the ship. "Look after your people…and they will look after you," *The International Maritime Human Element Bulletin*, Iss. No. 18, September, 2008, p. 1.

[20] The provision of medical care to seafarers is very vital in keeping them healthy as well as psychologically and mentally alert to respond adequately and timeously in case of any security breach on board the ship. J. Rengamani & Sakthivel M. Murugan, "A study on the factors influencing the seafarers' stress," (2012) AMET International Journal of Management, p. 45.

[21] Maritime Labour Convention, 2006, adopted by the 94th International Labour Conference in Geneva in February, 2006 (entered into force August 2013), hereafter referred to as the "MLC 2006."

paramount importance in the role seafarers play in securing their vessels.[22] In a similar vein, introducing a policy that mandates the compensation of the crew for financial, property, and job losses due to piratical attacks or as a result of participating in the prosecution of pirates motivates and facilitates seafarers' role as a veritable tool and a major asset in safeguarding their vessels.[23] In view of that, seafarers are incentivised to use their security training and competence to complement other efforts toward suppressing piracy since injured crew members will receive adequate medical attention and in cases of death, kidnapping, hostage situation, and loss of personal property, the family members of the affected crew will be adequately compensated.

Moreover, seafarers require proper training, competence, and associated certification to enhance their capability to assess and analyse security risks during piratical attacks and to effectively respond by administering security protocol, which includes the use of modern security equipment.[24] It is argued that capacity building through training and certification and the elimination of flag of convenience[25] bolster the capability of seafarers to contribute in sustaining the security of ships.[26] Therefore, it is the position of this paper that well-trained and competent seafarers, like the ship security officers (SSOs), are better positioned to implement relevant maritime security conventions and other related instruments, assess and analyse security risks, and manage as well as administer security protocol to prevent or repel attacks on their vessels.

In addition to the above, seafarers' capacity building that leads to the acquisition of best management practices, like manoeuvring vessels during piratical attacks, aimed at avoiding pirates contributes to the overall security of vessels. This has not only

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[22] See Cleopatra Doumbia-Henry, et al., "The Maritime Labour Convention, 2006 consolidates seafarers' labour instruments," American Society of International Law, Vol. 10, Iss. 23, 2006 <http://www.asil.org/insights/volume/10/issue/23/maritime-labour-convention-2006-consolidates-seafarers-labour> accessed 26 May 2016.

[23] Seafarers should be seen as the life blood of the shipping industry as well as a major asset in securing the vessels. Unfortunately, they are increasingly seen as 'cost center' by ship owners. "Industry concern," *Seacurus Insurance Bulletin*, Iss. 31, December–January 2014 <http://www.seacurus.com/newsletter/Seacurus_Issue_31.pdf> accessed 26 May 2016.

[24] The international Maritime Organisationa (IMO) is actively involved in the training, competence and certification of seafarers. On 1 February 1997, the 1995 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, entered into force. This enhanced framework for the management of the quality of seafarer's competence greatly improved the safety as well as security of shipping operations. A major revision of the STCW Convention and its Code was completed in 2010. See the Manila Amendments to the Annex to the Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, IMO, STCW/CONF.2/33, 1 July, 2010, hereafter referred to as the "STCW Convention as amended." See also J.R.F. Hodgson, "The role of the International Maritime Organization in combating piracy," DMPP Research, October, 2011, p. 3.

[25] For further information on the flag of convenience (FOC), see Tina Shaughnessy & Ellen Tobin, "Flag of inconvenience: freedom and insecurity on the high sea," pp. 20–21 <https://www.law.upenn.edu/journals/jil/jilp/articles/1-1_Shaughnessy_Tina.pdf> accessed 26 May 2016. See also Jeremy Firestone & James Corbett, "Maritime transportation: a third way for port and environmental security," (2003) Widener Law Symposium Journal, Vol. 9, p. 406, where it was muted that FOC is used to conceal criminal activities.

[26] The existence of well-motivated and well-trained seafarers discourages pirates from attacking a ship. "The importance of the Indian Ocean rim for Australia's foreign trade and defence policy," Foreign Affairs, Defence and Trade References Committee, The Senate, June, 2013, pp. 142–14 <http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Foreign_Affairs_Defence_and_Trade/Completed_inquiries/2010-13/indianocean/report/index> accessed 26 May 2016, citing Dr. Sam Bateman and Sam Bateman, "Ship vulnerability, port state control, flag state responsibilities and maritime security," <https://www.polyu.edu.hk/lms/ICMS/ifspa2012/Presentations/SpecialSession4-1.pdf> accessed 26 May 2016.

enhanced the level of security awareness of seafarers, but provided a veritable and symbiotic working relationship between the crew and privately contracted armed security personnel[27] on board ships. There are instances where seafarers have been able to avoid as well as repel several piratical attacks on their vessels due to the application of best management practices, like enhanced security awareness and risk assessment.[28] More so, under the best management practices regime, seafarers' assistance to PCASP has led to the prevention of acts of piracy on their vessels.[29] In fact, the United Nations Security Council (UNSC) has, in its resolutions, acknowledged IMO's recommendations and guidance for preventing, repelling, and suppressing piracy and welcome efforts to update the guidance, which culminated in best management practices for seafarers.[30] Against this backdrop, it is the argument of this paper, which aligns with the observation of Coutroubis and Kiourktsoglou,[31] that better trained seafarers in a conducive working environment engendered by laws and policies can effectively contribute to the suppression of piracy.

2.1 An X-ray of the labour and working conditions of seafarers in Nigeria

A comprehensive understanding of the role seafarers play in suppressing piracy off the coast of Nigeria requires a brief examination of the laws and policies that affect the crew in the country's maritime industry. The exploration of such laws and policies will be an overarching testament and determination of the existence or non-existence of factors that facilitate seafarers' competence, ability, and willingness to secure their vessels off the coast of Nigeria. It is noteworthy that the checkered history of the shipping industry in Nigeria culminated in the dearth of labour-related laws and the absence of effective and consistent shipping policies toward training and capacity building for seafarers.[32] Against this background, the author argues that unless the

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[27] Privately Contracted Armed Security Personnel, hereafter referred to as "PCASP."

[28] "Chinese crew keep pirates at bay," *The Sea*, Iss. 198, 2009, p. 1 <http://www.missiontoseafarers. org/uploads/pdfs/The-Sea-Mar-Apr-2009.pdf> accessed 26 May 2016; "DFA lauds measures undertaken by *MV Beluga Fortune* seafarers to repel piracy attacks," press release by the Department of Foreign Affairs, Official Gazette, 4 November, 2010 <http://www.gov.ph/2010/11/04/dfa-lauds-measures-undertaken-by-mv-beluga-fortune-seafarers-to-repel-piracy-attacks/> accessed 26 May 2016; and Gerry J. Gilmore, "Shipper-supplied security is best defense against pirates, Flournoy says," U.S. Department of Defense <http://archive. defense.gov/news/newsarticle.aspx?id=54207> accessed 26 May 2016, citing Flournoy, who stated that about 78 % of piratical attacks on merchant vessels transiting the Gulf of Aden between Somalia and Yemen was thwarted by the ships' crew.

[29] The combined efforts of the crew of the *MV Ocean*, who deployed their anti-piracy safety training and the on board security team fended off multiple attempts by pirates to board their vessel while off the coast of Lome, Togo. See "Ocean Atlas repels piracy attacks," January, 2013 <http://www.seafarers. org/seafarerslog/2013/January2013/OceanAtlasRepelsPirates.htm> accessed 26 May 2016.

[30] See para. 25 of UNSC Resolution 2125 (18 November 2013) UN Doc S/RES/2125; para. 3 of the UNSC Resolution 1846 (2 December 2008) UN Doc S/RES/1846; para. 15 of the UNSC Resolution 1897 (30 November 2009) UN Doc S/RES/1897; and para. 4 of the UNSC Resolution 2018 (31 October 2011) UN Doc S/RES/2018.

[31] A. Coutroubis & G. Kiourktsoglou, "Somali piracy: relation between crew nationality and vessel's vulnerability to seajacking," (2012) International Journal on Maritime Navigation and Safety of Sea Transportation, Vol. 6, No. 1, p. 103.

[32] For more information on the historical development of the shipping industry in Nigeria, see Jerome U. Orji, "How has the Nigerian maritime industry performed in the last 50 years," *Ships and Ports Weekly*, January, 2011.

current regime is changed, Nigerian seafarers will continue to be responsible for the human cost of piracy and would play no role in securing their vessels.

As a corollary to the above, there is an absence of policy direction in the shipping industry in Nigeria, especially in the area of training and capacity building for seafarers. The existing paradigm is that seafarers in Nigeria do not get adequate training required for proper management, safety, and security of vessels due to the dearth of relevant policies in the country's maritime industry. In this regard, it is contended that the recent policy decision to remodel Nigeria's National Seafarers Development Programme (NSDP), which is laudable, has been marred by the preference to train seafarers abroad rather than invest in the infrastructural development of the country's maritime industry. [33] This unsustainable precedent arises because MAN[34] lacks funds, modern facilities, and, particularly, training vessels needed to adequately train Nigerian seafarers to become certified in accordance with the STCW Convention as amended. Consequent upon the existing policy which engenders 'political patronage' and MAN's lack of training vessels and its attendant deprivation of sea time experience to its cadets, graduates of MAN do not have the requisite capacity and competence to secure their vessels.

More so, it is further argued that the recent attempt to re-establish the national shipping line, which has always been an exercise in futility in the country,[35] should be handled by stakeholders in the shipping industry in Nigeria. Such endeavour should not be undertaken by government; instead, it must be private sector driven with the support of government. Besides, MAN's lack of infrastructural development has resulted in the declaration of its graduates as unemployable by ship owners, the Nigerian Maritime Administration and Safety Agency (NIMASA),[36] and the Nigerian oil and gas industry. [37] This shows that the Nigerian government lacks the capacity to effectively manage maritime activities. In view of the policy gaps in capacity building and enhanced

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[33] It is posited that sending graduates of Maritime Academy of Nigeria (MAN) for further training, especially to have sea experience, would be good, but a situation where huge money is spent on 'green horns' selected as a result of 'political patronage' is condemnable and unsustainable too. Therefore, there is need to fund, facilitate, and equip MAN in other to be able to adequately train seafarers. Chigozie Chikere, "Remodelling Nigeria's seafarers development programme," *Daily Independent*, 30 October, 2014 <http://dailyindependentnig.com/2014/10/remodelling-nigerias-seafarers-development-programme/> accessed 26 May 2016.

[34] MAN is the leading maritime institution in Nigeria where seafarers are trained. In spite of its importance in the Nigerian maritime sector, the institution is under-funded and particularly lacks state of the art facilities and training ships for its cadets. Due to the absence of sea experience by MAN's graduates, they are not employed by the shipping companies in Nigeria. Ibid.

[35] Previous attempts by Nigerian government to establish a national shipping line, for example, the creation of the Nigerian National Shipping Line (NNSL) and the Nigerian Unity Line (NUL), ended in fiasco due to mismanagement of funds. As a consequence, seafarers lost their jobs and it took a long time before they got their stipends as benefits. Some seafarers claim that they did not get all that were due to them. See "Nigeria: NIMASA moves to address seafarers' conditions," *Thisday*, 29 July, 2012 <http://allafrica.com/stories/201207290205.html> accessed 26 May 2016. See also "Nigerian shipping: stakeholders advocate for 'national carrier status,'" 27 January, 2014 <https://themaritimehub.wordpress.com/category/cabotage-act-2003/> accessed 26 May 2016.

[36] C. Chikere (n. 33).

[37] Godfrey Bivbere, "Oil industry rejects Nigerian certified seafarers," *Vanguard*, 12 February, 2015 <http://www.vanguardngr.com/2015/02/oil-industry-rejects-nigerian-certified-seafarers/> accessed 27 May 2016.

training for the crew, this paper submits that the security ability and competence of Nigerian seafarers are grossly undermined.

In light of the foregoing, it must be emphasised that some of the existing maritime laws have equally exposed seafarers to a condition where they are exploited by ship owners and, thus, discouraged from safeguarding their vessels. This is aptly illustrated by the fact that the Cabotage Act,[38] which ordinarily should encourage local participation in the shipping industry, creates waivers that allow vessels owned by foreigners and manned by foreign crew to operate in Nigeria. The implication of these statutory provisions is that Nigerian seafarers may not be employed to work in vessels owned by foreigners. In view of that, the author opines that the waiver which prevents the employment of Nigerian seafarers by foreign shipping companies and the unemployable status of MAN's graduates pave way for unfair treatment of the few employed Nigerian seafarers by foreign shipping companies and their Nigerian counterparts.[39] Under such poor working condition, Nigerian seafarers cannot perform their security responsibilities effectively.

More pointedly, Nigerian seafarers that are either injured or lost their lives during acts of piracy do not have any form of compensation from their employers.[40] Lending credence to this fact, Santos observes that when seafarers die, suffer physical injuries or loss of properties in defense of their lives and those of others as well as in defense of properties on board ships as a result of piratical acts, "the legal regime, under international law, by which they can base their claim remains unclear."[41] This paper argues that Nigeria, like must countries, has no law that provides for compensations or benefits to seafarers who are victims of piratical attacks, including those that participate in the prosecution of pirates.

In furtherance of the above, it is pertinent to state that Nigeria has ratified, but not domesticated the MLC 2006[42] in accordance with section 12 of the 1999 Constitution of the Federal Republic of Nigeria as amended (the 1999 Constitution of Nigeria), which means that the labour and working conditions of more than 4000 registered seafarers in the country are still poor.[43] The convention has comprehensive provisions for the management and regulation of employers/employees relationships in labour matters in the maritime

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[38] The preamble to the Coastal and Inland Shipping (Cabotage) Act 2003 states that the Act seeks to promote the development of indigenous capacity in domestic maritime trade by prohibiting the use of foreign vessels, manned by foreign crew, and foreign nationals in such trade. However, sections 9–14, Part III of the Act, provide for waivers on wholly Nigerian ownership, manning requirements and Nigerian built vessels.

[39] Under such working condition, Nigerian seafarers do not undergo the mandatory training under the STCW Convention as amended necessary to secure their vessels.

[40] OBP (n. 7) pp. 58–59.

[41] Lunecito U.D. Santos, "Law and policy perspectives of seafarers' claim," (2008) All Dissertation, Paper 178, p. 78 <http://commons.wmu.se/cgi/viewcontent.cgi?article=1177&context=all_dissertations> accessed 27 May 2016.

[42] Moses Ebosele, "New 'bill of rights' for seafarers comes into force," *The Guardian*, 21 August, 2013, p. 38. It is important to state that the MLC 2006 does not apply directly to ship owners, seafarers or ships; but it relies on the implementation of national laws or other measures by state governments for its compliance. This means that if countries ratify or domesticate the convention, they are obliged to enact laws and regulations in line with the MLC 2006 which should subsequently be implemented by ship owners, hence affecting ships and seafarers. Stavros Kairis, "MLC 2006 enforcement through port state control inspection in ports (MLC Regulation 5.2.1)," *Officer of the Watch*, 1 May, 2013 <http://officerofthewatch.com/2013/05/01/mlc-2006-enforcement-through-port-state-control-inspections-in-ports-mlc-regulation-5-2-1/> accessed 27 May 2016.

[43] "Nigeria: MLC 2006 comes into force in Nigeria," *Daily Independent*, 19 June, 2014 <http://allafrica.com/stories/201406200143.html> accessed 27 May 2016.

industry,[44] which, if implemented, will enhance the welfare of the crew, thereby influencing seafarers to protect their vessels from attack. However, due to the antecedents of Nigeria in implementing laws and policies, it is argued that the implementation of the MLC 2006 will remain a big challenge in the country when the convention is domesticated. It is common knowledge that the implementation of labour-related laws, policies, and regulations is particularly problematic in Nigeria, which culminates in incessant strike actions by government employees across virtually all sectors of the country's economy.[45] Accordingly, the author observes that the attendant consequence of this present legal regime is that the plights of seafarers will continue in Nigeria.

In view of the above, it is observed that due to the prevalent situation in the maritime industry in Nigeria where the laws and policies do not empower, capacitate, and protect the crew, seafarers may not be incentivised to play a role in securing their vessels. Thus, seafarers' role in providing insider leverage as witnesses during piracy trials, sharing information with navies engaged in (joint) naval patrols, employing best management practices to avoid attacks, and assessing as well as evaluating security risks to repel potential acts of piracy may be eroded. The author argues that in suppressing piracy off the Nigerian coast, seafarers should not be deprived of their mandatory training and capacity building or denied adequate compensation for their losses as a result of piracy, including losses incurred due to their testimonies during piracy trials. More importantly, government and ship owners should not make seafarers to feel rejected in any way or that their services are not sufficiently recognised.[46]

3 Piracy and its effects on seafarers in Nigeria

This section interrogates the international law definition of piracy and further uses statistics to probe the nature, root causes, and effects of piracy on seafarers, especially off the coast of Nigeria.

3.1 Untangling the definitional conundrum of piracy under international law

Under international law regime, piracy involves illegal act of violence or detention or any act of depredation, committed for private ends by crew members or passengers of a ship, directed on the high seas, against another ship.[47] However, it has been robustly

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[44] Ibid. Under the MLC 2006, ship owners in Nigeria are expected to ensure that seafarers have comprehensive, well-understood contracts of employment and seafarers' employment agreement (SEA), which include detailed terms and conditions, provisions for repatriation and distress of seafarers, social security benefits, and treatment of contractual claim. Regulations 2.1 and 4.2 of MLC 2006. See also the amendment to the treatment of contractual claims in Regulation 4.2 of MLC 2006 (as amended in 2014).

[45] "Nigeria: MLC 2006 comes into Force in Nigeria," (n. 43). The Nigerian ship owners are also required to show evidence of compliance with the provisions of the following Nigerian legislations and policies: Employee's Compensation Act, 2010, Pensions Reform Act, 2014, and National Health Act, 2014. They are also required to ensure that seafarers have access to the National Joint Industrial Council (NJIC) collective agreement for Nigerian crew and regularly update the agreement. Regulations 4.1, 4.3, 4.4, 4.5, 5.1.2 of the MLC 2006. See the amendments to Regulation 4 of the MLC 2006 (as amended in 2014).

[46] Efthimios Mitropoulos, "Putting the seafarer first," ITF Seafarers' Bulletin, 2005, pp. 29–31.

[47] Article 101 of the United Nations Convention on the Law of the Sea, adopted 10 December 1982, 1833 UNTS 3 (entered into force 16 November 1994), hereafter referred to as "UNCLOS."

argued that this definition is restrictive[48] because it limits piracy to acts committed on the high seas, requiring two vessels to occur, and the act must be for private ends. The implication of this extant piracy legal regime is that it confines the suppression of piracy to a narrow purview which creates lacunae for pirates to avoid prosecution after arrest by maritime security or regulatory agency. In view of these limitations, it is contended that while UNCLOS circumscribes piracy to the high seas, events have shown that most piratical attacks off the Nigerian coast and other piracy hotspots like Indonesia and Bangladesh occur in territorial waters, archipelagic waters, and ports. More so, most piratical attacks in ports do not need a second ship to occur.[49] Other limitations exist, for instance, there is a thin line between private and political ends in contemporary piracy and no obligations on states to criminalise piracy in their domestic legislation as well as prosecute pirates in their national courts.[50] As a result of these

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[48] See generally, Robert Beckman & Sanjay Palakirhman, "Regional cooperation to combat piracy and international maritime crimes: the importance of ratification and implementation of global conventions," Conference on the Practices of the UNCLOS and the Resolution of South China Sea Disputes, National Taiwan Normal University, 3–5 September, 2012, p. 5 <http://cil.nus.edu.sg/wp/wp-content/uploads/2012/09/Beckman-Paper-Taiwan-Conference-3-5-September-rev-27-Aug.pdf> accessed 27 May 2016; Lucas Bento, "Toward an international law of piracy sui generis: how the dual nature of maritime piracy law enables piracy to flourish," (2011) Berkeley Journal of International Law, Vol. 29, Iss. 2, p. 416–424; K. Zou & S. Wu, *Maritime security in the South China Sea*: regional implications and international cooperation (Ashgate Publishing, London 2009) p. 139; Keyuan Zou, "New developments in the international law of the piracy," (2009) Chinese Journal of International Law, Vol. 8, No, 2, pp. 324/329; Honor Lanham, "Walk the plank: Somali pirates and international law," a Dissertation submitted in (partial) fulfilment of the Degree of Bachelor of Laws (With Honours) at the University of Otago, October 2009, p. 28; Yvonne M. Dutton, "Bringing pirates to justice: a case for including piracy within the jurisdiction of the international criminal court," One Earth Future Foundation Discussion Paper, February, 2010, p. 8; and K.K. Anele & Y. Lee (n. 11) pp. 26–29.

[49] Sterio Milena, "Fighting piracy in Somalia (and elsewhere): why more is needed," (2009) Fordham International Law Journal, Vol. 33, Iss. 2, pp. 386–387; Sterio Milena, "Piracy off the coast of Somalia: the argument for pirate prosecution in the national courts of Kenya, the Seychelles, and Mauritius" (2012) Amsterdam Law Forum, Vol. 4, No. 2, p. 109; and Thorsten Resch, "Combating piracy today—a comprehensive analysis of how to counter the menace of piracy using the example of attacks by Somali pirates around the horn of Africa," LL. M Thesis, Faculty of Law, School of Advanced Legal Studies, University of Cape Town, 2010, pp. 24–25 <https://open.uct.ac.za/bitstream/item/4605/thesis_law_2010_resch_t.pdf?sequence=1> accessed 27 May 2016.

[50] See the explanation given by Guilfoyle on the words 'private,' 'political,' and 'public' in relation to piracy. Douglas Guilfoyle, "Political motivation and piracy: what history doesn't teach us about law," Blog of the European Journal of International Law, 17 June, 2013 <http://www.ejiltalk.org/political-motivation-and-piracy-what-history-doesnt-teach-us-about-law/> accessed 27 May 2016. In the case of *Institute of Cetacean & Others v Sea Shepherd Conservation Society & Another*, the United States (US) Court of Appeal for the Ninth Circuit held that private in the definition of piracy under UNCLOS refers to matters of personal nature that are not necessarily connected to finance. The court, citing Guilfoyle, further stated that "private ends" are those acts taken not on behalf of a state. *Institute of Cetacean & Others v Sea Shepherd Conservation Society & Another*, D.C. No. 2: 11-cv-02043-RAJ, 2013, p. 4 <http://cdn.ca9.uscourts.gov/datastore/general/2013/02/25/1235266.pdf> accessed 25 April 2016. See Douglas Guilfoyle, "Piracy off Somalia: UN Security Council Resolution 1816 and IMO regional counterpiracy efforts," (2008) International & Comparative Law Quarterly, Vol. 57, p. 693 and Douglas Guilfoyle, "Counter-piracy law enforcement and human rights," (2010) International & Comparative Law Quarterly, Vol. 59, p. 143. In the case of *Castle John v NV Mabeco*, the Belgian court interpreted private ends to include political ends. *Castle John v NV Mabeco* (1986) 77 ILR 537. Contrast with the position of Heller that such expansive interpretation of the meaning of 'private ends' cannot be reconciled with the earlier authoritative work of the Harvard Draft Convention on Piracy and Commentary. Kevin J. Heller, "Why political ends are public ends, not private ends," *Opinio Juris*, 1 March 2013 <http://opiniojuris.org/2013/03/01/a-final-word-about-politically-motivated-piracy/> accessed 27 May 2016.

limitations in the definition of piracy under international law, several instruments have been introduced to accommodate piracy within kindred criminal acts.

In view of the above limitations of the definition of piracy, Wambua argues that "there have been attempts to ameliorate the deficiencies by expanding and modifying the definition of certain crimes that may well cover acts of piracy as well as the jurisdiction of states in other international instruments to deal with such crimes."[51] Although the drafting of the SUA Convention[52] is the most significant attempt to reduce the effect of the limitations of the international law definition of piracy, it does not directly address piratical acts. Accordingly, the list of offences in article 3 of the SUA Convention covers a wide range of offences that constitute maritime violence, including terrorism. The author observes that these maritime crimes are akin to piracy and Wambua rightly pointed out that the offences listed in article 3 of the SUA Convention cover piratical acts.[53]

In furtherance of the above, Roach opines that the "…SUA Convention proscribes acts that include one of the basic elements …of piracy: seizing or exercising control over a ship by force or threat of force…and injuring or killing any person in connection with the commission or attempted commission of that offense...."[54] It is pertinent to state that the SUA Convention excludes the geographical limitation, the private end condition, and the two-ship requirements. More pointedly, article 5 obliges state parties to criminalise the acts listed in article 3 in their domestic legislation, with a requirement that there should be a nexus between the offence and the state establishing jurisdiction.[55] The SUA Convention further provides that the crimes listed in article 3 constitute extraditable offences under extradition treaties.[56] This means that in the event a state party is not willing to prosecute, then the suspect can be extradited to another state that is prepared to prosecute. Against this background, the author argues that since the SUA Convention complements the regime of UNCLOS, seafarers can effectively implement both conventions in facilitating the suppression of piracy off the coast of Nigeria.

Furthermore, IMO, in defining piracy, incorporates armed robbery against ships to UNCLOS's definition of the crime. Aside from adopting UNCLOS definition of piracy, IMO refers to 'armed robbery against ships' as "any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State's internal waters, archipelagic waters and territorial sea."[57] Anyiam submits that in determining the strategy to tackle unlawful acts against vessels, including where to prosecute offenders, a legal definition will be more appropriate and "the IMO's definition

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[51] Paul M. Wambua, "The jurisdictional challenges to the prosecution of piracy cases in Kenya: mixed fortunes for a perfect model in the global war against piracy," (2012) World Maritime University Journal of Maritime Affairs, Vol. 11, p. 100.

[52] The SUA Convention means Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, adopted 10 March 1988, 1678 UNTS 221 (entered into force 1 March 1992). The SUA Convention Protocol is the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, hereafter referred to as the "Protocol to the SUA Convention."

[53] P. M. Wambua (n. 51).

[54] Ashley J. Roach, "General problematic issues on exercise of jurisdiction over modern instances of piracy," in Clive R. Symmons (ed.) Selected contemporary issues in the law of the sea (Martinus Nijhoff Publishers: Boston 2011) p. 125.

[55] Article 6 of SUA Convention.

[56] Article 11, ibid.

[57] Paras. 2. 2.1-2.2.1 of IMO's Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships, IMO Assembly Resolution A. 1025 (26), adopted 18 December 2009.

of piracy in accordance with Article 101 of UNCLOS should be the preferred mechanism for this purpose."[58] This is consequent upon piracy being an international crime for which every state has the right and duty to fight. [59] Thus, the author avers that despite the limitations of UNCLOS, it provides the legal framework for the suppression of piracy.

It is pertinent to note that Nigeria has ratified but not domesticated both UNCLOS[60] and the SUA Convention [61] in accordance with the country's constitution, [62] which means that, presently, piracy is not a crime in Nigeria. The implication is that prosecuting pirates for acts of piracy is not possible in Nigerian courts.[63] It is imperative for Nigerian government to domesticate these conventions to create an enabling legal framework for the suppression of piracy in the country. Nevertheless, it is argued that Nigeria cannot avoid its obligations under international law on the pretext of non-domestication of a convention. Lending credence to this position, Fedeli states that "… failure to sign a self-executing treaty or failure to ratify a non-self-executing one does not preclude liability under customary international law."[64] Although attempts were made to domesticate some of the existing maritime security conventions, the 7th National Assembly of Nigeria could not pass the bill into law[65] before the end of its tenure in 2015.[66]

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[58] Herbert Anyiam, "The legalities of Gulf of Guinea maritime crime with suggested solutions," Center for International Maritime Security (CIMSEC), 17 July, 2014 <http://cimsec.org/legalities-gulf-guinea-maritime-crime-suggested-solutions/11783> accessed 27 May 2016.

[59] R.R. Churchill & A.V. Lowe, *The law of the sea* (3rd edn. Manchester University Press: Manchester 1999) p. 209.

[60] However, by virtue of Nigerian domestic laws which adopted part of the convention, it is argued that the country cannot abdicate its international obligations on the pretext of non-domestication of a convention. See the Territorial Waters Act Cap. T5 Laws of the Federation of Nigeria (LFN), 2010 and the Exclusive Economic Zone (EEZ) Act Cap. E 17, LFN, 2010.

[61] Section 215 of the Merchant Shipping Act, Cap. M11, LFN, 2010, hereafter referred to as the "MSA 2010," listed 'SUA Convention' and the 'Protocol to the SUA Convention' as part of the domesticated conventions. In view of this, Omo-Eboh argues that if section 215 of the MSA 2010 *simpliciter* effectively domesticated the SUA Convention, it makes it unnecessary to enact any other Act of the National Assembly for its domestication. But the alternative is that all the listed conventions require Acts of the National Assembly to become domesticated. Omogbai Omo-Eboh, "Legal framework for maritime security management: implications and impacts," a paper presented at the 4th Strategic Admiralty Seminar for Judges organised by NIMASA on 5–6 December, 2012, at the Orient Hotel, Victoria Island, Lagos, p. 12. It is argued that a cursory look at section 12 of the 1999 Constitution of Nigeria shows that such a treaty or convention must pass through the process of law making before it becomes binding. See the decision of the Supreme Court in *Abacha* v. *Fawehinmi* (2000) 6 N.W.L.R. (Part 660) p. 228.

[62] See section 12 of the 1999 Constitution of Nigeria.

[63] Despite the numerous arrest of pirates by Nigerian maritime security and regulatory agencies, there is no evidence of prosecution in 2014 in Nigeria and in any of the West African countries. According to the former NIMASA Director General, Patrick Akpobolokemi, "…the lack of effective legal sanctions against pirates and maritime criminals in the Gulf of Guinea" is at the root of the non-piracy prosecution. Thus, the non-domestication of UNCLOS and the SUA Convention would lead to a situation where captured pirates are set free without prosecution. OBP (n. 7) pp. 63–64.

[64] Thomas Fedeli, "The rights and liabilities of private actors: pirates, master, and crew," One Earth Future Foundation Working Paper, July, 2010 <http://oneearthfuture.org/sites/oneearthfuture.org/files//documents/publications/Rights-and-Liabilities-Fedeli.pdf> accessed 27 May 2016.

[65] See Piracy and Other Unlawful Acts at Sea (and Other Related Offences) Bill 2008 and O. Omo-Eboh (n. 61) pp. 18–23. More pointedly, the Seventh National Assembly was unable to domesticate a bill to implement international norms related to universal jurisdiction and UNCLOS's definition of piracy. John Iwori, "Bill to domesticate treaties on piracy, waterways robbery underway," *ThisDay Live*, 21 October, 2011 <http://allafrica.com/stories/201110210096.html> accessed 27 May 2016.

[66] The Seventh National Assembly, 2011–2015, Homepage of the National Assembly of Nigeria, 2015 <http://nass.gov.ng/mp/archive> accessed 27 May 2016. See also O. Omo-Eboh (n. 61) pp. 18–23.

3.2 Probing the nature of piracy off the coast of Nigeria

According to Bridger, piracy in the Gulf of Guinea is a 'Nigeria-centric problem' that primarily occurs within 100 nautical miles of the coast and targets vessels plying the regional oil trade.[67] It is a trite fact that oil and gas is the mainstay of Nigeria's economy accounting for about 80 % of the country's budgetary revenue, over 90 % of the gross earnings, and approximately 95 % of foreign exchange earnings.[68] This natural resource is found in the Niger Delta region, and because of the amount of crude oil production that takes place there annually, it has attracted potential pirates interested in seizing the resource and selling it for profit on the lucrative black market. Most of this natural resource is found offshore; hence, the development of offshore petroleum industry has created a lot of desirable targets for piratical attacks, like drilling ships, rigs, pipelines, storage facilities, and support vessels.[69] Thus, aside from seafarers, piracy off the coast of Nigeria adversely affects the country's revenue accruable from the exploration and sale of crude oil with its attendant consequences on the economic, infrastructural and sociopolitical development of the country.

Further peculiarity of Nigerian pirates is the use of heavy armament, which is consequent upon pirates' proximity to their onshore bases in the Niger Delta region. Pirates in Nigeria also use military tactics and sophistication in their nefarious activities. In view of this, Doherty observes that pirates "know how to skillfully maintain and fire their weapons, they ambush security forces, and they board vessels with tactical precision."[70] The author emphasises that the above observation lends credence to the statistics contained in Tables 1, 2, 3, and 4 below, with regards to the violent nature and human cost of piracy off the Nigerian coast. Between 2013 and 2015, there were 67 hostages, 59 kidnappings, 2 killings, and 6 injured seafarers off the coast of Nigeria compared to other African countries (see Tables 2 and 4 below).

In fact, IMB data on piracy off the coast of Nigeria show that in 2013, there were 31 attacks, 18 attacks in 2014,[71] 14 attacks in 2015,[72] and the overall number of seafarers killed in all piracy hotspots globally between 2010 and 2015 is 28.[73] In many incidents, pirates hijacked the vessels for several days, ransacked the ships, and stole the cargo usually crude oil. A number of crew members were also injured and kidnapped in the past attacks. As a consequence, ships are advised to be vigilant as many attacks have gone unreported.[74] There are reported attacks off Lagos, Bayelsa, Brass, Port Harcourt, and Kwa Ibo.[75] In the context of the above IMB data, it is argued that since seafarers are responsible for the human and, sometimes, economic costs of piratical acts in Nigeria, they are better positioned and motivated to contribute in suppressing piracy off the

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[67] James Bridger, "The world's most violent pirates," *USNI News*, 12 May, 2014 <http://news.usni.org/2014/05/12/worlds-violent-pirates> accessed 27 May 2016.
[68] Abdullahi Usman, et al., "Evidence of petroleum resources on Nigerian economic development (2000–2009)," (2015) BUS Eco J, VOL. 6, No. 2, p.1. The country's budget as well as economic planning is based on the revenue accruable from the petroleum industry. See generally, Central Bank of Nigeria, Economic Report, February, 2014.
[69] Kenneth G. Hawkes, *Maritime security* (Grade A Notes Publishing: Ohio 2003) pp. 6–7.
[70] Ibid, quoting Kevin Doherty, owner of PMSC Nexus Consulting.
[71] IMB Piracy Report for 2014, p. 5.
[72] IMB Piracy Report for 2015, p. 5.
[73] IMB Piracy Report for 2015, p. 9 and IMB Piracy Report for 2014, p. 11.
[74] IMB Piracy Report 2015, p. 19.
[75] IMB Piracy Report 2015, pp. 19/24–25. See also IMB Piracy Report 2014, pp. 25–26.

Table 1 The number of (actual and attempted) piracy attacks off the Coast of Nigeria (2009–2015) (table created by the author) (see IMB Piracy Report for 2013, p. 5, IMB Piracy Report for 2014, p. 5, & IMB Piracy Report for 2015, p. 5)

Country	2009	2010	2011	2012	2013	2014	2015
Nigeria	29	19	10	27	31	18	14

Table 2 Types of violence to crew off the coast of Nigeria (2013–2015) (table created by the author) (see IMB Piracy Report for 2013, p. 11, IMB Piracy Report for 2014, p. 11 & IMB Piracy Report for 2015, p. 10)

Country	Year	Hostage	Threatened	Assault	Injured	Killed	Kidnapped	Missing
Nigeria	2013	43			4	1	34	
	2 0 1 4	15			1	1	6	
	2 0 1 5	9		1	1		19	

Table 3 Locations of (actual and attempted) piracy attacks (2009–2015) (table created by the author) (see IMB Piracy Report for 2013, p. 5, IMB Piracy Report for 2014, p. 5 & IMB Piracy Report for 2015, p. 5)

Countries	2009	2010	2011	2012	2013	2014	2015
Nigeria	29	19	10	27	31	18	14
Somalia	80	139	160	49	7	3	
Indonesia	15	40	46	81	106	100	108
Bangladesh	18	23	10	11	12	21	11
Columbia	5	3	4	5	7	2	5

Table 4 Types of violence to crew (2015) (table created by the author) (see IMB Piracy Report for 2015, p. 10)

Country	Hostage	Threatened	Assault	Injured	Killed	Kidnapped	Missing
Nigeria	9		1	1		19	
Ghana	45				1		
Indonesia	59	4		4			
Bangladesh	2			2			
Malaysia	110			1			

country's coast. For instance, seafarers can play a role in suppressing piracy by providing insider leverage as witnesses during piracy trials, sharing information with navies engaged in (joint) naval patrols, employing best management practices to avoid or repel attacks, assessing and analysing security situations in other to respond effectively, and implementing maritime security instruments and other related conventions as well as local laws.

In light of the foregoing, the author posits that the role of seafarers in complementing the suppression of piracy off the coast of Nigeria is weakened in the absence of effective legal and policy regime in spite of the overwhelming negative effects of acts of piracy on crew members and the country's economy. It is pertinent to state that seafarers are pivotal in implementing relevant maritime security conventions and other related instruments, like the International Ship and Port Facility Security Code (ISPS) Code, 2002 and the International Ship Management (ISM) Code, 2013 as amended, in securing their vessels. This is because the guiding philosophy in the drafting of these conventions is to establish specific responsibilities, a chain of accountability, and, through training, ensure that seafarers have the appropriate skills and competence needed to fulfil the responsibilities which they have been entrusted with,[76] especially in securing the vessels they man.

3.3 Root causes of piracy off the coast of Nigeria

At this juncture, it is pertinent to briefly examine some of the root causes of piracy off the Nigerian coast. Evidently, some of these root causes of piracy include, *inter alia*, poverty, unemployment, corruption in the petroleum industry and the maritime sector, illegal fishing, underdevelopment of the oil producing communities, environmental degradation, weak maritime regulatory and security institutions, and the Niger Delta insurgency.[77] These root causes of piracy are briefly appraised under the following sub-heads: political, economic, and environmental factors.

3.3.1 Political root causes

It is a fact that most piracy hotspots are located in regions engulfed in political instability, civil unrest, insurgency, regional maritime boundary disputes, and basically ravaged by poverty and unemployment.[78] Furthermore, Nigerian pirates are motivated by the culture of corruption and impunity prevalent among government officials, politicians, bureaucrats, and the elite. In addition to lack of political will by government to prosecute those that have been linked to corrupt practices, regulatory and security agencies turn blind eyes to corrupt activities in the petroleum industry and collude with pirates in exchange for a share of the plunder.[79]

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[76] E. Mitropoulos (n. 46).

[77] See generally, K.K. Anele (n. 7) pp. 80–100. See also Daupreye F. Matthew, "Securing the Gulf of Guinea: towards an integrated maritime security strategy for the Gulf of Guinea," World Maritime University Dissertation, Paper 16, 2012, pp. 27–31. A cursory look at the report of the Dalhousie marine piracy project shows that some of the root causes of global piracy include, *inter alia*, poverty, corruption, lack of infrastructural development, overfishing, environmental degradation, weak regulatory and security institutions, insurgency, and regional disputes. S. Whiteman & C. Suarez, "Dalhousie marine piracy project: the root causes and true costs of maritime piracy," Marine Affairs Program Technical Report No. 1, 2012, pp. 88–100 <http://www.dal.ca/content/dam/dalhousie/images/faculty/science/marine-affairs-program/Technical_series/MAP%20Technical%20Report%20%231.pdf> accessed 28 June 2016.

[78] K.K. Anele, ibid, p. 94. See also D.F. Matthew, ibid.

[79] For more information on corruption in the petroleum sector and the maritime industry, see K.K. Anele, ibid, pp. 90–93. See also S. Whiteman & C. Suarez (n. 77) pp. 95–97.

3.3.2 Economic root causes

One of the consequences of illegal fishing and poaching which contributed to the collapse of the fishing industry in Nigeria is the increase in the number of unemployed youths in the riverine communities in the Niger Delta region of the country. Besides, the pollution of farmlands and fish ponds as a result of the exploration of crude oil in the oil-producing communities has aggravated the unemployment rate in Nigeria and there is infrastructural decadence in the Niger Delta region despite the fact that approximately 83 % of the country's revenue comes from the region.[80] The import of this situation is that these unemployed youths become pirates in order to survive. More importantly, the economic gain, the relative costs of attack, and the low probability of capture and prosecution due to the absence of legal regime encourage piracy off the coast of Nigeria.[81]

3.3.3 Environmental root causes

From the foregoing, it is a trite fact that there is a causal relationship between piracy and environmental degradation due to the activities in the petroleum industry. Thus, piracy off the coast of Nigeria arises because of poverty, unemployment, and militancy caused by environmental degradation and pollution of the ecosystem (as a result of oil exploration), as exemplified in the Niger Delta region of Nigeria.[82] In summary, the root causes of piracy in Nigeria anchor on a "systemic inequality and corruption *which* [83] have been enduring sources of national tension, along with the environmental degradation … have spawned widespread criminality and militancy as these groups attempt to seize their share of the national wealth."[84]

3.4 Effects of piracy off the coast of Nigeria on seafarers

Having examined the root causes of piracy off the Nigerian coast, there is need to robustly interrogate the implications of piratical acts on seafarers. It is trite that Nigerian pirates carry weapons and are very violent during attacks which implicate on the life, health, family, job, and finance of seafarers. Below are the analysis of some of the effects of piracy off the Nigerian coast on seafarers.

3.4.1 Physical effects

The major effects of piracy on seafarers are physical injury, abuse, and death' (see Tables 2 and 4 above). The types of violent attacks on seafarers off the coast of Nigeria and other piracy hotspots like Malaysia and Indonesia include assault, kidnapping, hostage taking, and killing of crew members (see Tables 2 and 4 above). According to Hurlburt et al., seafarers in the course of their capture, captivity, and rescue get injured and sometimes

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[80] Pollution of the ecosystem and illegal, unreported and unregulated (IUU) fishing contributed to the collapse of the fishing industry in Nigeria. K.K. Anele, ibid, pp. 88/94/98.
[81] See S. Whiteman & C. Suarez (n. 77) pp. 88–91.
[82] K.K. Anele (n. 7) pp. 88–89.
[83] The italicised word is mine.
[84] S. Whiteman & C. Suarez (n. 79). See generally K.K. Anele, (n. 7) pp. 88–100.

die.[85] This has been aptly illustrated by the incidence whereby Somali pirates hijacked two South Korean fishing boats; the crew were held hostage and as negotiation dragged on for months, captured seafarers were beaten and starved before they were released after ransom was paid.[86] Further, the author observes that kidnapped seafarers are denied of food and water, shot at with water cannons, locked up in ship's freezer, tied up in hot sun, kept in solitary confinement, forced to parade naked, participated in mock executions, denied medical care, forced to collaborate with pirates, and used as human shield.[87]

3.4.2 Psychological and behavioural effects

In addition to the physical consequences, it is argued that many seafarers that encounter attacks by pirates may be exposed to psychological abuse and experience long-term psychological or behavioural effects.[88] It is important to emphasise that piracy off the coast of Nigeria is extremely violent, which is exhibited even before pirates board the ships, thereby increasing the stress and anxiety levels of the crew (see Tables 1, 2, 3, and 4 above). Seafarers whose ships are boarded may additionally suffer the stress and uncertainty linked to waiting in citadels and those captured face abuse on board ships or onshore as hostages of pirates.[89] Most kidnapped seafarers suffer post-traumatic stress disorder (PTSD) and post-release or recovery reintegration is not always conducted with sufficient appreciation of the need for psychological support. This paper submits that these situations potentially increase the risks seafarers experience in relation to recovering from piratical attacks.[90]

3.4.3 Financial effects

Aside from the physical and psychological ramifications of piracy, this paper asserts that seafarers risk financial difficulties in both short and long terms after acts of piracy.

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[85] Keija Hurlburt, et al., "The human cost of maritime piracy 2012," Working Paper, Oceans Beyond Piracy, a Project of One Earth Future Foundation, 2013, p. 22.

[86] K. Hurlburt, et al., ibid. See also Anthony M. Davis, *Terrorism and the maritime transportation system*: *are we on a collision course*,? (WingSpan Press: CA 2008) p. 121 and IMB Piracy Report for 2015, pp. 23–24.

[87] K. Hurlburt, et al., ibid. See also Melanie O'Brien, "Where security meets justice: prosecuting maritime piracy in the International Criminal Court," (2013) Asian Journal of International Law, p. 4. <https://www.academia.edu/5161924/Where_Security_Meets_Justice_Prosecuting_Maritime_Piracy_in_the_International_Criminal_Court> accessed 27 May 2016.

[88] OBP (n. 7) p. 72.

[89] K. Hurlburt, et al. (n. 85) p. 23. See also OBP (n. 7) p. 88.

[90] There are a number of reasons to believe that the violent experiences encountered by seafarers might lead to long-term distress in some of the affected crew members. Being held hostage, threats of death, and other forms of severe and long-duration stressors have been found, in previous research, to be significant risk factors for behavioural problems in the long term. For some people who have been through traumatic events, such event can trigger lasting problems including physical health issues, psychological problems including post-traumatic stress symptoms and depression, and behavioural problems including substance abuse and problems at work or at home. While rates of distress vary according to both individual characteristics and characteristics of the event itself, for experiences similar to piratical attacks, such as combat and long-term hostage experiences, rates of distress in other populations have been found to be relatively high. These experiences are associated with long-term rates of distress of 20 % or more. Currently, there is few direct research on the psychological impact of piracy on seafarers. However, the few existing research clearly suggests that seafarers are not immune to these impacts. K. Hurlburt et al., ibid, p. 23. For details of the study on the psychological effect of piracy on seafarers, see "Study on the psychological impact of piracy on seafarers," Officer of the Watch, Seamen's Church Institute, 23 October, 2012 and OBP, ibid.

There are a number of ways in which piracy compromises seafarers' finance aside from being robbed of all or most of their personal belongings when they encounter pirates.[91] Some of the most common ways include loss of money which they are not reimbursed, loss of wages, and financial loss from changing careers to avoid returning to sea.[92] Besides, the author argues that seafarers' contracts are interrupted and wages are lost as a result of being taken hostage by pirates. Seafarers equally expend money, without compensation, in the process of testifying against pirates in courts.

3.4.4 Emotional effects

In furtherance of the above, it is pertinent to posit that seafarers are emotionally traumatised after attacks by pirates. Seafarers may consider disclosure of emotional suffering a sign of weakness and shame and such sentiments inhibit disclosure as well as limit access to care.[93] As a matter of industry culture and convention, the expectation that self-reliant seafarers are hardened and resilient contributes to group pressure on individuals, preventing the disclosure of crew members' emotional state [94] which aggravates their condition. Additionally, seafarers' ethnic and national cultures may hold prejudices that obstruct access to effective treatment after release from captivity.[95] Nincic aptly summarises the impact of piracy on seafarers thus:

> The harm to seafarers is not limited to the attack itself. Being hijacked and held hostage, or injured during a pirate attack has, in many cases, led to symptoms closely resembling post-traumatic stress disorder (PTSD) among affected seafarers, particularly among those who have been held hostage for any length of time. These symptoms can be of some duration. At the same time, the human costs are not limited to the seafarers alone. If a crewmember becomes so traumatized by an attack or from having been held hostage he or she may not be willing to sail again; absent other job opportunities or sources of financial support, their families may suffer. Additionally, not all ransoms are paid by shipping or insurance companies; sometimes families have had to contribute at a significant financial burden to them.[96]

4 Challenges confronting seafarers in curbing piracy off the coast of Nigeria

In spite of the adverse effects of acts of piracy on the crew, there are factors that prevent seafarers from playing a role in curbing piracy off the coast of Nigeria. Though some of

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[91] K. Hurlburt et al., ibid, pp. 25–26. See also OBP, ibid.

[92] K. Hurlburt et al., ibid.

[93] Michael S. Garfinkle, et al., "The psychological impact of piracy on seafarers," The Seamen's Church Institute, New York, 2012, p. 10.

[94] Ibid.

[95] Ibid.

[96] Donna J. Nincic, "Maritime security: current threats and implications," *Pacific Maritime Online Magazine*, Vol. 31, No. 10, 1 October, 2013 <http://www.pacmar.com/story/2013/10/01/features/maritime-security-current-threats-and-implications/184.html> accessed 27 May 2016. See OBP (n. 7) pp. 88–89.

the factors are linked to ship owners and the management of shipping companies, government agencies' inability to perform their statutory functions creates the enabling environment for piracy to thrive. Consequent upon that, government agencies have failed to perform their oversight function in the maritime industry in Nigeria which has culminated in poor labour and working conditions and inadequate training and capacity building for seafarers. Some of these challenges are interrogated below.

4.1 No inter-personal relationship between ship owners and seafarers

There is no gainsaying the fact that many ship owners do not know their employees. Statistically, about 20 to 30 % of ship owners has minimal relationships with their crew and they do not follow-up with seafarers after piracy incidents.[97] Further, organisational culture that disparages management from the crew and interpersonal relationships at work, such as conflicts with the behaviour of supervisors and conflicts with management policies,[98] are factors that prevent seafarers from being committed to securing their vessels. Moreover, it is adumbrated that insufficient resources to do the job, like defective equipment or inadequate supplies, or low salary structure can affect the morale of seafarers, thereby discouraging the crew from ensuring that their vessels are secured.[99]

4.2 Misplaced priority

As a corollary to the above, new challenges in maritime operations are ordinarily met by putting significant effort into developing new technology. There has been little focus on the crew despite the fact that many accidents and incidents are indirectly caused by human factor. This human factor that leads to poor performance is due to severe working and living conditions, stress, and ergonomically poor technical solutions.[100] In support of this position, Fedorowicz states that "many seafarers face recruitment based on cost rather than on proper training and experience"[101] and such situation, it is argued, culminates in incompetence and nonchalant attitude to ship security by the crew.

4.3 Lack of welfare package for seafarers

From the discussion so far, it can be inferred that the welfare of the Nigerian seafarers has not improved in the last decade. Of utmost concern to seafarers in Nigeria is the loss of jobs to their foreign counterparts because the major players in the oil and gas industry are foreign ship owners and the fact that some of the Nigerian seafarers are not well trained to man vessels. More troubling is the allegation that seafarers in the employ

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[97] Contact Group on Piracy off the Coast of Somalia, Report of Working Group 3, 2nd Session, 18–19 March, 2010, p. 4. There are instances where the identities of ship owners are shrouded in secrecy with the resultant lack of personal contact and accountability. See D. Fitzpatrick & M. Anderson (ed.) *Seafarers' rights* (Oxford University Press: Oxford 2005) p. 551.
[98] J. Rengamani & Sakthivel M. Murugan (n. 20).
[99] Ibid.
[100] Ingunn H. Geving, et al., "Physical activities levels among offshore fleet seafarers," (2007) International Maritime Health, pp. 104–105.
[101] "Industry concern" (n. 23), citing Janusz Fedorowicz.

of Nigerian-owned vessels are underpaid, dehumanised, work in deplorable environment, and most times live in abject poverty.[102] Under such condition, it must be emphasised, seafarers are discouraged from enhancing the security of their ships.

4.4 Lack of adequate training

In furtherance of the above, lack of training or inadequate training affects the competence, productivity, and professionalism of seafarers. In other words, most Nigerian seafarers lack the mandatory training needed to be up to speed with the security and safety operations on board vessels. This is because indigenous shipping companies could hardly purchase state of the art equipment or employ enough seafarers (even those employed are not sent for further training). This paper further posits that some of these indigenous shipping companies are also out of date in terms of new developments in the training of seafarers. Besides, MAN, which is the major government institution saddled with the responsibility of training seafarers in Nigeria, has no training vessels for its teeming cadets. Consequent upon that, MAN's graduates lack the mandatory sea experience for the acquisition of competence and certification to man ships. It is a fact that seasoned seafarers are expected to undergo IMO mandatory practical training under the STCW Convention as amended, after which the seamen can work on board any vessel in the world. Unfortunately, not all Nigerian seafarers undergo this important training[103] and therefore they do not have the requisite competence and experience to secure their vessels.

4.5 Poor working and living conditions

Additionally, the author submits that the Nigerian government and the maritime regulatory agencies do not treat Nigerian seafarers as partners in curbing piracy. Seafarers are sometimes denied access and use of port and shore facilities. The situation is worsened when seafarers are made to feel rejected, which could mean that their services are not sufficiently acknowledged or needed. For instance, every year in Nigeria, many seafarers are either injured or lost their lives during attacks by pirates; unfortunately, their employers do not have any form of compensation for them.[104] Furthermore, the wages of seafarers are sometimes paid late or not paid at all,[105] and this is not peculiar to Nigeria because it happens globally.[106]

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[102] "Seafarers suffer poor welfare-labour group" *Ogun State Television*, 5 January, 2015 <http://www.ogtv.com.ng/seafarers-suffer-poor-welfare-labour-group/> accessed 27 May 2016.

[103] "Nigeria: NIMASA moves to address seafarers' condition" (n. 35).

[104] According to OBP report, it cannot be ascertained whether the payment of the 'captivity pay' to the released seafarers in the Gulf of Guinea were made. 'Captivity pay' is the amount of money seafarers are entitled to in the event that they are held hostage and for the duration of their captivity. OBP (n. 7) pp. 58–59.

[105] Many Nigerian shipping companies are unable to pay their seafarers living wages essentially due to the fact that their ships are not meaningfully engaged. Most times, seafarers are owed '13 months' salary and "when they dare to stage a walkout on the vessel, the owner threatens to sack all of them without settling the salary owed them." "Nigerian seafarers deserve much better," *Ships & Ports*, 30 June, 2014 <http://shipsandports.com.ng/nigerian-seafarers-deserve-much-more/> accessed 27 May 2016.

[106] "ITF collected $59.5m in unpaid seafarer wages in 2014," *Ship & Ports*, 20 July, 2015 <http://shipsandports.com.ng/itf-collected-59-5m-in-unpaid-seafarer-wages-in-2014/> accessed 27 May 2016.

4.6 Lack of good maritime policies

More importantly, the paper reiterates that Nigeria has no defined maritime policy which has contributed to the policy 'flip flop' and lacklustre performance in the industry, generally. This is exemplified by government's attempt to re-establish a national shipping line without the active participation of the private sector. More so, MAN lacks infrastructural development and the existing maritime policy does not address the issue. For example, instead of engaging in infrastructural development of MAN, government is spending huge sum of money to train "green horns selected by politicians at the states when thousands of graduates of MAN are roaming the streets simply because they could not access sea-going vessel where they would complete their training and qualify for NIMASA's certification as Officers…"[107]

4.7 FOC or related conditions

Although Nigeria does not operate an FOC framework,[108] NIMASA, the institution saddled with the responsibility of ensuring that vessels that fly Nigerian flag adhere to the conditions established by statute, has been unable to perform its duties which creates a condition similar to an open registry in the country.[109] This is illustrated by the existence of conditions where Nigerian seafarers are treated as if they are working under an FOC regime: they are poorly paid, work under bad labour conditions, get inadequate training, and work in sub-standard vessels.[110]

4.8 Inadequate training facilities

A corollary to the above is the existing condition where graduates from MAN are lacking sea time experience in accordance with extant convention. Besides, this major maritime institution is ill-equipped and lacks adequate funds to acquire vessels and other necessary equipment needed to train seafarers in accordance with global standard. In view of that, it has been observed that the "implication of all of these is that many Nigerian seafarers become willing tools in the hands of criminal elements who use

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[107] C. Chikere (n. 33).

[108] See Part III of the MSA 2010, which stipulates the conditions for the registration of vessels in Nigeria.

[109] According to section 1 (1) (ii), Part I of the NIMASA Act, 2007, NIMASA has the responsibility of regulating activities in the maritime sector in Nigeria. Also section 2 (1) Part I of MSA 2010 stipulates that NIMASA is the agency responsible for implementing the MSA 2007. However, NIMASA has not effectively regulated activities in the shipping industry which has resulted in poor welfare and deplorable labour relations between seafarers and their employers in Nigeria.

[110] It is equally imperative to state that substandard vessels due to the inability of the regulatory institutions to perform their functions are more likely to be susceptible to 'maritime predations' and pirates exploit the vulnerabilities of substandard ships to launch attacks leading to successful hijacks. Sam Bateman, "Maritime security and port state control in the Indian Ocean region," (2012) Journal of Indian Ocean Region, Vol. 8, No. 2, p. 193. See also Sam Bateman, "Tackling piracy in Asia: the current situation and outlook," *Global Asia*, Vol. 5, No. 4, 2010, pp. 33–34 and Sam Bateman, "Sea piracy: some inconvenient truths," 2010, p. 16 <http://www.peacepalacelibrary.nl/ebooks/files/UNIDIR_pdf-art2960.pdf> accessed 27 May 2016.

them to steal the nations crude oil, petroleum products and perpetrate heinous crimes against ships plying the nation's waters."[111]

4.9 Challenges in the implementation of maritime instruments

Aside from the non-domestication of some of the maritime security instruments, like UNCLOS[112] and other related conventions, the author submits that the implementation of such instruments in Nigeria would be fraught with a lot of challenges considering the country's unfavourable reputation for implementing laws. This is as a result of corruption, lack of state of the art facilities, absence of trained manpower, inadequate funds, and lack of political will on the part of NIMASA to perform its duties effectively.[113] More so, the 'shoddy' way in which some of these instruments are domesticated compounds the already compromised situation in the maritime sector. [114] Commenting on the domestication of instruments in Nigeria using the MSA 2010 as a case study, Wilson opines that a "quantum leap was made by Section 215 of the new Act which in one swoop, incorporated into the Act twelve (12) important International Conventions relating to maritime safety and maritime labour."[115]

4.10 Lack of care for the kidnapped seafarers

Stevenson posits that many seafarers feel abandoned and left 'high and dry' by their countries and the owners of the ships they man after being released by pirates.[116] It is pertinent to state that most ship owners abdicate their duties under maritime law to pay seafarers their earned wages, to pay for seafarers' personal property stolen by pirates, to provide medical care for seafarers injured during attacks by pirates up to maximum cure, and to repatriate seafarers when they complete their employment.[117] It is important to reiterate that these obligations exist even when pirates hold seafarers hostage. [118] In light of the above, it is regrettable that after the release of the vessel, *MV Faina* and its crew, which was captured on the 25th of September 2008, crew members have not been paid their earned wages or compensated for their personal property stolen by pirates and some of the injured seafarers during their captivity have not been provided medical

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[111] See Nigerian Seafarers Deserve Much Better (n. 105).

[112] Nigeria has not domesticated UNCLOS which means that piracy is not a crime in the country and therefore arrested pirates cannot be prosecuted.

[113] Adjoa Anyimadu, "Maritime security in the Gulf of Guinea: lessons learned from the Indian Ocean," Chatham House, Africa 2013/02, July, 2013, p. 9 <https://www.chathamhouse.org/sites/files/chathamhouse/public/Research/Africa/0713pp_maritimesecurity_0.pdf> accessed 27 May 2016. For NIMASA's challenges in implementing and enforcing domestic laws in the maritime sector, see V.O.S. Okeke & E.T. Aniche, "An evaluation of the effectiveness of the Cabotage Act 2003 on Nigerian maritime administration" (2012) Sacha Journal of Policy and Strategic Studies, Vol. 2, No. 1, p. 22–26.

[114] See section 215 of the MSA 2010, which includes the STCW Convention (as amended), the SUA Convention and the Protocol to the SUA Convention as part of the domesticated conventions, without following the procedure stipulated in section 12 of the 1999 Constitution of Nigeria..

[115] Inam Wilson, "Legal issues in maritime labour and seafarers claims," paper presented at the Admiralty Resource Services, 3rd Admiralty Seminar for Judges, 6 December, 2011, p. 12.

[116] Douglas B. Stevenson, "Piracy's effects on seafarers: sailing in high risk areas and post piracy care," Brief paper, UAE Counter-Piracy Conference, Dubai, on 29–30 October, 2014 <http://www.counterpiracy.ae/upload/2014-Briefing/Dr.%20Douglas%20Stevenson-Briefing%20Paper-Final-English%20Website.pdf> accessed 27 May 2016.

[117] See OPB (n. 7) pp. 58–59.

[118] D. B. Stevenson (n. 116).

care.[119] The families of the kidnapped seafarers are also neglected and overlooked in the scheme of things by ship owners, which increases the anxiety of the crew.[120] The author submits that the existence of the above challenges prevents seafarers from playing a complementary role in suppressing piracy off the Nigerian coast.

5 Recommendations for enhancing the role of seafarers in suppressing piracy off the Nigerian coast

Consequent upon the above challenges faced by the crew, there is need to bring to the fore ways to enhance the role seafarers play in curbing piracy off the coast of Nigeria. Against this backdrop, this research argues that by introducing the recommendations below, seafarers will be motivated to play a complementary role in suppressing piracy off the Nigerian coast.

5.1 Developing a guidance on human element issues in relation to seafarers

There is need to develop guidelines for post-piracy care for seafarers in Nigeria. The aim of such guidelines is to produce guidance on how to establish plans and procedures for putting in place measures and taking appropriate actions with a view to providing adequate welfare for any attacked or kidnapped seafarer.[121] The guidelines should also outline seafarers' rights and eliminate the possibility of victimisation of seafarers seeking post trauma medical advice. This should be done voluntarily and confidentiality is also of utmost importance in this regard.[122] In the same vein, it is argued that there should be a policy or guideline toward incentivising seafarers to testify during piracy trials in Nigeria. In view of that, the author contends that seafarers who are witnesses should be "properly compensated for any pecuniary loss including loss of opportunity to secure future work while absent in court."[123]

5.2 Care for the crew and their family

In the context of seafarers released from captivity, by introducing a regime where ship owners nominate senior company representatives to take charge of the reception arrangements for the ship and the crew on their arrival at a safe port, the company sends a signal to the freed crew members that the company cares about their welfare. Such step will encourage and motivate seafarers to always secure their vessels. Further, the nominated representative will have to balance the welfare of the crew and the need to get them away safely to their families, which is the priority, with the need for them to 'decompress' after a long period in captivity.[124] Dobbs insists that the ship owner's representative must

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[119] This is the position at the time of writing this paper. For more information on seafarers who were neglected by the owners of the vessel they man, see generally, ibid.

[120] Kaija Hurlburt, "The human cost of Somali piracy," 6 June, 2011, Ocean Beyond Piracy, sponsored by the One Earth Future Foundation, p. 19.

[121] I. H. Geving, et al. (n. 100). Murdoch (2011) reiterates the importance of the welfare of crew members that fall victim to piracy. Andrew Murdoch, "Recent legal issues and problems relating to acts of piracy off Somalia," in Clive R. Symmons (ed.) (n. 54) p. 161.

[122] I. H. Geving, et al., ibid.

[123] A. Murdoch (n. 121) p. 162.

[124] Peter Dobbs, "Piracy 2012: managing the risk," A Report by Catlin Asset Protection, Catlin Group Limited, June, 2012, p. 3.

demonstrate from the moment of seafarers arrival in the port of refuge that their suffering is acknowledged and that appropriate welfare provision and management are in place for their immediate physical, personal, medical, and psychological needs.[125]

5.3 Paying seafarers wages and compensating them for their stolen personal properties including their general welfare

In furtherance of the above, the *MV Faina* case depicts that there are instances where shipping companies have not paid seafarers their earned wages or compensated for their personal properties that were stolen by pirates long after being released from captivity by pirates. This type of ill-treatment meted out to the crew has to stop so as to motivate seafarers to perform their security role effectively. In cases where ship operators fail to meet their obligations to the crew, there should be a mechanism available to seafarers to recover unpaid wages earned while they were being held hostage by pirates and to compensate them for their stolen properties.[126] Brown opines that efforts must be made to stop ship owners from abandoning seafarers with impunity and in "…so doing … afford seafarers the basic human right to a safe place of employment and fair pay for a fair day's work. In the process… ensure that seafarers cannot be manipulated in such a way as to benefit the interests of the few at the greatest possible cost to the many."[127] Concurring with Brown's position, Balbaa reiterates the importance of seafarers welfare by arguing that the "need to afford special protection to seafarers is a major task. The seafarer's welfare is the most important issue, and shore leave is the most important element to keep seafarers …in the best condition."[128] Hence, the introduction of compensation or 'captivity pay' for seafarers for their loss due to piracy as well as paying their earned wages after release from captivity by pirates would motivate the crew to protect their vessels.

5.4 Introduction of corporate security culture

Just like in safety, ship owners or companies should have a security culture instilled in their seafarers. A systematic management can contribute to the quality, safety, and security of the ship. It is a truism that the performance in different aspects and functions within an organisation is engraved in the culture of that organisation.[129] Due to the notion that it is largely accepted that organisational

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[125] Ibid.

[126] Douglas B. Stevenson, "The humanitarian response: seafarers health and welfare: can we declare victory and go home," paper commissioned by the Institute for Near East and Gulf Military Analysis (INEGMA) on behalf of the second United Arab Emirates Counter Piracy Conference, "A Regional Response to Maritime Piracy: Enhancing public-Private Partnerships and Strengthening Global Engagement," organised by the UAE Ministry of Foreign Affairs in partnership with global port operator DP World, held in Dubai in June 2012, p. 4.

[127] Thomas Brown, "A time for change on seafarers abandonment," *Seacurus Insurance Bulletin*, Iss. 33, February-March, 2014 <http://www.seacurus.com/newsletter/Seacurus_Issue_33.pdf> accessed 27 May 2016.

[128] A. Balbaa (n. 17).

[129] For instance, organisational culture can be influenced by factors like interpersonal relationships at work, such as conflicts with the behaviour of supervisors, conflicts with colleagues, conflicts with subordinates and conflicts with management policies. Further, insufficient resources to do the job like defective equipment or inadequate supplies, or low salary structure can affect the morale of seafarers, thereby discouraging them from giving their best in preventing piratical attacks. Where any of these happens, it will definitely be in the interest of pirates. J. Rengamani & S.M. Murugan (n. 20).

culture determines the behaviour and performances of its individual members, it is imperative that security awareness and preparedness should be inculcated in the day to day activities of seafarers in Nigeria.[130] From this standpoint, it is argued that the role of the SSOs, who have the knowledge, competence, and experience in security administration, security risk assessment and analysis, implementation of relevant maritime security conventions and other related instruments, and the application of soft laws including maritime security recommendations, becomes inevitable in projecting the security culture of a vessel.[131]

5.5 Adequate and proper training of seafarers

As a corollary to the above, Hawkes maintains that proper training of seafarers, coupled with security indoctrination, is needed in maintaining maritime security.[132] The author reiterates that this could be achieved by training seafarers on how to react timeously when there is sufficient warning of an imminent danger of piracy attack or when the vessel is traversing piracy hotspots like the Gulf of Guinea. It is pertinent to note that only those masters who have grasped the nature and magnitude of piracy threat and who have carefully assessed and analysed such threat as it relates to their vessels are prepared to properly indoctrinate and train their crew and develop ships capable of foiling piratical attacks.[133] Consequent upon that, only "…those operators … who have taken the time and made the effort to understand the security ramifications of doing business within today's maritime industry are likely to do so unscathed."[134] Such training should be backed up by providing recreational facilities for seafarers as a means to encourage healthy living and socialisation.[135] In view of that, the author submits that, if properly implemented, the introduction of the capacity building initiative and mandatory training under the NSDP by the Nigerian government will empower seafarers with the necessary skill and competence to secure their vessels.[136]

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[130] Svein Kristiansen, *Maritime transport: safety management and risk analysis* (Elsevier Butterworth-Heinemann: Oxford 2005) p. 493.

[131] For more information on the training and competence of SSO in projecting the security culture of a vessel, see sections 8, 9, and 13, Part B of the ISPS Code, 2002.

[132] K.G. Hawkes (n. 69) p. 10.

[133] Hans Liwag, et al., "Ship security challenges in high-risk areas: manageable or insurmountable?," (2014) World Maritime University Journal of Maritime Affairs, p. 8 <http://www.researchgate.net/publication/266079904_Ship_security_challenges_in_high-risk_areas_manageable_or_insurmountable> accessed 27 May 2016.

[134] K.G. Hawkes (n. 69) pp. 9–10.

[135] Recreational facilities like books, karaoke, gym, swimming pool, television room with DVDs, games consoles, among others, should be provided for seafarers. Olivia Swift, "Port levies and sustainable welfare for seafarers," a Report Commissioned by International Seafarers' Welfare and Assistance Network, May, 2013, p. 22. See generally N. Ellis, et al., "Seafarer accommodation on contemporary cargo ships," The Lloyd's Register Educational Trust Research Unit, Seafarers International Research Centre (SIRC), Cardiff University, December, 2012.

[136] Beneficiaries of the NSDP are in Philippines, UK, Egypt, India, and Romania for training and capacity building in the maritime industry. "Overseas training for more Nigerian seafarers," *Sweet Crude Report*, <http://www.sweetcrudereports.com/2015/03/27/overseas-training-for-more-nigerian-seafarers/> accessed 27 May 2016.

5.6 The domestication and application of UNCLOS and other related conventions

More so, the domestication of relevant maritime security instruments and other related conventions, like MLC 2006, by the Nigerian government is an overarching step toward motivating seafarers to safeguard their ships. Hence, there is need to domesticate, in accordance with the 1999 Constitution of Nigeria, UNCLOS and the SUA Convention to adequately provide the legal framework for the suppression of piracy off the Nigerian coast. It is a disincentive for seafarers who go through the trauma of attacks by pirates to see arrested pirates set free without prosecution due to lack of piracy legal regime.[137] Moreover, seafarers are often the key witnesses in piracy trials and therefore provides insider leverage during the prosecution of pirates. Thus, domestication of relevant maritime security instruments ensures that pirates do not only go through trials, but are adequately prosecuted with the testimonies of seafarers. More so, the Protocol to the SUA Convention which expands the scope of criminal acts against ships has to be domesticated.[138] Furthermore, in addition to the existing SSO training, STCW Convention as amended introduces three new levels of security training: security related familiarisation, proficiency in security awareness, and proficiency in designated security duties[139] so as to secure their vessels. It is therefore important that relevant maritime security instruments and other related conventions should be domesticated for immediate and effective implementation by seafarers.

5.7 Vigilance by seafarers

In addition to proper training and improved working condition, Nigerian seafarers should always maintain vigilance during navigation. On many occasions, the first indication of an attack has been when pirates appear on the bridge or in the master's cabin. Advance warning of a possible attack or threat of attack will give seafarers opportunity to sound the alarms, alert other ships, inform the coastal authorities and naval forces, illuminate the suspect's craft, undertake evasive manoeuvrings or initiate other response procedures.[140] Hawkes opines that adequate warning and timely reaction are important in repelling potential acts of piracy on vessels.[141] More so, signs that the ship is aware that it is being approached can deter attackers[142] and the implementation of such preventive measures and preparatory vigilance by seafarers address the security challenges of vessels.

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[137] OBP (n. 7) p. 64.

[138] The Protocol broadens the list of offences, to include, inter alia, the offence of using the ship itself in a manner that causes death or serious injury or damage. Other related piracy acts include the use on a ship or discharges from a ship any explosive, radioactive material, biological weapons in a manner that causes or likely to cause death or serious injury or damage and use a ship in a manner that causes death or serious injury or damage. Article 3bis, 3ter, and 3quater of the Protocol to the SUA Convention.

[139] Regulation VI/6, Chapter IV of the STCW Convention (as amended).

[140] "Interim Guidance to UK Flagged Shipping on the Use of Armed Guards to Defend against the Threat of Piracy in Exceptional Circumstances," Version 1.1, November 2011 (Updated May 2013), Department of Transport, London, pp. 16–17, hereafter referred to as the 'Interim guidance to UK flagged shipping.'

[141] K.G. Hawkes (n. 69) p. 9.

[142] It is pertinent to state that majority of successfully averted acts of piracy can be traced to vessel being aware that it is being targeted. This vigilance requires that seafarers pay greater attention to radars, increased deck watches, being conscious of events happening within the vessel's immediate surroundings, and being alert to respond immediately and effectively. Ibid.

5.8 Ship security officer and ship security plan

Sequel to the appointment of the SSO[143] for every ship is the preparation of ship security plan (SSP).[144] It is the responsibility of the SSO to prepare and/or update the SSP. The SSP should reflect all shipboard activities in all geographical locations in which the vessel may traverse. It should be sufficiently flexible to allow different levels of security in the various ports of call and it should create preventive measures for unauthorised access to the ship at sea as well as in ports.[145] The author argues that the use of the SSP by competent SSOs to secure vessels can boost the morale and confidence of seafarers in safeguarding their vessels.

5.9 The use of PCASP on board ships should be allowed by Nigerian government

The use of PCASP on a vessel is to complement the efforts of the master and other designated security officers in protecting the vessel. Against this backdrop, the author argues that the introduction and use of PCASP will enhance the capability of seafarers to secure their vessels.[146] For illustrative purposes, the deadly 2009 hostage incident aboard *Maersk Alabama* showed the limitations of ship's non-lethal anti-piracy tactics, which involved lookouts, a fortified secure room, and firing of flares. The introduction of PCASP must be done with due diligence and observance of the guidelines for the use of armed guards.[147] Banning the use of well-trained, well-equipped, and professional PCASP will pave way for the deployment of local guards to escort vessels as currently done in Nigeria. [148] The author observes that these local guards are ill-equipped and ill-trained to undertake such high-risk jobs and some of these so-called local guards collude with pirates to hijack vessels in exchange for a share of the loot.[149] Thus, the author argues that this policy should be discarded because it is not in the interest of seafarers or ship owners.

5.10 Adoption of best management practices for the protection of seafarers

Furthermore, the introduction and use of best management practices[150] to protect and prevent piracy is a veritable way to protect seamen from being harmed by pirates. This is

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[143] Article 12 of the ISPS Code, 2004.

[144] Article 9, ibid.

[145] K. G. Hawkes (n. 69) p. 65.

[146] In such a concerted effort to suppress piracy, Cartner points out that the master of the ship has complete control of the armed guards to avoid unnecessary leadership tussle between the ship's master and the PCASP. Dom Yanchunas, "Masters, shipowners face liability risk from armed guards' mistake," *Professional Mariner*, Iss. No. 180, June/July, 2014 <http://www.professionalmariner.com/June-July-2014/shipowners-face-liability-risk/> accessed 27 May 2016, citing John A. C. Cartner.

[147] For the guidelines for the use of armed guards, see generally, IMO Revised Interim Guidance to Shipowners, Ship Operators and Shipmasters on the use of Privately Contracted Armed Security Personnel on Board Ships in the High Risk Area, MSC.1/Circ.1405/Rev.2, 25 May, 2012 and the Interim guidance to UK flagged shipping.

[148] See OPB (n. 7) p. 48.

[149] J. Bridger (n. 67).

[150] International Maritime Organisation Resolution adopting the Best Management Practices for Protection against Somalia Based Piracy, MSC. 1/Circ. 1339, 14 September, 2011.

because the best management practices (BMP4) booklet, for example, contains experiences and data collated by naval/military forces regarding acts of piracy,[151] which could be used by the crew to avoid acts of piracy. Care should be taken when formulating measures to prevent illegal boarding and external access to ship so that crew members will be able to escape without being trapped inside the citadel in the event of another type of emergency, like fire.[152] Besides, there should be consideration for ballistic protection for seafarers who may be required to remain on the bridge during piratical attack, recognising that pirates increasingly fire at the bridge of a vessel to try to force it to stop.[153] In addition, the interim guidelines for protection from piracy in the Gulf of Guinea,[154] which complements the BMP4, among other things, state that there is need to start and end shipping operations during daylight, since pirates like striking at night.[155] It is important to note that the use of BMP4 most times complements having PCASP on board vessels and both measures can be used together to fend off pirates. It is particularly important for "the Masters and the PCASP to make informed decisions to keep clear of small boats, dhows, fishing vessels and if necessary take evasive actions, increase speed and request assistance as needed."[156]

5.11 Coordinated and comprehensive effort by Nigerian government

Kraska suggests that prior to any set of measures or recommendations, it is imperative for relevant government agencies and relevant institutions to gather accurate statistics of incidents of piracy and armed robbery against vessels.[157] These data should be collated under type and area and the nature of the attacks assessed, with special emphasis on types of attack, accurate geographical location, and *modus operandi* of pirates.[158] Moreover, these statistics should be published to all interested parties, particularly ship owners, in a format that is comprehensible and usable.[159] In view of this, it is contended that advanced intelligence could prove useful in order to act in a coordinated manner even prior to an attack by pirates.[160] Based on the data and any intelligence report on piracy, Nigerian government should issue to ships entitled to fly its flag and vessels calling at its ports advice and guidance on any appropriate additional precautionary measures ships may need to adopt to be protected from attack. More importantly, government of Nigeria should involve representatives of ship owners and seafarers in

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[151] Para. 1.1 of the Best Management Practices for Protection against Somalia Based Piracy, Version4 (BMP4), 2011.

[152] Para. 3.2, ibid.

[153] Ibid. For further analysis of the BMP4, see "Best Management Practices against Somali Based Piracy: A Quick Reference Guide to help Implement Best Management Practices for the Protection of Seafarers from Somali Based Piracy," ABS, August 2011 and Security Association for the Maritime Industry (SAMI), "A guide to BMP4," August 2011.

[154] "Interim Guidelines for Owners, Operators and Masters for Protection against Piracy in the Gulf of Guinea Region," (To be read in conjunction with BMP4), prepared by Maritime Organisations made up of The Baltic and International Maritime Council (BIMCO), International Chamber of Shipping (ICS), International Association of Dry Cargo Shipowners (INTERCARGO); INTERTANKO and NATO Shipping Centre.

[155] Para. 4, ibid.

[156] See IMB Piracy Report for 2015, p. 19.

[157] James Kraska, *Contemporary maritime piracy: international law, strategy, and diplomacy at sea* (Praeger: California 2011) p. 203.

[158] Ibid.

[159] Ibid.

[160] Ibid.

developing these measures to prevent and suppress maritime crimes off its coast.[161] From the foregoing, the author submits that the introduction of the above measures will substantially enhance seafarers' role in the suppression of piracy off the Nigerian coast.

6 Conclusion

It is a truism that the Nigerian government has done a lot to stem the tide of piracy off its coast. For instance, it has improved its surveillance system,[162] established a local naval force,[163] and engaged in bilateral[164] and regional cooperation[165] with a view to suppressing piracy in the Gulf of Guinea. However, the capacity of Nigerian government to suppress piracy is undermined by the fact that only 28 % of the Nigerian Navy's warships and frigates is operational at any given time, which means that "maritime operations usually amount to intermittent sweeps, rather than a continuous patrol presence."[166] Besides, there is urgent need to domesticate UNCLOS and the SUA Convention in order to have a legal basis for prosecuting pirates in Nigerian courts. This will influence and facilitate seafarers' role as witnesses in the prosecution of pirates. Furthermore, there have been efforts to enhance the security and safety capacity of seafarers[167] as well as improve their welfare[168] in Nigeria through the ratification of relevant conventions.[169] In view of the root causes of

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[161] Ibid.

[162] Nigeria has launched its 24-h satellite surveillance system which is instrumental in policing and monitoring the country's waters. The satellite surveillance system, for instance, facilitated the rescue of a Ghanaian flagged vessel which was hijacked by pirates off the coast of Ghana. Also, NIMASA is concluding the installation of the Global Maritime Distress Safety System (GMDSS) at Takwa Bay in Lagos. When fully integrated with the satellite system, the GMDSS will provide full domain awareness for Nigerian waterways. "Nigeria boosts safety in its waters," *World Maritime News*, 25 July 2014 <http://worldmaritimenews. com/archives/131847/nigeria-boosts-safety-in-its-waters/> accessed 27 May 2016.

[163] At the national level, for example, Nigeria government in January 2012 transformed its Joint Task Force, *Operation Restore Hope*, which was initially established to combat militancy in the Niger Delta into an expanded maritime security framework, known as *Operation Pulo Shield*. F.C. Onuoha (n. 12) p. 10. More importantly, NIMASA signed a Memorandum of Understanding (MoU) with both the Nigerian Navy and the Nigerian Air Force to enhance the Agency's capacity in enforcing extant maritime laws as well as to monitor and secure Nigeria's territorial waters and EEZ. "Nigeria: towards a secured maritime domain," *AllAfrica*, 21 August 2014 <http://allafrica.com/stories/201408220795.html> accessed 27 May 2016.

[164] In terms of bilateral response, Nigeria and Republic of Benin in October 2011 set up a combined maritime patrol of their waters. Code-named *Operation Prosperity*, the bilateral cooperation was the first of its kind in the region and is in consonance with the Maritime Organisation of West Africa (MOWCA) Coastguard Function Network Initiative. F.C. Onuoha (n. 12) p. 10.

[165] At the regional level, measures to improve maritime security have come in the form of joint training exercises among Navies of the Gulf of Guinea states. Ibid.

[166] James Bridger, "Crafting a counter-piracy regime in the Gulf of Guinea," Center for International Maritime Security (CIMS), 11 July, 2013 <http://cimsec.org/crafting-a-counter-piracy-regime-in-the-gulf-of-guinea/6232> accessed 27 May 2016.

[167] Andrew Airhuobor, "Bridging the human capacity gap in maritime industry," *Daily Independent*, 11 October, 2013 <http://independentnig.com/2013/10/11/bridging-the-human-capacity-gap-in-maritime-industry/> accessed 24 July 2016.

[168] Despite the conclusion of plans to improve crew members' condition of service by NIMASA, Nigeria seafarers' deplorable condition of service and welfare have not changed. John Iwori, "NIMASA to review seafarers' condition of service," *Thisday*, 30 June, 2014 <http://www.thisdaylive.com/articles/nimasa-to-review-seafarers-condition-of-service/182229/> accessed 27 May 2016.

[169] It must be emphasised that these relevant conventions, like the MLC 2006, must be domesticated in accordance with the provisions of section 12 of the 1999 Constitution of Nigeria to become legally binding.

piracy off the coast of Nigeria, like weak regulatory institutions, this paper argues that there is need for the maritime regulatory agencies to introduce and implement laws and policies that enhance the welfare and capacity of seafarers to secure their vessels. More pointedly, policies that promote capacity building, training and retraining of crew members on risk assessment and analysis, security management of vessels, and encourage the compensation of seafarers for their losses during and after piratical attacks[170] should be introduced and implemented in Nigeria.[171] More so, training facilities and vessels should be provided for MAN to empower its graduates with the needed skills and competence to safeguard their ships, while MLC 2006 should be domesticated to enhance the labour and working conditions of Nigerian seafarers.[172] All these measures will provide a conducive environment for Nigerian seafarers to inculcate new, effective, and comprehensive methods of repelling piratical attacks, withstand the mental stress of navigating through piracy hotspots, assess and analyse security risks, and assimilate how to react when pirates board their vessels. In addition, effective legal regime and policies that enhance seafarers' insider leverage in preventing and suppressing piracy through testifying against pirates in courts, sharing information with navies engaged in (joint) naval patrols, and observing security and safety measures contained in maritime security instruments and soft laws should be instituted in Nigerian maritime industry. On the other hand, seafarers should be treated fairly and compensated adequately since they are killed, tortured, maimed, and incur financial losses as a result of piracy. A situation where seafarers are confronted with "increased difficulty joining and leaving their ships in foreign ports, taking shore leave, and visiting medical facilities ashore" which make already challenging seafaring life less attractive should be stopped.[173] Therefore, the working and living conditions of seafarers in Nigeria should comply with international standard. Lending credence to the position of this paper that seafarers play a complementary role in suppressing piracy off the Nigerian coast, Mitropoulos argues that governments, port authorities, ship owners, among others, should treat seafarers as partners in the fight against piracy and other maritime crimes "… and facilitate their access to ports and shore facilities."[174] It is imperative that in view of safety, efficiency and security of the shipping industry, seafarers "need adequate opportunity to relax and recover before they take their ships out to sea again in pursuit of their peaceful

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[170] Seafarers play a pivotal role in suppressing piracy through their testimonies against pirates during piracy trials. Nonetheless, lack of compensation for the financial loss on account of appearing in court discourages seafarers from participating in the prosecution of pirates. Further, the nature of seafarers' employment reduces their availability to testify during piracy trials. As a consequence, a policy that will introduce compensation for court appearances will incentivise seafarers to play a role in curbing piracy off the coast of Nigeria. See A. Murdoch (n. 121) p. 162.

[171] UK Chamber of Shipping, "Annual review 2013–2014," p. 18.

[172] It is important to note that the MLC 2006 establishes a comprehensive enforcement and compliance system based on cooperation among all ratifying states. This system, which is built upon the well-established arrangements under the various MoU on port state control, will ensure that decent working conditions, once certified by a flag state, are continuously maintained, no matter where the ship travels. ILO Input to the Chapter on Maritime Security and Safety of the Report of the Secretary-General on Oceans and the Law of the Sea, to the Sixty-third Session of the General Assembly <http://www.un.org/depts/los/consultative_process/mar_sec_submissions/ilo.pdf> accessed 27 May 2016.

[173] UK Chamber of Shipping (n. 171).

[174] E. Mitropoulos (n. 46).

objectives in the service of world trade."[175] The author concludes that the introduction and application of the above recommendations, which are in tandem with the views of stakeholders in the shipping industry,[176] will enhance the complementary role of seafarers in suppressing piracy off the Nigerian coast. Lending credence to the author's conclusion, Malhotra observes that every stakeholder in the maritime world recognises "the fact that security on board ships and in ports cannot be implemented without the cooperation and assistance of seafarers. Accordingly, seafarers are necessary partners in the implementation of new and enhanced security regulations."[177] In his words, Mitropoulos reiterates the importance of seafarers in the safety and security of the shipping industry by stating that:

> Shipping relies heavily on the initiatives, cooperation and constant vigilance of seafarers to help prevent breaches of maritime security and, without their support and wholehearted commitment, the system the ISPS Code aims to put in place will be severely weakened. It is crucial that seafarers are not made to feel in any way rejected or that their services are not sufficiently recognised.[178] Effective implementation of international instruments, such as the 2006 ILO Maritime Labour Convention, is one means to improve the working and living conditions of seafarers worldwide. Along with its 2014 amendments, it is an important instrument to protect seafarers against cases of exploitation and safety hazards, to achieve decent work for seafarers while securing economic interests in fair competition for shipowners. Capacity-building to facilitate implementation of the 2006 Convention by States is crucial to the safety and security of maritime trade.[179]

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[175] Ibid.

[176] "Oceans and the law of the sea," Report of the Secretary-General, Seventieth Session, Item 80 (a) of the Preliminary List, Ocean and the Law of the Sea, United Nations, March 2015 <http://www.un.org/Depts/los/consultative_process/documents/ICP-16_report.pdf> accessed 27 May 2016. See also John Iwori, "What hope for Nigerian seafarers," *Thisday*, 10 July, 2015 <http://www.thisdaylive.com/articles/what-hope-for-nigerian-seafarers/214215/> accessed 27 May 2016; E. Mitropoulos (n. 46); Industry concern, (n. 23); A. Coutroubis & G. Kiourktsoglou (n. 31); and Foreign Affairs, Defence and Trade References Committee, The Senate, (n. 26).

[177] Neera Malhotra, "'Balancing seafarers' welfare and maritime security with biometrics," World Maritime University Dissertations, Paper 159, 2007, p. 61.

[178] E. Mitropoulos (n. 46).

[179] Para. 31 of the Report of the Secretary-General, Seventieth Session, Item 80 (a) of the Preliminary List, Ocean and the Law of the Sea, United Nations, March 2015 (n. 176) p. 14.

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