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Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and a

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Dr. Rinu Saraswat



Associate Professor at School of Law, Apex University, Jaipur,
M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



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BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

LESSONS TO BE LEARNED FROM RECENT PIRACY ATTACK

AUTHORED BY: AAKASH SEHRAWAT
(LLM student of Gujarat Maritime University)

Piracy attack off the coast of Somalia is increasing gradually along with Houthi rebels' attack in red sea rising sharply in recent months a concern for shipping vessels. Pirates attack mostly the merchant vessels as they can get the goods and sell it in the market. Pirates hijack the vessel and repaint it and give it a new look and use that ship without registration in piracy attack through which any state cannot trace the ship from which state the ship got registered.

The recent attack of pirates on ship MV Abdullah a Bangladeshi vessel sailing to United Arab Emirates from Mozambique with a cargo of around 55,000 tons of coal. Approximately 15-20 Somali pirates hijacked the ship and anchored the vessel near 7 miles off the coast of Somalia. The pirates onboard the vessel have been called upon to surrender & release the vessel & any civilians they may be holding against their will. All seafarers on board the vessel were made hostages by the pirates. The Indian Navy intercepted the distress call and on receipt of intimation, the Indian Navy promptly deployed the Long-Range Maritime Patrol (LRMP) aircraft to rescue the vessel. Indian Navy tried to establish communication to know the info of ship's seafarers but no response was received from the ship. After 2 days on March 14, 2024 Indian Navy deployed a warship and intercepted the MV Abdullah a Bangladeshi Ship and they remained in very close to the hijacked vessel till its arrival in the territorial waters of Somalia. Indian Navy rescued sailor held hostage aboard the Bangladeshi ship MV Abdullah. The attack happened in the Indian Ocean about 600 nautical miles east of Somalia's capital Mogadishu.

Article 101 of UNCLOS defines the piracy attack: any illegal acts of violence or detention, any act of depredation, committed for private ends by the crew or passengers of a ship or aircraft on the high seas against another ship or aircraft. If we connect it with the present incident with the article 101 detention was done, committed by the pirates by another ship which is also presumed to be hijacked ship by the pirates for their private ends against another ship i.e. MV Abdullah a Bangladeshi vessel.

If a foreign vessel is attacked in the territorial waters of a State, the State, whose flag the ship is flying, is entitled, under international law, to demand that the other State, in whose territorial waters the act occurred, punish the perpetrators or otherwise redress the act. State should make their piracy law to make their own stand on the situation if in future piracy attack persists than on what law they'll persecute the pirates. Many times, it happens they release the pirates and send them back to their home state without any persecution or punishment. Mostly state don't take action on it and every other state just relies on the other states but there are situations when a country took a bold step to save their seafarers from pirates.

In April 2009, pirates attempted to take over a US ship, the Maersk Alabama, but the crew of that ship thwarted their plans when the captain surrendered himself in to the pirates in order to protect his crew members. After that, the pirates took to a lifeboat with the captain, but the US Navy Seals saved him, and he went on to kill three of the four pirates during the rescue mission. The last remaining pirate was captured and taken to the United States where he underwent trial.

In the case of The Alondra Rainbow was a Japanese owned tanker with a Filipino crew commanded by 2 Japanese officers. The tanker was sailing from Indonesia to Japan when pirates hijacked the ship, the Indian Navy intercepted the attack and arrested the pirates and towed the vessel and brought to the India and they were tried in Indian court according to the law.

A hypothetical situation if we frame, let's say if the pirates attacked in the territory of India and if Indian authorities arrest the pirates than under which law India can arrest and start a trial. Now, India passed a law i.e. The Maritime Anti-Piracy Act, 2022 under which piracy is defined in section 2(1)(h)(i) *any illegal act of violence or detention or any act of depredation committed for private ends by any person or by the crew or any passenger of a private ship and directed on the high seas against another ship or any person or property on board such ship; (ii) any act of voluntary participation in the operation of a ship with knowledge of facts, making it a pirate ship; (iii) any act of inciting or of intentionally facilitating an act described in sub-clause*

(i) or sub-clause (ii); or (iv) any act which is deemed piratical under the international law including customary international law

Anybody who commits an act of piracy is subject to punishment under section 3 of The Maritime Anti-Piracy Act, 2022. This punishment can include a fine, a life sentence in prison, or both. If the act

of piracy results in death or an attempt at death, the punishment can also include death or life imprisonment.

If whoever attempts to commit the offence of piracy or aids or abets or conspires or procures for the commission of such offence shall be punished for a term which may extend to 10 years or with fine or with both under section 4 of The Maritime Anti-Piracy Act, 2022

If authorized personnel find some suspicion on the ship and is engaged in piracy on the high seas, then they can arrest the persons or seize the pirate ship and property on board under section 7 of the Maritime Anti-Piracy Act, 2022.

To conclude, the implication of these findings is, a country should not outsource the pirates to the other country to start a trial on them. UNCLOS says that a country should prosecute the pirates whoever finds them to be doing piracy attack. But mostly countries arrest the pirates and send them to the other country. Also, Article 105 states that any State may seize a pirate ship or aircraft, or a ship or aircraft that has been taken over by pirates and is under their control, arrest the people on board, and seize any property that may be on board. The courts of the State that executed the seizure may choose the appropriate course of action regarding the ship, aircraft, or other property subject to the rights of third parties acting lawfully. It may also decide what penalties should be applied. Only warships, military aircraft, and other ships or aircraft that are clearly marked and identifiable as being on government service and authorized to that effect are permitted to make such a seizure.

Recently, the hijacked vessel MV Ruen was recaptured by the Indian Navy from the pirates nearly 1400 nautical miles, or 2600km, from the Indian coast. On board the vessel Bulgarian seafarers were there. Indian Navy intercepted MV Ruen on March 15 and confirmed the presence of armed pirates through a ship-launched drone. Pirates fired the drone, in retaliation INS Kolkata disabled the ship's steering system forcing them to stop the vessel. Indian Navy negotiated with pirates and they accepted to surrender themselves to the Indian Navy and also releasing the crew present onboard. All 17 crew members were rescued without any harm. The vessel got arrested which is carrying approximately 37000 tonnes of cargo. Under The Maritime Anti-Piracy Act, 2022 Navy to bring apprehended pirates to India after successful operation and start a trial against them in Designated court (stated in Section 8 of the Act). Indian Navy bringing the arrested vessel MV Ruen to Indian West coast under Section

7 and UNCLOS article 105 i.e. Arrest of persons and seizure of ship and property.

Hence, India is a good example of saving the seafarer and arresting the pirates, and their recent successful operations are lessons for other countries to be learned from recent Piracy Attack.

