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Definition: **piracy** from *Merriam-Webster's Collegiate(R) Dictionary*

 [pronunciation](#)

(1537) **1** : an act of robbery on the high seas; *also* : an act resembling such robbery **2** : robbery on the high seas **3 a** : the unauthorized use of another's production, invention, or conception esp. in infringement of a copyright **b** : the illicit accessing of broadcast signals



Image from: [The pirate flag on a sailboat off the Virgin... in Encyclopedia of Crime and Punishment](#)

Summary Article: **Piracy**

From *Blackwell Encyclopedias in Social Sciences: The Wiley-Blackwell Encyclopedia of Globalization*

Piracy is a maritime act of armed robbery, criminal violence or other depredation at sea that is not associated with official governmental action. In this respect, piracy is a private act that does not enjoy a privileged status, either in peacetime or as a lawful belligerent act during time of war. The renowned English jurist Sir William Blackstone wrote that the crime of piracy or robbery and depredation upon the high seas was an offense against the universal laws of civilized society – what we refer to today as “international law” (Blackstone & Wendell 1850). Having renounced all the norms and mores of human progress and enlightened government, pirates were considered by the common law to have reverted to a “savage state of nature” – and their criminal enterprise was held to be tantamount to declaring war against mankind. Anglo-American law has held pirates to be *hostis humani generis*, or “enemy of all mankind” (The Lotus (Fr. v. Turk.) 1927 PCIJ (ser. A) No. 10, September 7)). As such, piracy is the original crime of universal jurisdiction. Pirates “attack the rights of mankind, and menace the lives and property of all who resist their unlawful acts” (The Ambrose Light, 24 F. 408, 413 (SDNY 1885)). In response, all nations were deemed to be free to declare war against piracy; indeed, not only did every community enjoy the right of self-defense against piracy, but all civilized states had an affirmative obligation to do so.

The word “pirate” is derived from the Latin word *pirate*, which itself is derivative of *transire*, *a transeundo mare*, which signified a maritime knight or an admiral or commander at sea. *Pirata* means “to attempt” or “to attack.” In Greek, *peirato* suggests something that is “semi-sovereign,” a description that captures the ancient dilemma over whether piracy was closer to warfare or merely a crime. *Pirata* represents the historical genesis for a number of words in modern English, including the prefix *per*, which means, “to try” or “to risk.” The words “peril,” “experience,” “expert,” “empire,” and, of course, “pirate” are all derived from the Latin origin. Like the word “Viking,” the word “piracy” denotes not just criminal marauding, but a way of life.

In ancient history, efforts to suppress maritime piracy were characterized as acts of warfare rather than constabulary or police action. In the Roman era, pirates were viewed as enemies to be crushed in battle, rather than as brigands or outlaws. It was not until the rise of England in the early modern period that nations began to move away from the concept of piracy as a form of warfare. With the introduction of the granting of letters of marque or grant of authority for private individuals to conduct maritime warfare on behalf of the monarch, the term “piracy” became associated with outlawry rather than sanctioned privateering. In Asia, piracy was less a form of maritime warfare, as it developed in the

West, and more often associated with freelancing criminal gangs, or vast illicit enterprises that formed enormous pirate societies. Large pirate havens along the southern coast of China, for example, could be relatively isolated from the rest of the empire by entangling jungle and impenetrable, jagged mountains. Piracy was ubiquitous throughout Asian history, and seafarers and coastal villages along the Indian Ocean, South China Sea and East China Sea were vulnerable to attack and pillage. Merchants and peasants were killed, kidnapped, raped and otherwise sexually abused, held for ransom or to serve as slave labor.

In the Middle Ages and during the early modern period, the Ottoman Empire became particularly adroit at employing piracy at the strategic level to supplement the treasury and assert military control over large areas. The Ottoman Turks and their North African principalities of Algiers, Tunis, Tripoli and Morocco used maritime piracy as a method of warfare against the Christian kingdoms of the West. Barbary corsairs from North Africa – and then Islamic fleets from Arabia and Turkey – conducted a continuous campaign of terror against the European shores of the Mediterranean beginning with the fall of the Roman Empire and extending through to the Barbary Wars of the early nineteenth century. A series of negotiations and engagements between the United States and the Barbary states ended in agreement to end Ottoman piracy. In one daring raid in 1803, Lieutenant Stephen Decatur led a dramatically successful raid to burn the captured US frigate *Philadelphia*, which was grounded off Tripoli by strong winds. The heroic action stirred Lord Admiral Horatio Nelson to remark that it was the “the most bold and daring act of the age.” (McDonald 1976). Tripoli agreed to a peace, and the other Ottoman principalities also relented, ending the system of payment of annual tribute by the United States.

Contemporary piracy can occur in virtually any of the world’s oceans. The International Maritime Bureau reports that the greatest area at risk of piracy is the waters off the Horn of Africa. Decades of political instability, piercing poverty and social dislocation have provided a fertile environment for young, heavily armed pirate gangs to operate from the shores of Somalia. Beginning in about 2006, Somali pirates began to perfect a kidnap-for-ransom model of piracy that has proved lucrative. In 2008, for example, Somali pirates successfully seized a very large crude carrier oil tanker, loaded with two million barrels of oil valued at US\$125 million. After payment of a ransom in excess of US\$3 million, the ship and its crew of 25 were released. By 2011, the amount of the highest ransoms had escalated to more than US\$7 million for the release of some ships. Despite a coalition of international warships from two dozen nations, that includes surface ship and aviation assets from the North Atlantic Treaty Organization, the European Union (EU) and Commander, Maritime Forces – a coalition operating under commander, US Navy Central Command in Bahrain – Somali piracy persists.

Piracy has long been endemic to the waters of Southeast Asia, which offer numerous island hideouts for pirates. The Southeast Asian model of piracy is often even more brutal than the Somali variety, because it is controlled by secretive criminal organizations that seek to hijack vessels, seize the ship and cargo, and often murder the crew. Then, the cargo may be sold on the spot market and the ship converted and renamed, re-registered as a “ghost ship.” Unlike the Horn of Africa, however, the nations of Southeast Asia have the law enforcement and governance capacity to effectively counter maritime piracy. In 2004, for example, 16 nations of Asia joined together under the leadership of Japan in a treaty of counter-piracy cooperation, the “Regional Agreement on Combating Piracy and Armed Robbery” (ReCAAP). ReCAAP is the first treaty dedicated solely to combating piracy. The agreement, which entered into force in 2006, established a piracy-related Information Sharing Centre in Singapore.

ReCAAP also contains capacity-building initiatives and established cooperative arrangements.

The current definition of piracy is found in the United Nations Convention on the Law of the Sea (UNCLOS). UNCLOS was the first – and remains the foremost – comprehensive multilateral instrument for realizing collaborative approaches to oceans governance. Under Article 101 of UNCLOS, piracy consists of any of the following acts:

- a. Any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or private aircraft, and directed –
 - a. On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
 - b. Against a ship, aircraft, persons or property in a place outside the jurisdiction of any state;
- b. Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of the facts making it a pirate ship or aircraft;
- c. Any act of inciting or intentionally facilitating an act described in subparagraph (a) or (b).

Importantly, for legal purposes, “piracy” occurs beyond the 12 nautical-mile territorial sea; the same illegal conduct occurring landward of the 12 nautical-mile mark – inside the territorial sea or the internal waters of a coastal state – constitutes “armed robbery at sea.” “Armed robbery at sea” is not an international crime, but may be a criminal offense to be punished under the laws of the coastal state.

The epidemic of Somali piracy spurred unprecedented international diplomacy to address the threat to international merchant shipping. The United Nations Security Council became involved in the matter in the summer of 2008, two years after Somali piracy became a manifest hazard to maritime traffic in the waters surrounding the Horn of Africa. The Security Council adopted Resolution 1816 in June 2008, which authorized the international community to enter Somali territorial waters to suppress piracy. Thereafter, the Security Council adopted further resolutions to address the threat of Somali piracy, including resolutions 1838, 1846, 1851, 1918, and 1950. Resolution 1838 confirmed that UNCLOS reflected the essential international rules for suppressing piracy, and it called upon states to deploy naval forces into the Horn of Africa. On December 2, 2008, the Security Council adopted Resolution 1846, which endorsed the application of the 1988 Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) to the problem of piracy off the coast of Somalia. The SUA Convention is an anti-ship-hijacking treaty developed after the Palestinian terrorist attacks on the Italian-flagged passenger cruise ship *Achille Lauro*. The Security Council adopted Resolution 1851 on December 16, 2008, and encouraged the establishment of a mechanism for regularized contact between states in the region of East Africa. The Contact Group on Piracy off the Coast of Somalia (CGPCS) was formed in response to UN Security Council Resolution 1851, which called on states to facilitate coordination of counter-piracy activities off the coast of Somalia. The CGPCS is the broadest coalition of nations ever gathered to develop and coordinate practical solutions to the scourge of maritime piracy. The first meeting occurred at the United Nations (UN) on January 14, 2009, and 24 nations participated in the initial discussions. Observers from the EU, the North Atlantic Treaty Organization (NATO) and the African Union also attended the first meeting and now nearly 50 nations and international organizations participate in regular CGPCS meetings. The CGPCS consists of four working groups. Working Group 2 of the CGPCS, for example, meets to explore and implement more effective legal procedures to bring pirates to justice. Resolution 1851 also reauthorized the use of “all

necessary measures” to fight piracy, and for the first time authorized military operations on Somali soil by the international community (UN S/Res. 1851, December 16, 2008).

The Security Council acted again on April 27, 2010, calling on states to update and develop their domestic counter-piracy laws, and it directed the UN to study the feasibility of creating an international piracy court.

Although piracy has long been a feature of the law of nations – what is today called “international law” – even enforcement of piracy typically is pursued through domestic or municipal law. Article 94(1) of UNCLOS requires that flag states adopt adequate criminal laws to prosecute the crime of maritime piracy committed against a ship flying their flag. Domestic courts are used to prosecute pirates due to a paucity of international courts that enjoy jurisdiction over the crime of piracy. Nearly 600 suspected pirates had been prosecuted or were in the process of being prosecuted by September 2010 (IMO Doc. LEG 97/9/1, September 30, 2010). Consequently, there is an important distinction between the international law of piracy – that is, the law among and binding upon nation-states as the subjects of international law – and the municipal law of piracy, which is criminal in nature and derived from domestic criminal justice systems. The US Congress, for example, codified its constitutional authority to “extradite or prosecute” offenders of maritime piracy in 18 USC § 2280. Section 2280(a)(1)(A) defines a “pirate” as an individual “who unlawfully and intentionally seizes or exercises control over a ship by force or threat thereof.” The companion section, § 2280(a)(1)(B), prescribes “acts of violence against a person on board a ship” that are “likely to endanger the safe navigation of that ship.” These provisions are by no means antiquated. In the 2008 case *US v. Lei Shi*, for example, a three-judge panel of the US Court of Appeals for the 9th Circuit upheld under this section the conviction and 36-year prison sentence of a Chinese cook convicted in Honolulu of forcibly seizing control of a foreign vessel in international waters and killing a Taiwanese captain and Chinese first mate (IMO Doc. LEG 97/9/1, September 30, 2010).

SEE ALSO: Crime; Law of the Sea; Oil (Petroleum); United Nations.

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