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AMB. NANCY KARIGITHU

First Substantive Director General of Kenya Maritime Authority, and former Special Envoy and Advisor on Maritime and Blue Economy, Kenya

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EDITOR-IN-CHIEF'S NOTE



EZEKIEL ARCHIBONG

Every voyage ends in a harbour (well, not always), and for us at The People's Accolade Law Magazine (The PALM), that harbour is the No. 4, 2026: Maritime Law. We began the year exploring: Corporate and Commercial Law, Tax Law, and Humanitarian Law. Now, we turn our attention to an area which covers about 70% of the Earth's surface and facilitates four-fifths of global trade. Beyond their economic significance, the oceans/seas are vital to international security, diplomacy, and livelihoods. Recent tensions around the Strait of Hormuz and their ripple effects on global trade, energy markets, and African economies further demonstrate how fitting it is to have an edition dedicated to Maritime Law. We therefore invite you to stay the course as we explore the contemporary legal developments shaping our oceans.

The magazine begins with Maritime Security in the Gulf of Guinea: Legal Responses to Piracy and Armed Robbery at Sea, by Silver Chinwendu Obioha. Silver examines how UNCLOS's definition of piracy excludes most attacks in the Gulf of Guinea. She traces Nigeria's response through the SPOMO Act 2019, its first piracy conviction, the Deep Blue Project, and the Yaoundé Code of Conduct. She concludes that the region's challenge lies less in the absence of legal frameworks than in their inadequate enforcement.

Then comes the article that brings the headlines into our pages. In International Maritime Navigation Crisis 2026, Salma A. Mohamed examines the closure of the Strait of Hormuz amid the Iran-US-Israel conflict, arguing that the closure violates UNCLOS. She highlights its wider economic consequences for countries, particularly Egypt's loss of Suez Canal revenue. Her proposed solutions include a neutral naval force to protect civilian shipping, a treaty safeguarding vital sea lanes during wartime, and compensation for affected states.

In Nationality of Ships: Identity and Control, Vera Enubianozor explains how registration gives a ship a legal identity and ties it to a flag state with duties under UNCLOS. She also examines the tension behind flags of convenience, which cut costs for shipowners but also weaken accountability. Relying on case studies, she reminds us that control at sea is increasingly shared between flag states, coastal states and the international community.

We close the edition with a voice of rare authority. In our interview, Amb. Nancy Karigithu reflects on her journey from the first time she saw the sea as a teenager to the highest tables of global shipping. As Kenya's first substantive Director General of the Kenya Maritime Authority and the first African woman to seek the IMO Secretary-General position, she shares insights on Africa's maritime potential, practical maritime education, and women's role as "architects" of the blue economy. Her ultimate measure of success is what remains standing long after the title is gone.

I am grateful to you, our readers, writers, contributors, editors, partners, management team, and everyone who read, shared, and engaged with The PALM. 2026 has been a successful year because you sailed with us. The tide is already turning toward 2027, and we are raising the sails with fresh ideas, bolder conversations, and a growing community of legal minds. Keep your charts ready and your curiosity close. The best voyages are still ahead!

With gratitude and regards,
Ezekiel Archibong
Editor-in-Chief, The PALM.

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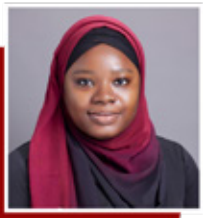

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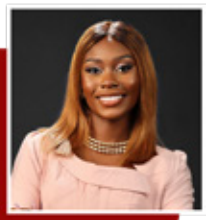

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MARITIME SECURITY IN THE GULF OF GUINEA: LEGAL RESPONSES TO PIRACY AND ARMED ROBBERY AT SEA

SILVER CHINWENDU OBIOHA

INTRODUCTION

Maritime transport remains the backbone of global trade, facilitating the movement of over 80 percent of goods worldwide by volume. In West Africa, the strategic importance of the Gulf of Guinea has grown significantly due to its role as a major route for the export of crude oil and other natural resources. However, this region has, in recent years, gained notoriety as one of the most dangerous maritime domains in the world, largely due to the persistent incidents of piracy and armed robbery at sea.

Piracy, as defined under the United Nations Convention on the Law of the Sea (UNCLOS), refers to illegal acts of violence, detention, or depredation committed for private ends on the high seas. In contrast, armed robbery at sea typically occurs within a state's territorial waters and falls under the jurisdiction of the coastal state. The Gulf of Guinea presents a unique challenge as most attacks occur within territorial waters, thereby complicating international intervention and enforcement mechanisms.

Nigeria, as a leading maritime nation in the region, has taken significant steps to address maritime insecurity, most notably through the enactment of the Suppression of Piracy and Other Maritime Offences (SPOMO) Act 2019. This legislation represents a milestone as Nigeria became one of the first countries in the region to domesticate international obligations relating to piracy. Notwithstanding these efforts, the persistence of piracy and maritime crimes suggests that the challenge lies not merely in the existence of legal frameworks but in their effective implementation and enforcement.

This article examines the legal responses to piracy and armed robbery at sea in the Gulf of Guinea, with particular emphasis on Nigeria's legal and institutional frameworks. It argues that while considerable progress has been made in developing regulatory mechanisms, issues like enforcement gaps, jurisdictional limitations, and weak regional cooperation continue to undermine maritime security in the region. The article concludes by proposing practical recommendations aimed at strengthening legal enforcement and enhancing regional collaboration.



CONCEPT OF PIRACY AND MARITIME SECURITY

Piracy occupies a central position in discussions on maritime security and is primarily governed by international law. The most authoritative definition is contained in Article 101 of UNCLOS which defines piracy as any illegal act of violence, detention, or depredation committed for private ends by the crew or passengers of a private ship or aircraft, directed against another ship or aircraft on the high seas or outside the jurisdiction of any state. This definition reflects two essential elements: the requirement that the act occurs

on the high seas and that it is committed for private ends.



A critical limitation of this definition, however, lies in its restricted geographical scope. Acts occurring within a state's territorial waters do not qualify as piracy under UNCLOS but are instead classified as "armed robbery at sea." This distinction is particularly significant in the Gulf of Guinea, where the majority of maritime attacks occur within territorial waters rather than on the high seas. Consequently, such incidents fall within the domestic jurisdiction of coastal states, thereby limiting the application of universal jurisdiction typically associated with piracy.

Maritime security, on the other hand, is a broader concept encompassing the protection of maritime domains against threats such as piracy, armed robbery, terrorism, trafficking, and illegal fishing. It involves not only legal regulation but also enforcement mechanisms, naval operations, and regional cooperation. In recent years, the concept has evolved to include both traditional security concerns and non-traditional threats that undermine the safety of navigation and economic stability.

In the context of the Gulf of Guinea, maritime security challenges are uniquely complex due to overlapping legal regimes, weak enforcement capacity, and the economic motivations driving criminal activities. The distinction between piracy and armed robbery at sea has practical implications for enforcement, as it determines whether international intervention is permissible or whether the responsibility lies solely with the coastal state. This legal fragmentation has contributed significantly to the persistence of maritime crimes in the region.

LEGAL FRAMEWORK FOR COMBATING PIRACY AND ARMED ROBBERY AT SEA

The legal framework governing piracy and maritime security operates at international, regional, and domestic levels. At the international level, UNCLOS provides the foundational legal regime. UNCLOS not only defines piracy but also establishes the principle of universal jurisdiction, allowing any state to seize pirate ships on the high seas and prosecute offenders. However, as earlier noted, this framework is limited in its application to acts occurring outside territorial waters.

Complementing UNCLOS is the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention), which expands the scope of maritime offences and obligates state parties to criminalize a wide range of unlawful acts at sea. The SUA Convention addresses some of the gaps left by UNCLOS, particularly in relation to acts committed within territorial waters.

At the domestic level, Nigeria has taken significant legislative steps through the enactment of the SPOMO Act 2019. This Act represents a landmark development in African maritime law as it expressly criminalizes piracy and related offences, confers jurisdiction on the Federal High Court, and prescribes

penalties for offenders. It also aligns Nigeria's legal framework with its international obligations under UNCLOS and the SUA Convention.

Institutionally, enforcement is carried out by agencies such as the Nigerian Navy and the Nigerian Maritime Administration and Safety Agency (NIMASA), both of which play critical roles in surveillance, interdiction, and prosecution support. Despite these legal and institutional frameworks, enforcement challenges persist, particularly in relation to coordination, capacity, and jurisdictional overlaps within the Gulf of Guinea.

CAUSES OF PIRACY IN THE GULF OF GUINEA

The persistence of piracy and armed robbery at sea in the Gulf of Guinea can be attributed to a combination of socio-economic, institutional, and governance-related factors. One of the primary drivers is economic deprivation in coastal communities, particularly in the Niger Delta region of Nigeria. High levels of unemployment and poverty have created an enabling environment for criminal activities, including piracy.

In addition, weak law enforcement capacity and inadequate maritime surveillance have significantly contributed to the problem. Many coastal states in the region lack the technological resources and infrastructure required to effectively monitor their territorial waters. This creates opportunities for criminal networks to operate with relative impunity.

Corruption and poor governance also play a critical role. In some instances, there have been allegations of collusion between criminal elements and state officials, which undermines enforcement efforts and erodes public trust in institutions. Furthermore, the lucrative nature of maritime crimes, particularly kidnapping for ransom and oil theft, continues to incentivize piracy in the region.

Another contributing factor is the lack of effective regional cooperation. Given the transnational nature of maritime crimes, unilateral efforts by individual states are often insufficient. The absence of coordinated legal and operational frameworks among states in the region has made it difficult to effectively combat piracy and related offences.

LEGAL AND INSTITUTIONAL RESPONSES TO PIRACY IN THE GULF OF GUINEA

In response to the growing threat of piracy and maritime insecurity, states within the Gulf of Guinea, particularly Nigeria, have adopted a combination of legal and institutional measures aimed at curbing maritime crimes. Central to Nigeria's response is the SPOMO Act 2019, which provides a comprehensive legal framework for the prosecution of piracy and related offences. The Act incorporates key provisions of UNCLOS and the SUA Convention, thereby aligning domestic law with international standards.

One of the most significant developments under the SPOMO Act is the successful prosecution of piracy cases in



Nigerian courts. In Federal Republic of Nigeria v. Baya Ebi Dani & Ors (2020), the Federal High Court issued Nigeria's first conviction for piracy under the Act. The defendants were charged with hijacking a vessel and were subsequently convicted, marking a milestone in Nigeria's efforts to combat maritime crime. This case demonstrated the practical applicability of the SPOMO Act and signalled Nigeria's commitment to enforcing maritime law.

Institutionally, the Nigerian Navy plays a leading role in maritime security operations, including patrol, interdiction, and rescue missions. Complementing this role is NIMASA, which is responsible for maritime regulation, safety oversight, and capacity development. The Deep Blue Project, initiated by the Federal Government of Nigeria through NIMASA, represents a significant investment in maritime security infrastructure, including surveillance systems, special mission vessels, and air assets.

At the regional level, cooperative efforts such as the Yaoundé Code of Conduct have sought to enhance collaboration among West and Central African states in combating maritime crime. These initiatives aim to facilitate information sharing, joint patrols, and coordinated enforcement actions across national boundaries.

Despite these efforts, challenges remain. Prosecution rates are still relatively low compared to the incidence of maritime crimes, and issues such as inadequate funding, limited technical capacity, and jurisdictional constraints continue to hinder effective enforcement. While Nigeria has made commendable progress, the overall effectiveness of legal and institutional responses in the region remains uneven.

CHALLENGES OF ENFORCEMENT

Notwithstanding the existence of robust legal frameworks and institutional mechanisms, the enforcement of maritime security laws in the Gulf of Guinea continues to face significant challenges. One of the most prominent issues is jurisdictional limitation. As earlier noted, many incidents of maritime crime occur within territorial waters, thereby placing the burden of enforcement solely on coastal states. As a result, enforcement responsibility falls squarely on the coastal state with little scope for external assistance.

Another major challenge is the lack of adequate resources and technical capacity. Effective maritime surveillance requires sophisticated equipment, including radar systems, patrol vessels, and aerial support, which are often insufficient or poorly maintained in many states within the region. This capacity gap undermines the ability of enforcement agencies to detect and respond to maritime threats in real time.

Legal and procedural challenges also persist. Although the SPOMO Act provides a framework for prosecution, issues such as delays in judicial processes, evidentiary difficulties, and limited prosecutorial expertise can impede successful convictions. Furthermore, the absence of specialized maritime courts or dedicated judicial mechanisms contributes to inefficiencies in the administration of maritime justice.

Corruption and lack of political will further exacerbate enforcement challenges. In some cases, the complicity of local actors and weak institutional accountability have undermined efforts to combat piracy effectively. Additionally, the transnational nature of maritime crime requires coordinated regional responses, yet cooperation among states in the region remains inconsistent and, at times, ineffective.

These challenges highlight a critical gap between the existence of legal frameworks and their practical implementation, reinforcing the argument that the problem of maritime insecurity in the region is largely one of enforcement rather than legislation.

RECOMMENDATIONS

Addressing the persistent challenge of piracy and maritime insecurity in the Gulf of Guinea requires a multifaceted approach that goes beyond the mere existence of legal frameworks. First, there is a need to strengthen enforcement capacity through increased investment in maritime security infrastructure, including surveillance technology, patrol vessels, and personnel training. Enhanced funding and modernization of naval assets will significantly improve response capabilities.

Second, regional cooperation must be deepened. Given the transnational nature of maritime crime, states in the region should prioritize the full implementation of cooperative frameworks such as the Yaoundé Code of Conduct. Joint patrols, intelligence sharing, and harmonization of legal regimes will enhance collective security efforts.

Third, there is a need to improve prosecutorial and judicial efficiency. Establishing specialized maritime courts or designated divisions within existing courts could expedite the trial of maritime offences. Additionally, capacity building for prosecutors and judges in maritime law will enhance the quality of legal proceedings and increase conviction rates.

Fourth, addressing the root causes of piracy is essential. Socio-economic development in coastal communities, particularly in the Niger Delta, will reduce the incentives for engaging in maritime crime. Government policies aimed at job creation, education, and infrastructure development should be prioritized.

Finally, transparency and accountability within enforcement agencies must be strengthened to combat corruption and restore public confidence. Effective oversight mechanisms and institutional reforms will ensure that maritime security efforts are not undermined by internal weaknesses.

CONCLUSION

Maritime insecurity in the Gulf of Guinea remains a significant challenge despite the existence of comprehensive legal and institutional frameworks. Nigeria, through the enactment of the SPOMO Act 2019 and increased investment in maritime security, has demonstrated commendable leadership in addressing piracy and armed robbery at sea. However, the persistence of these crimes underscores the limitations of legal frameworks in the absence of effective enforcement.

The primary challenge lies not in the inadequacy of laws but in the gaps in implementation, coordination, and capacity. Jurisdictional constraints, limited resources, weak regional cooperation, and systemic inefficiencies continue to undermine efforts to achieve maritime security.

Ultimately, a sustainable solution requires a holistic approach that combines strong legal enforcement with regional collaboration and socio-economic development. Only through such integrated efforts can the Gulf of Guinea transition from a hotspot of maritime crime to a secure and economically viable maritime domain.

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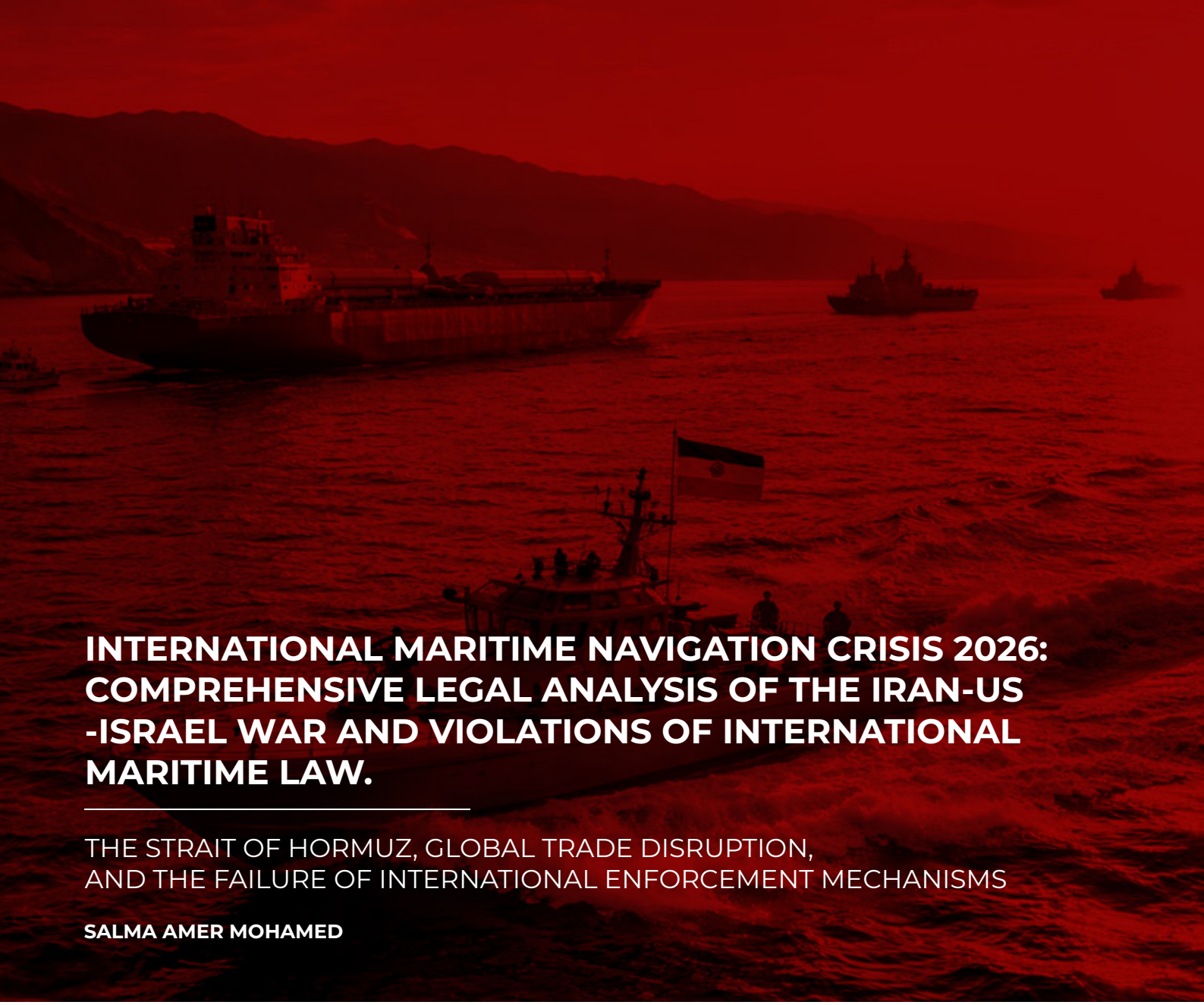
Silver Chinwendu Obioha is a Nigerian legal practitioner with research interests in International and Maritime Law. She holds a Master of Laws (LL.M) degree and has developed expertise in legal research, litigation, and regulatory practice. Obioha is particularly interested in the intersection of law, policy, and enforcement in both domestic and international legal systems.





INTERNATIONAL MARITIME NAVIGATION CRISIS 2026: COMPREHENSIVE LEGAL ANALYSIS OF THE IRAN-US -ISRAEL WAR AND VIOLATIONS OF INTERNATIONAL MARITIME LAW.

THE STRAIT OF HORMUZ, GLOBAL TRADE DISRUPTION, AND THE FAILURE OF INTERNATIONAL ENFORCEMENT MECHANISMS

SALMA AMER MOHAMED

OVERVIEW

Since 28 February 2026, a comprehensive military conflict has erupted between the United States and Israel against Iran and its regional allies. Iran has closed the Strait of Hormuz through which 21% of global oil and 8% of liquified natural gas normally transit, creating an unprecedented global crisis. This paper provides a legal analysis of the conflict from the perspective of international maritime law, examines the role of the United Nations and international institutions, explores the political positions of major global powers, and assesses the economic and legal consequences for global commerce and developing nations, particularly Egypt. The paper demonstrates that Iran's actions constitute a clear violation of the United Nations Convention on the Law of the Sea (UNCLOS) while also revealing significant weaknesses in international enforcement mechanisms and the geopolitical divisions that paralyze multilateral institutions.

INTRODUCTION: THE CURRENT CRISIS AND STRATEGIC CONTEXT

The Strait of Hormuz represents the world's most strategically important maritime chokepoint. Located between Iran and Oman, it extends 54 kilometers at its narrowest point and channels approximately 21% of globally-traded oil and 8% of liquified natural gas. Before the outbreak of the current conflict , approximately 21,000 vessels transited the strait annually, generating substantial stra-

tegic revenues for coastal states and generating enormous profits for global shipping companies, oil companies, and countries.

On 28 February 2026, the United States and Israel launched comprehensive military strikes against Iran targeting multiple military and governmental installations and resulting in the assassination of Supreme Leader Ayatollah Ali Khamenei and numerous senior Iranian officials. Iran responded with a powerful military response including the complete closure of the Strait of Hormuz to all commercial and military shipping and the launch of hundreds of ballistic missiles and unmanned aerial vehicles against Israel and US military bases throughout the Middle East region.

This Iranian action raises fundamental questions of international maritime law that will shape the future of global commerce and international legal order. Does Iran possess the legal authority to close an international strait under international law, even during wartime? Does this action constitute a flagrant violation of UNCLOS and the United

Nations ("UN") Charter? How has the international community and UN responded to this action? What are the economic and legal consequences for global commerce and for developing nations and fragile economies like Egypt that depend substantially on revenues from the Suez Canal?

THE STRAIT OF HORMUZ AND INTERNATIONAL MARITIME LAW

Under UNCLOS, the Strait of Hormuz is classified as a strait used for international navigation. This classification creates specific legal rights and obligations under international law. All ships and aircraft possess the right of transit passage through the strait, a right that is functional and cannot be denied or impeded. This right cannot be suspended or interrupted under any circumstance, including during armed conflict or wartime situations. Any regulations adopted by coastal states must be applied uniformly to all vessels regardless of flag, ownership, or cargo. Article 44 of UNCLOS explicitly provides: "Coastal States shall not hamper transit passage and shall give appropriate publicity to any danger to navigation of which they have knowledge."

Iran, as a coastal state, possesses sovereignty over territorial waters extending 12 nautical miles from its coastline but does not possess sovereignty over the entire strait. The central passages of the strait extends beyond the territorial sea and constitutes international waters subject to transit passage rights under UNCLOS. By completely or partially blocking the strait, Iran violated Article 44 directly and comprehensively. Under international law, this action represents a serious breach of binding treaty obligations that Iran voluntarily accepted when it became a party to UNCLOS in 1982.

GLOBAL AND REGIONAL ECONOMIC IMPACT

The closure of the Strait of Hormuz precipitated an unprecedented global economic crisis. Crude oil prices increased between 300 and 400 percent in the first weeks of the crisis and remained elevated at dangerous levels. Natural gas prices doubled or tripled in global markets. Shipping through the strait ceased entirely or was reduced to negligible levels. Global shipping companies were forced to divert vessels around the Cape of Good Hope in South Africa, adding 11,000 nautical miles, 10 to 15 additional days of transit time, and approximately $1 million in additional fuel costs per voyage. Shipping rates increased 400 percent to 600 percent on major commercial routes. Supply chain disruptions cascaded across multiple global industries.

For developing nations, particularly Egypt, the consequences were catastrophic and disproportionate. Egypt lost more than 50 percent of its Suez Canal revenues—normally approximately $9.4 billion annually—due to the dramatic decline in ship transits. This revenue loss created an imme-

diate fiscal crisis for the Egyptian government and forced reductions in public services and development spending. Unemployment surged in port and shipping-related sectors. Asian nations dependent on Gulf energy imports faced energy crises and severe price inflation. African nations faced food security crises due to the combination of transport cost, inflation, and supply disruptions.

SPECIFIC VIOLATIONS OF THE UN CONVENTION ON THE LAW OF THE SEA

Iran's actions constitute multiple direct violations of binding international maritime law. Article 44 of UNCLOS explicitly prohibits any obstruction or closure of transit passage through international straits. Iran's complete closure constitutes a textbook violation of this provision. Article 19 guarantees innocent passage rights even in territorial waters; the complete blockade violates this right. Article 88 affirms freedom of navigation and overflight in exclusive economic zones. The exclusive economic zone must remain open to navigation. Article 301 of UNCLOS imposes an obligation on states not to threaten or use force in any manner inconsistent with the purposes of the UN. Closing the strait constitutes an actual and direct threat to international peace and security.

UN Security Council resolutions on 11 March 2026 demanded that Iran immediately lift the blockade without preconditions. On its part, Iran raised political objections that these resolutions reflect bias favoring the American position, but such political disagreement does not diminish Iran's legal obligations under UNCLOS and binding Security Council resolutions. The legal obligations remain binding regardless of the political motivations of those who adopted the resolutions.

IRAN'S LEGAL ARGUMENTS AND WEAKNESSES

Iran advances several arguments to justify its actions. First, Iran asserts its right to defend its sovereignty and territory against what it characterizes as unlawful military aggression. Article 51 of the UN Charter provides the right of self-defense when an armed attack occurs. However, this right is limited: it does not authorize violation of comprehensive international treaties such as UNCLOS. Second, Iran invokes military necessity, asserting that closure of the strait is militarily necessary to protect its territory. However, military necessity under international law does not justify violations of international maritime law at this scale. Third, Iran invokes coastal state rights to protect fisheries and marine environment. These rights exist but are narrowly limited and do not extend to complete closure of international straits. Under international law, none of these arguments adequately justifies Iran's complete blockade of an



international maritime passage.

DISPROPORTIONATE IMPACT ON DEVELOPING NATIONS

Developing nations, particularly Egypt, bear the costs of the strait closure disproportionately to their role in the conflict. Egypt did not participate in the war and exercises no influence over Iran, yet suffers catastrophic economic losses. Egypt lost more than 50 percent of Suez Canal revenues in a short period, creating an acute economic crisis in an economy already under severe pressure. Unemployment surged in shipping, port, and logistics sectors. Tens of thousands of workers lost employment. Government revenues declined sharply, constraining government capacity to fund social programs and development initiatives. Food prices, electricity prices, and fuel prices surged due to global energy disruption.

Other developing nations experienced similar crises. Asian nations dependent on Gulf energy supplies faced energy shortages and price shocks. African nations faced food security crises. International law provides no mechanisms for compensating these nations for losses they did not cause and cannot remedy.

THE ROLE OF THE UNITED NATIONS AND INTERNATIONAL RESPONSE

UN Secretary-General António Guterres issued an official statement on 28 February 2026 (the day of the initial strikes) stating: "I condemn the military escalation in the Middle East. The use of force by the United States and Israel against Iran, and the subsequent retaliation by Iran across the region, undermine international peace and security." He called for immediate cessation of hostilities and immediate return to negotiations.

The Security Council became quickly divided along geopolitical lines. It adopted Resolution 2817 on 11 March 2026 by a vote of 13 in favor, 0 opposed, and 2 abstentions (China and Russia). What distinguished this resolution was that 136 additional countries co-sponsored it, making it the most widely supported UN resolution in history. However, the resolution did not condemn the US-Israeli strikes, reflecting geopolitical bias.

The General Assembly passed a non-binding resolution calling for an end to the war, but such resolutions lack legal force. The International Atomic Energy Agency (IAEA) issued a statement saying: "Despite Iran's refusal to allow inspectors at sites damaged during the 2025 war, there is no evidence of an ongoing nuclear weapons program." This statement undermines the primary American justification for initiating military action.

INTERNATIONAL POLITICAL PERSPECTIVES

The United States and Israel justify the war as preemptive defense against an imminent threat. Iran and allied states (Russia, China, Syria, Iraq) characterize it as unlawful aggression. Arab states adopt delicate balanced positions complicated by competing interests and domestic politics. Saudi Arabia and the UAE depend on American military protection but fear becoming theaters of war. Egypt and Jordan fear regional instability and security threats. Oman and Qatar attempt mediation roles. The European Union advocates diplomatic solutions but remains divided. Russia and China express reservations about the US-Israeli strikes and provide diplomatic support to Iran while maintaining strategic ambiguity about direct military involvement.

RECOMMENDATIONS AND POSSIBLE SOLUTIONS

Resolving the crisis and strengthening legal protection for international maritime commerce requires activating the Security Council with a binding resolution invoking Chapter VII of the UN Charter if necessary. A neutral multinational naval force should protect civilian shipping. A new international treaty should protect vital sea lanes from closure during conflicts. Regionally, urgent dialogue and negotiation channels must be opened. Internationally, compensation mechanisms must be established for affected nations. Developing nations' economies must be diversified to reduce

dependence on single revenue sources. International mechanisms for maritime protection must be strengthened.

CONCLUSION AND LESSONS LEARNED

Iran's closure of the Strait of Hormuz constitutes a clear violation of international maritime law and an unprecedented threat to global commerce. While Iran retains the right to defend itself, this right does not justify complete closure of an international maritime passage. Developing nations such as Egypt bear disproportionate costs of conflicts they neither initiate nor can resolve. The UN's response has been weakened by geopolitical divisions preventing coordinated action. Resolution requires strong international commitment to freedom of navigation, rapid political negotiation to end the war, protection of vital commercial routes, compensation for affected nations, and development of stronger international legal frameworks to prevent future crises.

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INTERVIEW WITH

AMB. NANCY KARIGITHU

First Substantive Director General of Kenya Maritime Authority, and former Special Envoy and Advisor on Maritime and Blue Economy, Kenya.

Q Please, tell us about your journey and your achievements.

Answer: My journey has been one of purpose, persistence and in many ways, discovery.

I grew up far from the sea, in the countryside at the foot of Mount Kenya. As a young girl, my imagination was stirred by books and by an ocean I had not yet seen before. I first encountered the sea at the age of seventeen, and that eventually drew me towards maritime law, which became a lifelong engagement with shipping, ocean governance and the blue economy.

Over the years, I have had the privilege of serving Kenya, Africa and the wider international maritime community in different capacities. I became the first substantive Director General of the Kenya Maritime Authority. Later, I served as the Principal Secretary of State Department for Shipping & Maritime and as Special Envoy and Advisor on Maritime and Blue Economy matters in the Executive Office of the President of Kenya. For over twenty years, I led Kenya's delegation to the International Maritime Organization, (IMO) and even got to chair the IMO Technical Cooperation Committee.

One of the most defining moments of my career was presenting myself as an IMO Secretary-General candidate, alongside seven others. I emerged as the first African woman to seek that office. Although the election did not result in my appointment, the experience, however, reinforced my conviction that Africa must not simply participate in global maritime governance, it must also help shape it.



I am particularly proud of contributing to reforms that have strengthened Kenya's standing as a maritime nation. Some of these include helping Kenya's recognition on the IMO White List, which resulted in employment opportunities for Kenyan seafarers; efforts that contributed to the removal of the designation of Kenya's coastline and its waters as a High Risk Area and leading the work that resulted in the Adoption of IMO *International Guidelines for the Prevention and Suppression of the Smuggling of Wildlife on Ships Engaged in International Maritime Traffic*

Beyond these institutional achievements, some of the works closest to my heart have been building people and opening doors for others. I have consistently advocated the entry of more women in the maritime sector, mentored young professionals and championed the development of African maritime expertise. Increasingly, my work has also focused on ensuring that Africa is well positioned in emerging areas such as shipping decarbonisation, the blue economy and international ocean governance.

Fortunately, I have received a few recognitions along the way that attest to my contribution within and outside the maritime industry, including a Seahorse Lifetime Achievement Award, 2025, for my contribution to the maritime sector; African Woman of the Year Award, 2018 (African Union Chair); Honorary Fellow by the World Maritime University 2019, among others.

Generally, I have truly enjoyed a rich career devoted to shaping how the ocean is governed and how Africa participates in its future.

Q What motivated you to pursue a career in law, and what has inspired your focus in the maritime sector?

Answer: Growing up, I was an avid reader. Authors such as Chinua Achebe, Wole Soyinka, and later, James Hadley Chase, Ayn Rand, John Steinbeck and Thomas Hardy, greatly shaped my imagination. Their stories introduced me, in different ways, to questions of justice, power, morality, social inequality, human choice and the consequences of the systems within which people live.

I became fascinated by the way individuals can be affected by circumstances, institutions and decisions beyond their control, and by the question of how society creates rules to resolve conflict, protect rights and determine responsibility. That curiosity gradually developed into an interest in law.

What attracted me to study law was not only the courtroom or the technical application of rules, I was drawn to its wider role of law in shaping institutions, balancing competing interests and influencing how society functions. My interest in the maritime sector developed differently and was much more personal. I grew up far from the sea in the countryside of Mount Kenya. As a child, the ocean was an imagined world that arose when someone taught me how to make and float paper-boats on water puddles. It was further fueled by the gift of a cowrie shell that came with the promise that, through it, we could "hear the murmurs of the sea." I did not actually get to see the ocean until I was about seventeen.

When I finally did, I was captivated by its endless scale, its mystery and possibility. Later, when my legal career brought me in contact with international maritime law and maritime administration, I discovered a field in which so many of the things that had always interested me about the law came together: trade and commerce, sovereign rights, security, international relations, environmental protection, regulation and human livelihoods. Over time, what began as curiosity became purpose. I became increasingly convinced that law, policy and strong institutions could help African countries move beyond simply being owners of maritime resources to governing the implied wealth effectively, translating them into sustainable economic and social value.

From books that stirred my imagination to an ocean that shaped my purpose, my journey has ultimately been about helping Africa claim its maritime future.

Q You wear many hats, including serving as an Advisor on blue economy and member of board to multiple organisations. How do you manage the demands of these roles while maintaining a healthy work-life balance?

Answer: Wearing many hats can be demanding, particularly when the roles are all important and each comes with its unique expectations. Balance comes from clarity of purpose, disciplined prioritisation, delegation, boundaries, and accepting that different seasons require different levels of attention.

Although my tenure as the Advisor on blue economy ended in April this year, over the years, I have learnt that managing multiple responsibilities is less about trying to give equal time to everything but more about being very clear about purpose, priorities and where I can, add the greatest value.

In that context, work-life balance is not always a perfect daily equation. There are seasons when professional responsibilities require more of me, and other seasons when family, personal wellbeing, faith or rest must take the greater priority. Maintaining enough self-awareness to recognise when the balance has shifted too far in one direction and having the discipline to correct it, is what truly matters.

I have also come to appreciate that sustaining a demanding professional life requires deliberately making room for the things that restore me: family, faith, friendships, reflection, rest and the ordinary moments of life. These are not distrac-



tions from leadership but an essential part of what enables us to lead well.

Ultimately, I do not think the goal is to achieve a perfectly balanced life, but building a life in which one's responsibilities, relationships and personal well-being remain sufficiently aligned, so that success in one area does not continuously come at the expense of everything else.

Q Having held different positions and received accolades and recognitions over the years, what would you say is the true measure of success?

Answer: A title is temporary, an accolade is a moment, but stronger institutions, widened opportunities, people mentored into leadership, improved maritime standards, opportunities created for others (especially women & youth), and ideas that continue to shape policy long after I have moved on—those to me, have been more enduring measures of success.

I would therefore say that my success will not ultimately be measured by the positions I have occupied in my career, but by the difference I have made while occupying them, the people I have lifted along the way, and what will remain standing, long after I have left.

Q What do you see as the most urgent legal or policy challenges facing Africa's maritime sector, and what reforms would you recommend in addressing them?

Answer: I see the most urgent challenge as closing the gap between Africa's enormous maritime potential alongside the legal and institutional architecture required to convert that potential into economic and strategic value.

That statement comes from the fact that Africa does not suffer from a shortage of maritime policies; we are signatory to international conventions, with national legislation in place—an Africa Blue Economy Strategy, and numerous other regional frameworks. The real difficulty remains implementation, with fragmented maritime governance across several government ministries and agencies, outdated legislation, under-resourced institutions (in both capacity & staff) and policies that are not always accompanied by budgets, timelines and clear accountability. Africa's first reform priority, therefore, should be to move more decisively from policy formulation to implementation.

Secondly, there is a need for more integration in ocean governance. Shipping, fisheries, ports, offshore energy, tourism, conservation and maritime security have continued to be treated as entirely separate policy spheres, where they compete for and depend upon the same maritime governance space. There is a dire need for modern ocean governance frameworks, supported by marine spatial planning, effective inter-agency coordination and greater regional harmonisation.

A third urgent challenge is the impeding maritime energy transition. The international regulatory framework for shipping decarbonisation is developing rapidly, and Africa must ensure that the continent is not simply a recipient of rules developed elsewhere, without the continent playing a role. The continent must participate in shaping those rules while preparing our ports, energy systems and legal frameworks for alternative

clean fuels and low-carbon shipping. Equally important, the transition must be just and equitable. Measures designed to reduce shipping emissions should not inadvertently deepen transport costs, food insecurity or economic marginalisation in developing countries. Africa must also position itself to participate economically in the transition through green corridors, renewable fuels, port infrastructure and new maritime industries.

Maritime security remains another priority, with the challenge now being much broader than piracy to include illegal fishing, trafficking, cyber threats, organised crime and the protection of ports and critical maritime infrastructure. While regional cooperation has improved considerably, enforcement must also be matched by strong legal systems capable of investigating, prosecuting and adjudicating maritime offences.



We also need to pay greater attention to the commercial legal infrastructure of the maritime economy. Efficient ports alone will not create a maritime economy. Investors, shipowners, cargo interests, financiers and insurers also require predictable rules governing matters such as carriage of goods, ship finance, maritime liens, vessel arrest, marine insurance, port concessions and dispute resolution. Modernising and, where possible, harmonising these laws across African markets would significantly support intra-African trade and the ambitions of the AfCFTA.

Finally, Africa needs to invest much more seriously in its capacity to shape international maritime law rather than merely being recipients and implementers of imported rules. Decisions currently being made on shipping decarbonisation, biodiversity beyond national jurisdiction, digitalisation and emerging technologies will influence and impact African economies for decades to come. Governments need sustained technical expertise, African-generated research and data, institutional continuity and stronger coordination between states.

Ultimately, the reform needed to deliver the blue economy in Africa is a complete shift in mindset—one that will ensure a move from looking at maritime law primarily as a mechanism for regulating ships and protecting coastlines, to seeing it as part of Africa's economic infrastructure. While good maritime law should protect our oceans, it should also facilitate trade, attract investment, create jobs, strengthen security and ensure that Africa has a meaningful voice in shaping the rules governing the global maritime economy.

Q Do you think the current structure of legal education is keeping pace with emerging areas of practice in the maritime sector. If yes, how so? If no, what are some of the changes you would recommend?

Answer: I would say that the legal education is beginning to respond to changes in the maritime sector, but it is certainly not yet keeping with the pace, speed or complexity of the transformation needed.

Law faculties are increasingly teaching subjects such as environmental law, international trade, arbitration, climate law and regulatory compliance, all of which are relevant to maritime law and

practice. But maritime legal education itself has remained centred on the traditional foundations of shipping law, i.e. carriage of goods, marine insurance, collision, salvage and admiralty jurisdiction, e.t.c.

No doubt those subjects will remain indispensable, but the maritime lawyer of the future must arm themselves with a much broader range of knowledge, for a number of reasons.

As we have seen already, shipping is being transformed by decarbonisation, digitalisation, new fuels, automation, changing trade patterns, inclusion and increasingly complex environmental regulation. At the same time, the wider blue economy is expanding into areas such as offshore renewable energy, marine conservation, port infrastructure, blue finance, marine biotechnology and marine spatial planning. Many of these issues do not fit neatly within traditional legal disciplines, and a single maritime project today may involve environmental regulation, investment law, project finance, insurance, labour law, technology, international trade and dispute resolution. In such a terrain, the approach to legal education must also be interdisciplinary.

Five recommendations for change are:

i) Maritime-law curricula should be modernised to include emerging areas such as shipping decarbonisation, climate regulation, blue-economy governance, offshore energy, maritime cybersecurity, marine biodiversity and digital shipping.

ii) We need to have a robust interaction between law and other disciplines. Maritime lawyers increasingly need to understand economics, engineering, logistics, environmental science, finance and technology. While they do not need to become engineers or economists, they must be capable of working intelligently with those professions.

iii) Legal education needs to become more practical. Students should be exposed to real maritime contracts, bills of lading, charterparties, casualty investigations, port concessions, regulatory processes and arbitration problems. Internships with ports, shipping companies, maritime administrations, law firms and international institutions, should therefore become a more systematic part of professional training.

iv) Greater attention should be given to governance, regulation and policy. Some of the most significant emerging opportunities for lawyers are not in traditional litigation but in advising governments and businesses on compliance, sustainability, infrastructure, international negotiations and regulatory change.

v) Finally, universities should develop much closer partnerships with industry and maritime institutions. This is because the sector is changing too quickly for legal curricula to be designed entirely within academia. Practitioners, regulators, shipowners, ports, insurers and international organisations should have a much greater role in helping universities anticipate where the profession is going.

For Africa, an additional dimension emerges. Lawyers must be trained, not merely to understand maritime law, but to understand what maritime law can do for African development. They should be able to engage with questions of regional trade, port development, fisheries governance, maritime security, blue finance, climate transition and international maritime negotiations.

The ambition should therefore be greater than producing competent maritime practitioners, and be preparing a generation of African lawyers capable of shaping the rules, institutions and investments that will define Africa's maritime future.

In conclusion, the African maritime sector is no longer looking for lawyers who only understand shipping law, it needs lawyers who also understand climate, technology, finance, trade and the ocean economy, all as an interconnected system.

To reiterate the point, we should not train African maritime lawyers merely to interpret rules developed elsewhere. We must equip them to help write the rules, negotiate them, implement them and use them to advance African economic interests.

Q At a time when the maritime industry is being reshaped by evolving trade patterns, digitalisation, and the transition to a more sustainable future, how can the maritime sector create greater opportunities for women to participate, and thrive in leadership and decision making roles?

Answer: The maritime industry today is sitting on the cusp of major technological, commercial and environmental transformation, which raises fundamentals of competitiveness, talent and governance issues for the sector. In this context therefore, a very important question arises, which is how to ensure that women not only enter the industry, but that they remain, progress, lead and participate meaningfully in the decisions that are shaping the future of the industry.

Digitalisation, decarbonisation, changing trade patterns, new and clean fuels, automation and evolving supply chains are creating entirely new professions and leadership opportunities, thus giving the sector a new opportunity to rebuild a more inclusive maritime economy from the outset, and not reproducing yesterday's workforce in new industries. An industry confronting such unprecedented technological, environmental and geopolitical complexity needs the widest possible pool of talent, experience and perspectives around the table. We must therefore become intentional in designing programmes that ensure the widest possible diversity and inclusion outcomes. Therefore:-

i) We must strengthen the talent pipeline by creating early exposure to the breadth of maritime careers for girls and young women. This is necessary because the industry is too often associated only with working aboard ships, while it also includes law, finance, engineering, logistics, digital technology, port management, environmental science, policy, insurance and many other professions. In a job market where visibility clearly matters, young women cannot easily aspire to careers they do not know exist.

ii) Recruitment must be accompanied by retention and progression. It is not enough for institutions to celebrate the number of women they recruit at entry level while very few reach senior management, boards or decision-making positions. Organisations should examine where women are dropping out of the leadership pipeline and address the barriers that cause that attrition.

iii) While mentorship plays a huge role, sponsorship is equally very important because while mentors can advise the women, sponsors can use their influence to open doors. Women need access to challenging assignments, operational experience, international exposure and leadership opportunities that position them for advancement, and sponsors will provide the entry into these positions and ensure retention and growth.

iv) The maritime working environment also needs to change in order to accommodate the new inclusive workforce. The changes needed include the need to address discrimination and harassment, in order to guarantee safe workplaces both at sea and ashore, ensuring appropriate facilities and equipment for all genders while adopting and developing employment practices that allow

talented people to combine both professional advancement and family responsibilities without the need to make a choice between one and the other.

v) Women must be present where decisions are actually made. Representation on boards, delegations, negotiating teams, technical committees and senior management matters because these are the places where investment priorities, regulatory standards and the future direction of the maritime industry are determined.

Many of the jobs associated with digitalisation, green shipping, alternative fuels, blue finance, marine technology and sustainability do not carry the same historical patterns of exclusion as some traditional maritime occupations. We therefore have a particularly important opportunity to consciously and intentionally ensure that women enter these new areas from the outset of the transition, without having to correct another gender imbalance twenty years from now.

This is especially true for Africa, where we have an opportunity to build inclusion into the growth of our maritime and blue economies from the very beginning by creating the measures necessary for women to not merely participate as employees but also as entrepreneurs, shipowners, port executives, maritime lawyers, financiers, scientists, regulators and policymakers.

In conclusion, therefore, our challenge is no longer simply getting women through the door, it is ensuring that they can remain, advance, exercise authority and shape decisions. Women should not merely be beneficiaries of the blue economy; they should be among its architects.

Q When your career is viewed in retrospect, what kind of impact do you want to be remembered for in Africa's maritime story?

Answer: When my career is viewed in retrospect, I hope not to be remembered primarily for the positions I held, but for the institutions, opportunities and possibilities I helped to build. Africa's maritime story is much bigger than any one individual and therefore, legacy for me, can not be about personal visibility but more about whether the work outlives me as a person.



I therefore hope to be remembered, first, for helping to strengthen maritime governance and institutions in a way that made them more credible, professional and capable of serving the public interest. Strong institutions matter because they endure beyond personalities and political cycles.

Second, I would hope to have contributed to a more confident African voice in global maritime affairs. Africa has enormous maritime interests, but influence requires more than presence. It requires technical depth, coordination, evidence, negotiation capacity and the confidence to shape global rules rather than simply react to them. If I have helped, even in a small way, to move Africa in that direction, I would consider that meaningful.

Third, I would want my career to be remembered for opening doors for others, especially young men and women. Every generation of leaders should make it easier for the next generation to enter, to grow and eventually to surpass them. If more Africans today can see maritime as a serious field of professional opportunity, public service, entrepreneurship and international leadership, then that would be a legacy worth having.

I would also hope to have helped broaden the way Africa sees the maritime sector itself. Too often, the African maritime sector has been treated as a narrow or specialist field. Yet it sits at the centre of trade, food security, energy, climate action, national security, jobs, infrastructure and economic transformation. I would like to have contributed to making that connection clearer.

Ultimately, I will want to be remembered as someone who helped move Africa from being merely maritime by geography to becoming maritime by strategy, capability and confidence. And perhaps, most importantly, I will want that work to continue without me. That, to me, is the real test of impact, not whether people remember my name, but whether the institutions are stronger, the opportunities are wider, the next generation is more capable, and Africa stands taller in the maritime world because of what I helped to build.

Q Finally, what advice would you give to African lawyers or entrepreneurs already in or aspiring for the maritime space?

Answer: My first advice would be to understand that maritime is not a narrow sector. It is an economic ecosystem. It touches on trade, logistics, energy, infrastructure, finance, insurance, technology, fisheries, security, climate change, dispute resolution and international regulation. Looked through these lenses, the opportunities become much wider.

For lawyers, I would advise them to build depth because maritime legal practice rewards specialist knowledge. This calls for the development of strong foundations in commercial law, contracts, international trade, admiralty law, regulatory compliance and dispute resolution, but also to understand the new areas that are reshaping the industry; decarbonisation, alternative fuels, digitalisation, cybersecurity, offshore energy, blue finance and environmental regulation.

Lawyers should not just be satisfied simply to know the law, they must understand the business behind the law as well. This calls for not just learning the law on how ships are financed, but also how ports operate, how cargoes move, how chartering works, how risks are allocated and where disputes arise, they must also understand the client's commercial problem around those issues.

For entrepreneurs, my advice would be for them to look beyond the obvious. Africa's maritime opportunity is not confined to owning ships or operating ports. There are opportunities in logistics, marine technology, vessel management services, maritime education and training, ship repair, digital platforms, aquaculture, renewable energy, waste management, circular economy, maritime security, data services and many other parts of the blue economy value chain.

One must also emphasise on positioning. Opportunities rarely arrive fully formed and one has to therefore prepare themselves before the market becomes crowded. In this case therefore, entrepreneurs must follow regulatory developments, understand where investment is moving, build relationships across government, industry, finance and international institutions, be present at the right technical forums and most importantly, develop credibility in a particular area.

They must also be able to think both regionally and internationally. The maritime industry is inherently cross-border. Thus, the African lawyer or entrepreneur should not define the market only by national boundaries. The opportunity may be East African, West African, continental or global. The AfCFTA, regional corridors, port development and changing trade patterns should encourage us to think at that scale.

Collaboration is also a very critical pillar. The complexity of the maritime economy means that no one discipline can solve every problem. Lawyers should therefore work with engineers, economists, financiers, environmental scientists and technology specialists, while entrepreneurs need to work at building partnerships rather than trying to own every capability themselves.

Finally, but very critical I he maritime industry is a sector in which reputation matters enormously. Relationships are long-term, regulation is complex, and credibility is built over time.

Africa's maritime economy is still being written. There is enormous room for lawyers and entrepreneurs who are prepared to specialise, innovate and think beyond conventional boundaries.

The advice is therefore simple: one must not wait for the opportunity to become obvious. They must start by studying the direction of change, build the skills before they are urgently needed, and position themself where Africa's maritime economy is going, not merely where it is today.

The end
Nancy Karigithu

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NATIONALITY OF SHIPS: IDENTITY AND CONTROL

VERA ENUBIANOZOR

INTRODUCTION

The thought of ships having nationality may sound totally abstract as ships are assets, powered by engines and manned by a rotating crew of different nationalities. A person may therefore wonder how can a ship have the nationality of a single country? In maritime law, this idea is not only real but indispensable. Without it, the oceans would be a legal vacuum; lawless and unregulated.

The nationality of a ship is what gives it a legal identity. It determines whose laws apply onboard, who bears responsibility when things go wrong, and which state answers for the ship in the international arena. In many ways, it is the backbone of global maritime order.

What Does it Mean for a Ship to Have a Nationality?

The concept is rooted in international law, particularly the United Nations Convention on the Law of the Sea (UNCLOS). Under this framework, every ship must be registered in a state, and upon registration, it acquires that state's nationality and flies the flag of that state.

The flying of the national flag is visual evidence and a symbol of a ship's nationality. In the words of the 1958 Geneva Convention on the High Seas: "ships have the nationality of the state whose flag they are entitled to fly". A Nigerian-flagged vessel is, in the eyes of the law, an extension of Nigeria. An American-flagged tanker, even if it never sails near America, operates under American jurisdiction.
In essence, the ship becomes a floating piece of the state whose flag it actually flies.

The idea of nationality is inseparable from the concept of the "flag state". Once a ship is registered, the state whose flag it flies assumes responsibility for it, no matter where it sails.

Article 94 of the UNCLOS describes the obligations of the flag state in the effective exercise of jurisdiction and control over its ships in administrative, technical and social matters. These obligations extend to the maintenance of a register of ships, the assumption of jurisdiction under its internal law over ships on its register, their masters, officers and crews, and taking of necessary steps to ensure safety at sea, including regular surveys.

Also, Article 217 of the UNCLOS mandates flag states to ensure compliance by their ships with international rules and standards as well as laws and regulations adopted in accordance with the convention for the protection of the marine environment from pollution.
This goes to show that the nationality of ships is very important as it makes clear the state with the power of regulation of ships registered under its flag.

Flag of Convenience

It is very important to note that a ship must not be registered in the state where it is built, neither is it mandatory to register a ship in same country where the owner of the ship is from. This is where the concept of "flag of convenience" comes to play.

There is no standard definition of what constitutes a flag of convenience, however, according to Boczek in his book An International Legal Study:

> **"Functionally, a flag of convenience can be defined as the flag of any country allowing the registration of foreign owned and foreign controlled vessels under conditions, which for whatever reasons are convenient and opportune for the persons who are registering the vessels."**

Most shipowners choose to register their ships with flag of convenience due to certain advantages and benefits derived such as lower tax, minimal regulatory oversight, flexible labour laws, cheaper registration processes, etc. These features promote economic efficiency and enable shipowners to operate competitively in the global shipping industry.

However, this system also presents significant challenges. The same conditions that make flags of convenience attractive can create opportunities for regulatory evasion. Where oversight is weak, shipowners may circumvent stricter safety standards, labour protections, and environmental regulations that would otherwise apply under more stringent flag regimes. This creates an inherent tension within the system, while flags of convenience facilitate global trade by reducing operational costs, they may simultaneously undermine effective regulation and accountability at sea.

The power of flag states to do the above is in line with the provision of Article 91 of the UNCLOS, which gives flag states the freedom to set the conditions through which it will grant its nationality to a ship. It provides thus;

> **"Every State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship.**
>
> **Every State shall issue to ships to which it has granted to it the right to fly its flag, document to that effect."**

Thus, flags of convenience are easier to identify and recognize than to give it a proper and universally accepted definition. These days, the term flag of convenience is now defined with reference to the existence of a genuine economic link between a ship and its country of registry.

The International Court of Justice (ICJ) in the Nottebohm case of 1955 emphasised that the nationality of a vessel should reflect a genuine connection between the flag state and the entity claiming nationality. Applied to maritime law,

this principle means that a vessel should have a real and substantive link to its flag state.

The following elements are therefore normally relevant when establishing whether a genuine link exist between a vessel and its country of registry:

1. The ships contribution to the national economy of the flag state
2. Revenues and expenditure of shipping, as well as purchase and sales of vessels are treated in the national balance of payments accounts
3. The employment of nationals of the flag state on the ship
4. The beneficial ownership of the ship

The International Transport Workers Federation (ITF) generally considers a flag of convenience to exist where a vessel is registered in a country other than that of its beneficial owner (s). In other words, a Flag of Convenience is a situation in which a country permits vessels beneficially owned or controlled by companies incorporated in another country to be registered under its flag.

According to the ITF's 2025 report, 48 countries were listed on its register/website as flags of convenience. These countries are; Antigua and Barbuda, Bahamas, Barbados, Belize, Bermuda, Bolivia, Cambodia, Cameroon, Cayman Islands, Comoros, Cook Islands, Curacao, Cyprus, Dominica, Equatorial Guinea, Eswatini, Faroe Islands, French International Ship Registry (FIS), Gabon, Gambia, German International Ship Registry (GIS), Georgia, Gibraltar, Honduras, Jamaica...Tuvalu, Vanuatu. (Flags of Convenience | ITF Seafarers)

Legal Notion and Jurisdiction of Ship Nationality

As earlier mentioned, ships derive their nationality and are regulated by the state whose flag it is entitled to fly by reason of its registration in the state. This creates the nationality of the ship, without which it will be impossible for a vessel to visit a foreign port, engage in international trade, and it can also be critical factor in the dispute resolution involving private parties.

Registration under a national flag is also essential because it grants the vessel legal recognition under international law and provides the basis for diplomatic protection in case of unlawful interference. Registration also subjects the ship to the exclusive jurisdiction and control of the flag state.

In the S.S Lotus case (France V. Turkey), the permanent Court of International Justice held that only the flag state can exercise jurisdiction over its vessel in international water as long as international law does not explicitly prohibit same.

While the flag state exercises primary jurisdiction over its vessels, such authority is not absolute. In certain circumstances, other states may exercise control over a vessel. This is however limited to certain factors such as enforcement of laws for crimes affecting the local population or environmental protection and safety regulations.



For instance, the M/V Louisa case reaffirmed that while flag state law predominates, port or coastal states may intervene for violations affecting local safety or order. In that case, the vessel; M/V Louisa, entered Spanish waters for what was claimed to be scientific research. Spanish authorities suspected otherwise and detained the vessel. The flag state of the vessel, Saint Vincent and Grenadines, brought the case before the International Tribunal for the Law of the Sea (ITLOS), arguing that Spain had violated the United Nations Convention on the Law of the Sea. The Tribunal dismissed the claim of the flag state, thus reiterating the fact that while flag states exercise jurisdiction over their vessels, such jurisdiction is not absolute and must yield to the sovereign rights of coastal states when a vessel operates within internal waters or the territorial sea.

CONCLUSION

The nationality of ships is far more than a technical legal requirement; it is the foundation upon which order is maintained on the high seas. By attaching vessels to states through the mechanism of registration and flagging, international law transforms what would otherwise be stateless, mobile structures into accountable legal entities.

While the flag state remains central, modern maritime practice shows that control at sea is increasingly shared, shaped by the tripartite competing interests of flag states, coastal states, and the international community. In this sense, the nationality of ships is not just about identity, rather it is about power, ownership, responsibility, and the continuing effort to govern the world's most borderless domain.

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