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Leonidas Sotiropoulos, Ph.D candidate

*at European University of Cyprus, LL.M in Shipping Law (Cardiff University), LL.B
in Law (AUTH)*

leon.sotiropoulos@gmail.com, ls231119@students.euc.ac.cy, 0035797534652

GEOPOLITICS AND MARITIME TERRORISM: CHALLENGES AND THE LEGAL COMPLEXITIES IN THE RED SEA

Abstract:

This research paper critically examines the legal complexities and implications arising from the Houthi's actions in the Red Sea, with a particular focus on the application and potential limitations of international public law and the law of the sea. Drawing on a comprehensive literature review, expert interviews, and analysis of case studies, the study adopts a multidisciplinary approach to explore the various classifications of attacks on international vessels in the Red Sea and Persian Gulf. It considers whether these actions constitute acts of guerrilla warfare, maritime terrorism, or outright acts of war, and examines the resulting legal implications. The paper also analyses the Houthi rebels' interference with shipping destined for Israel, and the potential role of the International Tribunal for the Law of the Sea in addressing such disputes. It explores the scenario of a potential escalation of conflict, where the sinking of a US destroyer by Houthi forces could trigger a broader military confrontation with consequences for global trade and energy supplies. Additionally, the research examines the geopolitical complexities surrounding the multinational coalition, Operation Prosperity Guardian, aimed at safeguarding navigation in the Red Sea, and the reluctance of some coalition members to fully commit. It highlights the distinct impact of maritime terrorism, as opposed to traditional piracy, on global supply chains, and the disruptions caused by the reluctance of shipping companies to utilise the Red Sea passage. In conclusion, the paper discusses measures available to the United Nations and governments to address the challenges posed by congested maritime chokepoints, emphasising the need for collaborative efforts, supply chain diversification, and adaptive strategies to maintain the resilience of international trade and commerce.

Keywords: *International law, maritime terrorism, piracy*

Introduction to international shipping challenges

The Red Sea, a vital maritime corridor connecting the Mediterranean Sea and the Indian Ocean, has long been a strategically and economically significant region.¹ However, the ongoing Houthi conflict in Yemen has posed substantial challenges to the security and stability of this waterway. This paper aims to critically examine the legal complexities and implications arising from the Houthi's actions in the Red Sea², with a particular focus on the application and potential limitations of international public law and the law of the sea. The paper employs a comprehensive literature review, drawing from academic journals, policy reports, and industry publications to analyze the legal and geopolitical dimensions of the Houthi conflict in the Red Sea. It explores the relevant international legal frameworks, such as the United Nations Convention on the Law of the Sea (UNCLOS)³, and examines how they are being applied and challenged in the context of the Houthi's disruptive activities. The research also focuses into the geopolitical considerations and the potential for conflict escalation, as well as the distinct impact of maritime terrorism on global trade and supply chains.

The paper's analysis may conclude that the Houthi conflict in Yemen has posed substantial challenges to the application of international public law and the law of the sea in the Red Sea. The ambiguous legal status of the Houthi forces⁴, their disruptive actions against commercial vessels, and the complex geopolitical dynamics in the region may have created a legal landscape that is difficult to navigate and enforce. The research may further suggest that addressing these challenges will require a multifaceted approach, including strengthening the existing legal frameworks, enhancing regional cooperation and coordination, and promoting conflict resolution efforts. The international community may need to carefully navigate the delicate geopolitical landscape to ensure the continued freedom of navigation and the protection of vital maritime trade routes in the Red Sea. Additionally, the paper may conclude that the distinct impact of maritime terrorism, as opposed to traditional piracy, on global trade and supply chains necessitates adaptive strategies and

¹ Farid, A.M. (Ed.). (1983). *The Red Sea: Prospects for Stability* (1st ed.). Routledge.
<https://doi.org/10.4324/9781003279785>

² Hicks, R. (2024). *About Yemen and Houthis Attack: Yemen, Iran, and the Unfolding Tale of Houthi Attacks*. Independently published. Also see, *Who are the Houthis and why are they attacking Red Sea ships?* <https://www.bbc.com/news/world-middle-east-67614911>

³ United Nations. (n.d.). *United Nations Convention on the Law of the Sea*.
https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

⁴ Wilson Center. (2022, July 7). *Who are Yemen's Houthis?*

innovative solutions to maintain the resilience of the global economic system. The lessons learned from the Houthi conflict in the Red Sea may provide valuable insights for addressing similar challenges in other critical maritime chokepoints around the world.

Part 1

1.1. International Public Law and the Law of the Sea

The legal framework governing the Red Sea and its maritime activities is primarily established by international treaties and conventions, most notably the United Nations Convention on the Law of the Sea (UNCLOS, 1982). UNCLOS lays out the rights and obligations of coastal states, as well as the fundamental principles of freedom of navigation and innocent passage.⁵ It also defines the various maritime zones, such as territorial waters, exclusive economic zones, and the high seas, and the associated rights and jurisdictions of states.⁶ However, the application of these legal principles in the context of the Houthi conflict presents several challenges. The Houthi's control over significant parts of the Yemeni coastline and their willingness to disrupt maritime traffic have raised questions about the extent to which the principles of freedom of navigation and innocent passage can be upheld. The ambiguity surrounding the legal status of the Houthi forces and the jurisdictional issues related to their actions further complicate the legal landscape.

The Houthi rebel group, which controls large parts of Yemen, has increasingly exercised influence in the Red Sea, disrupting maritime traffic and threatening the security of the region.⁷ Houthi forces have been accused of attacking commercial vessels, interfering with the movement of ships, and potentially violating the principles of freedom of navigation and innocent passage.⁸ The classification of the Houthi attacks against shipping in the Red Sea under international law is a complex and multifaceted issue. The article rightly identifies piracy as a potential legal designation, as several of the reported incidents - such as the hijacking of the *Galaxy Leader*, the boarding of the *M/V Central Park*, and the attack on the *Maersk Hangzhou*

⁵ Tanaka, Y. (2012). *The international law of the sea* (p. 16, 85). Cambridge University Press.

⁶ Tanaka, Y. (2012). *The international law of the sea* (p. 3). Cambridge University Press.

⁷ See further Weiss, C. (2019, August 17). Analysis: Houthi naval attacks in the Red Sea. *FDD's Long War Journal*. For example, in 2017, three small explosive-filled and remote-controlled boats attacked a Saudi Arabian frigate *Al Madinah* west of the strategic Hodeidah Port and caused an explosion which killed two and wounded three crew members of the frigate. Ghobari, M., Abdelaty, A., et al. (2017, January 30). Yemen's Houthis attack Saudi ship, launch ballistic missile. *Reuters*. Cavas, C. P. (2017, February 19). New Houthi weapon emerges: a drone boat. *Defense News*.

⁸ Knights, M., & Nadimi, F. (2018, July 27). Curbing Houthi Attacks on Civilian Ships in the Bab al-Mandab. *The Washington Institute for Near East Policy*.

- appear to meet the key elements of piracy under UNCLOS⁹ and customary international law.¹⁰ These include the location of the attacks in international waters beyond the territorial sea, as well as the involvement of two vessels - the Houthi-operated vessels and the targeted ships. However, the analysis highlights the ambiguity surrounding attacks carried out by uncrewed surface vessels or drones. The UNCLOS definition of piracy references acts committed by the "crew or passengers of a private ship or aircraft," raising questions about whether unmanned assets can be encompassed within this framework.¹¹

The requirement that an act of piracy must be committed for "private ends" has its historical origins in the distinction between piracy and privateering.¹² Privateering, the authorized practice of private vessels attacking enemy merchant ships during wartime, was abolished by the Declaration of Paris in 1856.¹³ However, the distinction between acts carried out for "private" versus "public" ends was maintained, as courts and states sought to differentiate between genuine piracy and maritime depredations carried out by insurgents or rebel groups.¹⁴

Consequently, the formulation of piracy requiring "private ends" was chosen, rather than a definition based more logically on the pirate-privateer distinction, which would have defined piracy as acts undertaken without due authority. This is because

⁹ Tanaka, Y. (2012). *The international law of the sea* (p. 354). Cambridge University Press.

¹⁰ See Reuters. (2023, November 2). Seized Galaxy Leader ship in Yemen's Hodeidah port area, owner says. <https://www.reuters.com/world/middle-east/seized-galaxy-leader-ship-yemens-hodeidah-port-area-owner-2023-11-2>

See Associated Press. (2024, January 22). US Navy says Houthi attacks disrupt Red Sea shipping. <https://apnews.com/article/us-navy-houthi-attacks-red-sea-shipping-iran-8e55669e4d18cbc7007654640fa5fdc1>

.For a legal overview of the maritime incidents, see Pedrozo, P. (2024). Protecting the Free Flow of Commerce from Houthi Attacks off the Arabian Peninsula. 103 INT'L L. STUD. 49.

¹¹ Article 101 UNCLOS defines piracy as follows: '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 a private aircraft, and directed: (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft; (ii) 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 facts making it a pirate ship or aircraft; (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).' See further discussion in Guilfoyle, D. (2016). Article 101. In A. Proelss (Ed.), *UN Convention on the Law of the Sea: Commentary* (pp. 737-752). Beck/Hart. And see Guilfoyle, D. (2013). Piracy and Terrorism. In P. Koutrakos and A. Skordas (Eds.), *The Law and Practice of Piracy at Sea: European and International Perspectives* (pp. 33-52). Hart.

¹² Petrie, D. (1999). *The Prize Game: Lawful Looting on the High Seas in the Days of Fighting Sail*. Naval Institute Press.

¹³ See Declaration Respecting Maritime Law, 16 April 1856, published in 1 AJIL (Supp 1907) 89. The Paris Declaration is given an exhaustive treatment in F Piggot, *The Declaration of Paris 1856* (London, 1919). Stark, F. (1897). *The Abolition of Privateering and the Declaration of Paris*. Columbia University Press.

¹⁴ Murphy, M. (2007). Piracy and UNCLOS. In P. Lehr (Ed.), *Violence at Sea: Piracy in the Age of Global Terrorism* (pp. 155-160). Routledge.

the insurgents and rebels that customary law and subsequent legal frameworks sought to protect often had some form of recognition or their actions would have been considered legal if their cause had been recognized. These groups directed their attacks solely against the vessels of the state they sought to overthrow, rather than for purely private, personal gain.¹⁵

The inclusion of the "private ends" requirement, while intended to differentiate piracy from authorized maritime depredations by insurgents, has created ambiguity in the legal classification of attacks like those carried out by the Houthis in the Red Sea, where the motivations may be more politically-driven than purely for personal enrichment.¹⁶

Consequently, under international law, acts of piracy committed by the Houthis would be restricted to those carried out by crewed Houthi ships or aircraft beyond the territorial sea and directed against other vessels, including warships, of states not party to the ongoing non-international armed conflict (NIAC). Such acts would need to be committed for private, rather than politically-motivated, ends. All other Houthi attacks could be qualified either as acts subject to the law governing NIACs, if directed against parties opposed to the Houthis, or as offenses under the SUA Convention, if directed against third-state vessels. The international legal framework provides for the universal prescriptive and enforcement jurisdiction of states over acts of piracy. Accordingly, all states, including those participating in Operation Prosperity Guardian, are entitled to take necessary measures to protect any ships threatened by or subjected to Houthi piracy in the region, including the arrest and prosecution of suspected pirates. However, any such counter-piracy operations must adhere to the general principles of international law governing the use of force at sea, including the requirements of necessity, proportionality, and respect for human rights.

The international legal framework governing maritime security faces growing challenges, as global shipping has increasingly confronted threats such as piracy, hijackings, armed robbery, regional conflict, and even uncrewed aerial attacks. Seafarers, who operate ships safely and respond to emergencies, have become innocent victims and collateral damage in these wider menaces that disrupt global supply chains and risk major casualties. This has been the case in the Red Sea region, a key strategic shipping lane that has seen numerous attempted and successful attacks

¹⁵ Papastavridis, E. (2024). Red Sea attacks and the international response: An international law insight. ELIAMEP.

<https://www.eliamap.gr/en/publication/%CE%BF%CE%B9-%CE%B5%CF%80%CE%B9%CE%B8%CE%AD%CF%83%CE%B5%CE%B9%CF%82-%CF%83%CF%84%CE%B7%CE%BD-%CE%B5%CF%81%CF%85%CE%B8%CF%81%CE%AC-%CE%B8%CE%AC%CE%BB%CE%B1%CF%83%CF%83%CE%B1-%CE%BA%CE%B1%CE%B9-%CE%B7/>

¹⁶ Ibid.

by uncrewed aerial devices on international merchant vessels since November 2023. The international community, under the auspices of the International Maritime Organization (IMO), has emphasized the paramount importance of protecting seafarers' lives and preserving freedom of navigation. However, the threat has led to a significant drop in trade volume through the Suez Canal, as shipping lines have opted for longer alternate routes, underscoring the need for concerted action to ensure the continued safety and security of this vital maritime artery.¹⁷

1.2. Legal Implications and Challenges in Red Sea

The escalating Houthi threat in the Red Sea has presented a host of legal complexities for vessel owners and operators. As outlined in the club's recent article, the ability of owners to deviate from the usual route through the region is highly dependent on the specific terms of the charterparty.¹⁸ While some charters may require the "utmost dispatch" to take the traditional Suez Canal passage, subject to the Master's discretion on safety, owners may have implied rights to reroute if they or the Master reasonably believe the vessel or cargo faces imminent peril. However, a recent Supreme Court decision in "The Polar" case¹⁹ has placed limitations on owners' general liberties to deviate from the agreed route, unless there has been a significant change in circumstances since the charterparty was signed. The applicability of BIMCO's War Risk Clauses, which provide owners with certain rights to refuse port calls or reroute, offers another potential avenue for navigating the heightened risks.²⁰ Nonetheless, the legal landscape remains in flux, necessitating early and frequent engagement with the P&I Clubs (Protection and Indemnity Clubs) to stay informed on the evolving situation and its implications for issues such as off-hire, charterparty termination, and the allocation of additional insurance costs.²¹

¹⁷ Dominguez, A. (n.d.). Applying the Law of the Sea to Protect International Shipping. United Nations. <https://www.un.org/en/un-chronicle/applying-law-sea-protect-international-shipping>

¹⁸ Whistler International Ltd. v. Kawasaki Kisen Kaisha Ltd. (The "Hill Harmony") [2001] 1 Lloyd's Rep. 147

¹⁹ Herculito Maritime Ltd and others v Gunvor International BV and others ("THE POLAR") [2024] UKSC 2'.

²⁰ The definition of War Risks in the clauses is very wide, so would likely include the situation in the Red Sea. However, this is only relevant if the vessel, crew or cargo "may" be exposed to a risk of exposure to war risks (it is not enough that war risks simply exist in the area). Further, under English law, such a decision must be both made in good faith and also be "*objectively reasonable*" – *Triton Lark* (PACIFIC BASIN IHX LTD v BULKHANDLING HANDYMAX AS (THE "TRITON LARK")) [2012] 1 Lloyd's Rep. 151

²¹ Shearer, R. (n.d.). Red Sea attacks: Legal implications. Shipowners' Club. <https://www.shipownersclub.com/latest-updates/news/robert-shearer-red-sea-attacks-legal-implications/>

The Hague/Hague-Visby Rules allow carriers to make reasonable deviations from the agreed route in order to save life or property at sea. Additionally, the charterparty may incorporate an express liberty clause granting the carrier the right to deviate under various specified circumstances. Even without an express provision, carriers may have an implied right to deviate if it is necessary to avoid danger to the vessel. The terms of the specific charterparty must be examined to determine whether deviation is permitted and the scope of any contractual liberty to do so. In general, any deviation must be reasonable in order for the carrier to avoid liability for any resulting losses. In the context of the Houthi attacks in the Red Sea, the carrier would need to demonstrate that the deviation was necessary for the safety of the vessel or cargo. Given the rapidly evolving risk situation, the factual assessment of the flag, vessel, and cargo in relation to safety can change quickly. It's important to note that a deviation clause in the charterparty may not automatically be incorporated into the bills of lading. This means the carrier's right to deviate may not bind the cargo interests, although the carrier could still potentially rely on the Hague/Hague-Visby Rules' provision allowing reasonable deviations.²²

Part 2.

2.1. Geopolitical Considerations

The Red Sea is a region of significant geopolitical importance,²³ with the involvement of regional and global powers, such as Saudi Arabia, the United Arab Emirates, and the United States. The competing interests and the potential for conflict escalation in the region add an additional layer of complexity to the legal and security challenges. The interplay between the Houthi conflict, the regional power dynamics, and the international legal framework will be crucial in shaping the future of the Red Sea.

The multinational coalition, Operation Prosperity Guardian, led by the United States to safeguard navigation in the Red Sea, has faced its own geopolitical complexities. The reluctance of some coalition members to fully commit to the initiative reflects the broader regional tensions and the competing interests at play. This reluctance can be partially attributed to domestic political considerations, particularly in Europe, where public sentiment regarding Israel's actions in the Gaza conflict has shifted, leading to increased scrutiny of alliances perceived as aligning too closely with Israeli interests.

²² Hill Dickinson. (n.d.). Global shipping considers legal impact of Red Sea attacks. <https://www.hilldickinson.com/insights/articles/global-shipping-considers-legal-impact-red-sea-attacks>

²³ Otto, L. (2020). *Global Challenges in Maritime Security*. Springer.

Furthermore, the potential for conflict escalation, as exemplified by the hypothetical scenario of the Houthi forces sinking a U.S. destroyer, underscores the delicate balance between regional security, international law, and the broader geopolitical implications²⁴. Such a scenario could trigger a significant military response from the United States, potentially leading to a broader confrontation with unforeseeable consequences for global trade and energy supplies.²⁵

2.2. The Distinct Impact of Maritime Terrorism on Global Trade

While the concept of maritime terrorism lacks an internationally agreed upon definition, it is generally understood to encompass "the undertaking of terrorist acts and activities within the maritime environment, using or against vessels or fixed platforms at sea or in port, against coastal facilities or settlements"²⁶. The literature outlines several potential forms of maritime terrorism, including direct attacks on vessels, hijackings, and the use of ships to transport personnel and materials for terror activities.²⁷ Despite these threats, studies have found that maritime terrorism accounts for less than 0.2% of total terrorist attacks over a 40-year period, as terrorist groups may be operationally conservative, lack the requisite logistical and training capabilities, and be deterred by the remoteness of the maritime environment²⁸. However, some scholars argue that maritime terrorism may become more attractive to certain groups, owing to the availability of increased training opportunities, the potential for economic disruption, and the possibility of maximizing civilian casualties in contained spaces on vessels²⁹. The activities of the Liberation Tigers of Tamil Eelam in Sri Lanka and the Abu Sayyaf group in the Philippines serve as notable examples of successful maritime terrorist operations³⁰, and the literature

²⁴ Policy Center for the New South. (n.d.). The Red Sea: Risks, Security Challenges and the Global Trade Equation. <https://www.policycenter.ma/publications/red-sea-risks-security-challenges-and-global-trade-equation>

²⁵ Buchan, R. (2024, January 31). The Law of Self-Defense and the U.S. and UK Strikes against the Houthis. Lieber Institute. <https://lieber.westpoint.edu/law-self-defense-us-uk-strikes-against-houthis/>

²⁶ Moreels S (2016) The insurability of maritime terrorism. Unpublished thesis. Gent University. See: https://lib.ugent.be/fulltxt/RUG01/002/272/401/RUG01-002272401_2016_0001_AC.pdf

²⁷ Nincic D (2005) The challenge of maritime terrorism: threat identification, WMD and regime responses. *J Strateg Stud* 28(4):619–644

²⁸ Asal V, Hastings JV (2015) When terrorism goes to sea: terrorist organizations and the move to maritime targets. *Terrorism Polit Violence* 27(4):722–740

²⁹ Asal V, Hastings JV (2015) *ibid*

³⁰ Banlaoi RC (2005) Maritime terrorism in Southeast Asia: the Abu Sayyaf threat. *Nav War Coll Rev* 58(4):63–80, Farrell R (2007) Maritime terrorism: focusing on the probable. *Nav War Coll Rev* 60(3):46–60

outlines various potential future scenarios, such as the use of "flags of convenience" to conceal terrorist activities and the use of vessels as weapons of mass destruction³¹.

The consequences of maritime terrorism can be far-reaching, impacting both commercial ships and passenger vessels, as well as a diverse range of stakeholders in the public and private sectors, and individual citizens³². These consequences can be direct, such as loss of life and physical destruction of property, or indirect, including disruption to business operations, altered decision-making patterns, and broader economic and intangible impacts.³³ The authors categorize the consequences as human, economic, and intangible, with the latter being more situation-specific and potentially encompassing psychological effects, changes in investment and trade, and reduced tourism³⁴. This multifaceted set of potential ramifications underscores the need for thorough preparedness and mitigation strategies to address the threat of maritime terrorism, which can reverberate across various domains and stakeholders.³⁵

The disruptions caused by the Houthi's actions in the Red Sea have had a distinct impact on global trade and supply chains, setting them apart from the more traditional challenges posed by piracy. Unlike the relatively manageable impact of piracy off the coast of Somalia, the Houthi's tactics of missile strikes, drone attacks, and other forms of asymmetric warfare have led to substantial disruptions in maritime traffic and global supply chains.³⁶

The reluctance of shipping companies to utilize the Red Sea passage, opting instead for the longer route around South Africa's Cape of Good Hope, has resulted in delays, increased shipping costs, and broader economic consequences. These disruptions have had a ripple effect on the delivery of essential goods, including food supplies, to emerging nations, further exacerbating the challenges faced by vulnerable populations.³⁷

³¹ Farrell R (2007) Maritime terrorism: focusing on the probable. *Nav War Coll Rev* 60(3):46–60, Nincic D (2005) The challenge of maritime terrorism: threat identification, WMD and regime responses. *J Strateg Stud* 28(4):619–644

³² Greenberg MD, Chalk P, Willis HH, Khilko I, Ortiz DS (2006) Maritime terrorism: risk and liability. RAND Corporation, Santa Monica

³³ Ibid.

³⁴ Ibid.

³⁵ See analytically at Consequences at Maritime Terrorism

³⁶ Nicolini, B. (n.d.). Terrorism on the Red Sea. *Geopolitica.info*.
<https://www.geopolitica.info/terrorism-on-the-red-sea/>. Richardson, M. (2004). *A Time Bomb for Global Trade: Maritime-related Terrorism in an Age of Weapons of Mass Destruction*. ISEAS Publishing.

³⁷ Chapter 9 Maritime Terrorism, pp. 145-157 at Otto, L. (Ed.). (2020). *Global Challenges in Maritime Security: An Introduction*. Springer.

2.3. The Human Cost of Houthi Attacks on Red Sea Maritime Trade

The end of 2023 and the first quarter of 2024 are marked by major disruptions to global maritime trade flows as ships entering the Gulf of Aden and sailing through the Red Sea and the Suez Canal continue to face attacks by Yemen-based Houthis.³⁸ To address the legal and security challenges posed by the Houthi conflict in the Red Sea, a multifaceted approach is required. Strengthening the existing legal frameworks, such as UNCLOS, and enhancing the role of international institutions like ITLOS, can help clarify legal obligations, establish accountability mechanisms, and provide avenues for dispute resolution.

Multilateral cooperation and coordination among affected states and regional organizations are also crucial. Collaborative efforts, such as joint naval patrols, intelligence-sharing agreements, and the development of comprehensive maritime security strategies, can enhance the effectiveness of response measures and contribute to the overall stability of the region. Diplomatic engagement and conflict resolution efforts are equally important. Addressing the root causes of the Houthi conflict and promoting regional de-escalation can help mitigate the security threats and create a more conducive environment for the free and secure movement of maritime traffic.

Furthermore, the international community must remain vigilant and adaptive to the evolving challenges posed by maritime terrorism. Enhancing surveillance and early warning capabilities, diversifying supply chain routes, and developing innovative solutions to safeguard critical maritime chokepoints will be essential to maintaining the resilience of global trade and commerce. The dangerous security situation unfolding in the Red Sea, where commercial ships have come under attack from Houthi militia groups,³⁹ is forcing shipping companies to take extraordinary measures to address the significant challenges for global trade. However, often overlooked in such moments is the human cost of these conflicts, as it is the seafarers who bear the brunt when ships find themselves in the crosshairs.

The disruptions to shipping in the Red Sea have had multiple adverse impacts, including spikes in fuel costs, threats to food security, and reduced availability of key goods, leading to rising prices and panic. While the initial attacks targeted Israeli-connected ships in response to the Gaza conflict, the situation has escalated, raising growing concerns among governments and private sector leaders given the region's

³⁸ UNCTAD. (2024, January 26). Red Sea, Black Sea and Panama Canal: UNCTAD raises alarm on global trade disruptions. <https://unctad.org/news/red-sea-black-sea-and-panama-canal-unctad-raises-alarm-global-trade-disruptions>

³⁹ Reuters. (2024, June 12). Merchant ship hit by small vessel in Red Sea, UKMTO says. <https://www.reuters.com/world/middle-east/merchant-ship-hit-by-small-vessel-red-sea-ukmto-says-2024-06-12>

significance as a crucial trade route. According to the United Nations Conference on Trade and Development (UNCTAD), there has been a drastic 67% year-on-year decrease in container ship transits through the Suez Canal, which handles over 20% of the world's container trade. Shipping companies have had to make difficult decisions, either continuing to sail in the hopes of avoiding being targeted or rerouting, which brings its own set of challenges.⁴⁰

The industry's response has been varied, with some companies citing insurance as adequate protection and continuing to sail the route, while others have rerouted as the risks have escalated. Troublingly, even some of the most reputable companies appear to be disregarding the concerns of their seafarers, with formal emails from entire crews expressing worries that remain unanswered. The human impact on seafarers is a real concern, as they face the stress, extra workload, and fatigue that come with the fear of being targeted by missiles. While increased wages in warlike areas may be offered, they do not truly compensate for the risk to life. Additionally, many seafarers feel they cannot refuse to sail due to the fear of losing their jobs or not being able to afford safer options.⁴¹

The shipping industry must take a holistic approach that prioritizes the welfare and rights of seafarers. This includes developing robust mechanisms to safeguard seafarer well-being, ensuring their voices and perspectives directly inform security protocols and routing decisions, and working with governments and organizations to protect crews who power international shipping. Collective action by the industry to protect seafarers from geopolitical tensions is imperative, as they are the lifeblood of shipping and should not become collateral damage.⁴²

Conclusion

The challenges posed by the Houthi conflict in the Red Sea have highlighted the complexities and limitations of the existing international legal frameworks in addressing contemporary maritime security threats. The ambiguous legal status of the Houthi forces, their disruptive actions against commercial vessels, and the intricate geopolitical dynamics in the region have created a legal landscape that is difficult to navigate and enforce.

While the established principles of international public law and the law of the sea, such as the freedom of navigation and innocent passage, provide a foundational

⁴⁰ Jones, S. (2024). Red Sea attacks spotlight the need to prioritise seafarer rights. Institute for Human Rights and Business. <https://www.ihrb.org/focus-areas/oceans/shipping/red-sea-attacks-spotlight-the-need-to-prioritise-seafarer-rights>

⁴¹ Ibid

⁴² Ibid

basis for addressing these issues, their application has been tested by the evolving nature of the Houthi threat. The classification of the Houthi's actions as piracy, maritime terrorism, or other forms of unlawful interference with maritime traffic remains a subject of legal debate and interpretation.

Addressing these challenges will require a multifaceted approach, including strengthening the existing legal frameworks, enhancing regional cooperation and coordination, and promoting conflict resolution efforts. The international community must carefully navigate the delicate geopolitical landscape to ensure the continued security and stability of the Red Sea, a vital maritime chokepoint for global trade and commerce. Furthermore, the distinct impact of maritime terrorism, as opposed to traditional piracy, on global supply chains and economic systems necessitates the development of adaptive strategies and innovative solutions. Maintaining the resilience of the global economy in the face of such threats will be a critical priority for policymakers and industry stakeholders.

The lessons learned from the Houthi conflict in the Red Sea may provide valuable insights for addressing similar challenges in other critical maritime chokepoints around the world. As the global maritime landscape continues to evolve, the international community must remain vigilant and proactive in enhancing the legal and security frameworks that underpin the freedom of navigation and the protection of vital maritime trade routes.

Leonidas Sotiropoulos, doktorand

na Evropskom univerzitetu na Kipru, Magistar prava iz oblasti Pomorsko pravo (Univerzitet u Kardifu)

GEOPOLITIKA I POMORSKI TERORIZAM: IZAZOVI I PRAVNE KOMPLEKSNOСТИ VEZANE ZA CRVENO MORE

Sažetak:

Ovaj istraživački rad kritički analizira pravne kompleksnosti i implikacije koje proizilaze iz akcija Huta u Crvenom moru, sa posebnim fokusom na primenu i potencijalna ograničenja međunarodnog javnog prava i pomorskog prava. Oslanjajući se na sveobuhvatni pregled literature, intervju sa stručnjacima i analizu studija slučaja, u ovom radu je primenjen multidisciplinarni pristup za analizu različitih klasifikacija napada na međunarodne brodove u Crvenom moru i Persijskom zalivu. U radu se razmatra da li se ove akcije mogu smatrati gerilskim ratovanjem, pomorskim terorizmom ili otvorenim ratnim dejstvima, i analiziraju se rezultirajuće pravne implikacije. Rad takođe analizira uplitanje hutskih pobunjenika u pomorske tokove ka Izraelu, i potencijalnu ulogu Međunarodnog tribunala za pravo mora u rešavanju takvih sporova. Analizira se scenario potencijalne eskalacije konflikta, gde bi potapanje američkog razarača od strane hutskih snaga moglo pokrenuti širu vojnu konfrontaciju sa posledicama po globalnu trgovinu i snabdevanje energijom. Pored toga, rad ispituje kompleksnu geopolitičku situaciju u vezi sa multinacionalnom koalicijom, Operaciju Čuvar prosperiteta, koja za cilj ima zaštitu plovidbe u Crvenom moru, kao i oklevanje nekih članova koalicije da se u potpunosti angažuju. U radu se poseban akcenat stavlja i na uticaj pomorskog terorizma (za razliku od tradicionalnog piratstva), na globalne lance snabdevanja, kao i poteškoće uzrokovane oklevanjem brodskih kompanija da koriste prolaz kroz Crveno more. U zaključku, rad razmatra mere koje su na raspolaganju Ujedinjenim nacijama i vladama za suočavanje sa izazovima koje postavljaju preopterećeni pomorski tesnaci, naglašavajući potrebu za saradnjom, diverzifikacijom lanaca snabdevanja i adaptivnim strategijama kako bi se očuvala otpornost međunarodne trgovine i komercijalnih tokova.

Ključne reči: *Međunarodno pravo, pomorski terorizam, piratstvo.*

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