

# Piracy and the Relevant Legislative Issues in China

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**Abstract:** Piracy has been a serious crime in international criminal law. However, provisions on piracy are still absent in Chinese criminal law. Strategically speaking, it is necessary for China to lay down provisions on piracy, which will facilitate our fight against piracy and protection of the national interests of China.

**Key Words:** Piracy; Personal purpose; Domestic legislation

Piracy is a serious crime in today's world. Also, it is known as one of the oldest international crimes. The Chinese domestic criminal law fails to make any explicit stipulations on piracy, though piracy is becoming rampant in recent years. Therefore, in order to combat crimes, it is necessary for the Chinese government to set out provisions on piracy so as to provide explicit legal basis to fight against piracy, and to protect Chinese national maritime interests. This article is going to analyze these relevant issues.

## I. The Current Situation of Piracy

The ocean has been destined to become another hotbed for criminal activity since it was first conquered by human beings. Starting at the beginning of the Greek era, piracy has had a long history. Internationally speaking, modern piracy has developed a new trend in which advanced equipment, cruel tactics, high levels of organization, and internationalization are key factors. Piracy's growing threat and harm lie in its advanced weapons and tight organizations. The five territories most affected by piracy in the world are: the Malacca Strait, the Red Sea and the waters

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encompassing the Gulf of Aden, the West African coast, the Somali Peninsula, and the coastal waters of the Bay of Bengal. Piracy in the Malacca Strait is especially serious, where it accounts for 56% of piracy acts worldwide.<sup>1</sup> Because 80% of the transportation of Chinese petroleum passes through the Malacca Strait,<sup>2</sup> rampant piracy there gravely threatens China's economic development.

Recently, there was a series of horrendous acts of piracy. In September 1998, a Panama-registered cargo ship *Tenyu* was hijacked in the Malacca Strait, after which 16 crew members were reported missing and possibly killed. Several months later, this ship reappeared in the international shipping industry, but with a different name and crew. The government is all but helpless in the matter. One day in February 2000, a group of heavily armed pirates in Malaysian waters hijacked the Japanese-owned tanker *MT Global Mars*. 17 Korean and Burmese crewmembers were cast off in a lifeboat. By the time they were rescued three days later by fishermen, the hijacked tanker had probably already been repainted and given a new name. On the morning of March 20, 2003, a Yongfeng Pelagic Fisheries Co., Ltd. fishing vessel *Fu Yuan Yu 225* was surrounded by eight pirate ships in Sri Lankan waters while trawling for fish. The ensuing attack resulted in the fishing vessel being sunk and the murder of 17 crewmembers.<sup>3</sup> On the morning of November 5, 2005, *Seaborne Spirit*, a United States luxury cruise ship carrying more than 300 people was suddenly attacked in the Indian Ocean by pirates in two speedboats. The pirates used rocket propelled grenades and guns to launch attacks on the ship, and then attempted to rob the passengers. Fortunately, the captain of the cruise ship ordered the detonation of non-lethal weapons – “sound bombs” – that were installed beside the ship, causing the pirates to give up and giving the cruise ship a chance to flee. In the end, the *Seaborne Spirit* successfully escaped the pirates with only a single crewmember sustaining slight injury.<sup>4</sup> Another pirate-conducted assault occurred just recently. According to the Guangdong *Yangcheng Evening News*, on April 16 this year, a yacht carrying four Americans was attacked by a group of pirates in the eastern waters off the Yemen coast. Fortunately, there were no casualties or property losses.<sup>5</sup>

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1 At <http://news.sohu.com/s2005/xdhhd.shtml>, 16 May 2006. (in Chinese)

2 At <http://news.sohu.com/20050804/n226564358.shtml>, 16 May 2006. (in Chinese)

3 At [http://news.sol.com.cn/news\\_msg.asp?id=51535](http://news.sol.com.cn/news_msg.asp?id=51535), 18 May 2006. (in Chinese)

4 At [http://news.sol.com.cn/news\\_msg.asp?id=51509](http://news.sol.com.cn/news_msg.asp?id=51509), 18 May 2006. (in Chinese)

5 At <http://www.sun2008.com/news/world/20060417/102213.shtml>, 18 May 2006. (in Chinese)

These examples clearly demonstrate the damage and impact piracy has on international society. China is a significant maritime power with an extensive coastline. Furthermore, it transports a wealth of strategic materials by sea, such as petroleum. Therefore, it is necessary for China to adopt effective measures to protect its maritime interests. That is the main purpose of this thesis. Legislative research on this topic could help us to more effectively exercise rule of law in the punishment of piracy. We will discuss Chinese legislative issues on piracy later.

## II. The Definition of Piracy and Its Features

Piracy, in its original and strict meaning, is every unauthorized act of violence committed by a private vessel on the open sea against another vessel with intent to plunder.<sup>6</sup> This is the preliminary definition of piracy. Comparing it with other definitions, this concept does not stipulate that there must be a private purpose when committing a crime of piracy, and it is not explicit in its definition of the concept of violence. The authors feel that the definition of piracy provided by scholar Huang Yee from China Taiwan is more appropriate. Huang Yee asserted that under customary international law, a crime of piracy must be done with a private purpose on the high seas, which includes any ship committing an illegal act such as plunder or detention on another ship, goods or persons on board.<sup>7</sup> These are the initial definitions of piracy. Because of the limitation of technology in early times, acts of piracy were almost exclusively committed by one ship on another ship. This remains the major way in which piracy is conducted today. However, due to the changing of the times, it has become possible for acts of piracy between aircraft or by an aircraft on a ship. Though there are few examples of this brand of piracy, it is necessary to include it in the definition. In 1982, the United Nations Convention on the Law of the Sea (UNCLOS) explicitly added aircraft into the definition of piracy, as seen in Article 101:

*Piracy consists of any of the following acts:*

*(a) any illegal acts of violence or detention, or any act of depredation,*

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6 Robert Jennings and Arthur Watts eds., translated by Wang Tiewa, *Oppenheim's International Law (Volume I, Fascicle 2)*, Beijing: Encyclopedia of China Publishing House, 1995, p. 174. (in Chinese)

7 Huang Yee, *International Law of the Sea*, Taipei: Bohaitang Culture Ltd., 1992, p. 84. (in Chinese)

*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).*

Any of the above actions are considered acts of piracy in the context of international law. This is also the most popular definition of piracy among most domestic textbooks.<sup>8</sup> This thesis also adopts the definition used by the UNCLOS, because it clearly stipulates each act of piracy, includes solicitation and conspiracy in its definition, and is more comprehensive in general. In the next section, this paper will analyze various features of piracy in order to deepen the understanding of it.

There are several features of piracy:

1. The crime subject of piracy is any crew or passenger of a private ship or a private aircraft. These people are responsible for the majority of piracy acts. In addition, according to Article 102 of the UNCLOS, the acts of piracy, as defined in Article 101, committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship or aircraft. Therefore, a warship, government ship or government aircraft is only guilty of piracy after its crew has mutinied and conducted an illegal act as defined in Article 101. Although warships, government ships and aircraft belong to the government, once they have been taken over by individuals, their actions are no longer considered to be government actions, and are instead considered personal actions.

2. The *mens rea* of piracy requires direct intent derived from a private purpose. In general, this private purpose is manifested by an illegal act of plunder or robbery

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8 Gao Yupei and Gao Ge, *The New System of International Criminal Law*, Beijing: Peking University Press, 2005, p. 263 (in Chinese); Jia Yu, *International Criminal Law*, Beijing: China University of Political Science and Law Press, September 2004, p. 278 (in Chinese); Zhang Zhihui, *The General Theory of International Criminal Law*, Beijing: China University of Political Science and Law Press, 1999, p. 212. (in Chinese)

of another ship or aircraft's property. If the crew or staff of a warship, government ship, or government aircraft commit an illegal act of violence, detention, and plunder against another ship or aircraft on the high seas in order to comply with an order of an organization or a government for political purposes, it is not a crime of piracy. On April 27, 2006, a Chinese fishing ship from Qionghai, Hainan Province, China was shot at and robbed by an armed foreign ship when it was fishing near a traditional fishing ground of the Spratly Islands. Four fishermen were killed, and three fishermen were injured, and all the money and property on the ship were taken.<sup>9</sup> Though the illegal act conducted by the foreign ship in this case was robbery and plunder, Chinese media reports did not indicate that incident was a crime of piracy. It was instead defined as "the most terrible incident to happen in the waters around the Spratly Islands, in which Chinese fishermen were killed and injured". This is correct. If the foreign ship was private and had committed the crime with a private purpose, this incident could be defined as a crime of piracy. But if the foreign ship was simply complying with a governmental order for political purposes, this incident should not be considered a crime of piracy. Therefore, we can see that having a private purpose is critical when defining an act of piracy.

However, if crew members from a warship, government ship or government aircraft mutiny and take control of the vehicle, and proceed to commit an illegal act of violence, detention, or plunder against another ship, aircraft, or the members thereon on the high seas or in an area beyond national jurisdiction, their actions should be considered an act of piracy. In this case, their intent is assimilated to be private.<sup>10</sup>

As regard to the intent of piracy, in Article 101(a) of the UNCLOS, there is a very explicit explanation of the criminal intent behind the crime of piracy. Generally speaking, it must be direct intention. In Article 101(b), a voluntary participation in the operation of a ship or an aircraft with knowledge of facts making it a pirate ship or aircraft is necessary. In Article 101(c), defining a crime as an act of piracy requires inciting or facilitating an act described in subparagraph (a) or (b), which means intentionally inciting or intentionally facilitating direct depredation or participation in the crime.

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9 At <http://news.qq.com/a/20060501.htm>, 20 May 2006. (in Chinese)

10 Zhang Hu, A New Explanation on Piracy: The Perspective of International Law, *Journal of Yunnan University (Law Edition)*, No. 6, 2005.

Because of the growth of international terrorism, it is easy for a ship on the sea or an aircraft to become the target or tool of a terrorist attack. Were it to happen, how could we to define this crime? A terrorist group does not rob a ship or an aircraft merely for private ends, therefore, such robbery does not constitute piracy in terms of *mens rea*, instead, it should be considered a crime of terrorism.

3. According to the UNCLOS, the *actus reus* of piracy are:

(1) Any illegal acts of violence or detention, or any act of depredation, committed by criminals, and directed against another ship or aircraft, or against persons or property on board such ship or aircraft. Today, pirates are no longer satisfied with attacking people or plundering property on board. They also detain the target ship or aircraft with the intent to resell it and make a profit, such as the *Tenyu* case. Due to the advent of new technology, modern pirates have become crueler when they commit crimes. They use a number of firearms, ammunition, and heavy weapons when attacking other ships, aircraft, or people on board, which often results in significant casualties.

Meanwhile, according to the UNCLOS, any person that voluntarily participates in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft, commits a crime of piracy. Only participation in such operation qualifies as piracy in and of itself, without having to commit any other illegal act of violence, detention, or plunder. This provision is worthy of our consideration when drawing up future legislation. Moreover, the facilitation and solicitation also constitute crime of piracy, which complies with the definition of an accomplice under domestic criminal law.

(2) The target of a crime of piracy is another ship or aircraft. The pirate ship or aircraft in question must conduct an illegal act against another ship or aircraft, or persons and goods on board in order for it to be considered piracy. In other words, both an attacking ship/aircraft and a victim ship/aircraft are necessary under this definition. According to Article 103 of the UNCLOS: "A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in Article 101. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act." Victim Ship or aircraft is the one infringed by pirate ship or aircraft. Therefore, it is important to provide a concise definition of pirate ship or aircraft, as every country has the right of hot pursuit and the right of visit against them.

Another common question is how to define an act of violence, plunder, or

detention if it occurs between passengers on board the same craft, and whether it should be classified as an act of piracy. Some Chinese scholars consider this act a crime of piracy.<sup>11</sup> However, the authors find this debatable. In this scenario, according to the “flag State jurisdiction”, the classification of the illegal action should be determined by the flag State of the vehicle, which has the jurisdiction over such acts. We should not consider this scenario a crime of piracy. However, if pirates board in advance and then start attacking the ship or aircraft, it should be considered a crime of piracy.

(3) An act of piracy can only occur on the high seas or outside the jurisdiction of any State. According to Article 86 of the UNCLOS, “high seas” specifically means “all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State.”<sup>12</sup> With respect to the definition of “areas outside the jurisdiction of any State”, some scholars hold that it “should include Antarctic, public airspace, contiguous zone, exclusive economic zone and continental shelf. In other words, it includes the high seas and all areas outside the territory of any State (territorial land, territorial waters and territorial airspace).”<sup>13</sup> The authors think this definition is both precise and easy to understand.

However, there is still a question of how to handle acts of piracy that occur within a State’s jurisdiction, such as the Malacca Strait. Are these acts of piracy still crimes of piracy if they do not occur on the high seas or in the areas outside any State’s jurisdiction, as stipulated by the international criminal law on crime of piracy?

These are very real problems. First of all, let’s analyze whether or not the above acts are considered crimes of piracy in the context of international criminal law. Theoretically, they are not considered crimes of piracy in terms of the location as traditionally stipulated by the international criminal law. In order to solve this problem, there are two options: one is to expand the scope of international criminal law on the crime of piracy to include the acts stated above; the other is

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11 Zhou Zhonghai ed., *International Law*, Beijing: China University of Political Science and Law Press, 2004, pp. 471~472. (in Chinese)

12 Zhang Zhihui, *The General Theory of International Criminal Law*, Beijing: China University of Political Science and Law Press, 1999, p. 212. (in Chinese)

13 Huang Yee, *International Law of the Sea*, Taipei: Bohaitang Culture Ltd., 1992, p. 86. (in Chinese)

not to consider the above acts as piracy, and put them into domestic criminal law.<sup>14</sup> The authors prefer the latter option because expanding the scope of international criminal law on the crime of piracy is unfeasible. It is hard to reach the consensus among various countries necessary to grant this expansion. Furthermore, if we include the above acts in the international criminal law's definition of piracy, and each country involved gains universal jurisdiction over the above mentioned acts, there are likely to be severe conflicts between the sovereignty of coastal States and the universal jurisdiction of other States. Therefore, the most reasonable option is to have the above acts consigned to the jurisdiction of domestic criminal law. However, the specific legal implementation should not be limited to the sovereign State that has jurisdiction over the above acts. For example, in the Malacca Strait, the defense of the Malacca Strait is jointly carried out by Malaysia, Indonesia, and Singapore.<sup>15</sup> Even when a crime of piracy occurs within one country's jurisdiction, all three of these countries jointly defend it. This is a good lesson for us to learn. When a sovereign State is not able to defend against piracy, it may seek the cooperation of other coastal countries nearby. Also, the sovereign State could seek military or material assistance from other countries that might have relevant interests. But in order to protect national sovereignty, the sovereign State has the right to decide whether or not this help is necessary.

### **III. A Legislative Proposal concerning the Crime of Piracy in China and the Relevant Legislation of Other Countries**

Precedents on legislations concerning the crime of piracy in other countries:

Canadian Criminal Code gives a special provision on the crime of piracy, and differentiates the definitions of piracy within the contexts of international criminal law and domestic criminal law:

*Piracy by law of nations*

74. (1) *every one commits piracy who does any act that, by the law of*

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14 At <http://www.publiclaw-events.com/legalsh/ArticleShow.asp?ArticleID=192>, 20 May 2006.

15 Yu Kun, Who Keeps Safety for the Malacca Strait?, *Contemporary World*, No. 5, 2006. (in Chinese)



*nations, is piracy.*

*Punishment*

*(2) Every one who commits piracy while in or out of Canada is guilty of an indictable offence and liable to imprisonment for life.*

*Piratical acts*

*75. Every one who, while in or out of Canada,*

*(a) Steals a Canadian ship,*

*(b) Steals or without lawful authority throws overboard, damages or destroys anything that is part of the cargo, supplies or fittings in a Canadian ship,*

*(c) Does or attempts to do a mutinous act on a Canadian ship, or*

*(d) Counsels a person to do anything mentioned in paragraph (a), (b) or (c), is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.”<sup>16</sup>*

Article 199 of the Draft for the Revised Penal Code of Japan states: “A person who uses violence or threatens to use violence against another person to make him unconscious or unable to resist, so as to rob a ship or aircraft in navigation shall receive life imprisonment or imprisonment no less than six years. A person who robs any property on board a ship or aircraft by the same means above shall receive life imprisonment or imprisonment no less than five years. These two offenses are considered as a piracy in accordance with the Articles 327 to 329 (robbery causing death or injury; murder caused by robbery and rape on the scene of robbery) and Article 331 (Attempted crimes).”<sup>17</sup>

The Criminal Code of the Russian Federation:

*Article 227 Piracy*

*(1) Assault on a sea-going ship or a river boat with the aim of capturing other people’s property, committed with the use of violence or with the threat of its use, shall be punishable by deprivation of liberty for a term of five to ten years.*

*(2) The same act committed repeatedly or with the use of arms or objects*

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16 Bian Jianlin et al. trans., *Canadian Criminal Code*, Beijing: China University of Political Science and Law Press, 1999, pp. 44~45. (in Chinese)

17 Zhang Mingkai trans., *Japanese Criminal Code*, Beijing: Law Press China, 1998, p. 158. (in Chinese)

*used as arms, shall be punishable by deprivation of liberty for a term of eight to twelve years, with confiscation of property.*

*(3) Acts provided for in the first or second part of this Article, if they have been committed by an organized group or have entailed, by negligence, the death of a person, or any other grave consequences, shall be punishable by deprivation of liberty for a term of ten to fifteen years, with confiscation of property.<sup>18</sup>*

Of course, there are many rules of law concerning the crime of piracy around the world, and we are not able to cite them all. We have chosen three representative nations with legal provisions on the crime of piracy to act as examples. We will examine the characteristics of their legislations, and thereby obtain practical knowledge for our own situation.

The legislation of Canada on the crime of piracy is special because it differentiates the definition of piracy under international criminal law and domestic criminal law. The Canadian legislation defines the criminal elements of piracy differently on the international and domestic levels. The definition under international criminal law on the crime of piracy requires the crime to have a private purpose and use a private ship or aircraft. But the requirement for domestic criminal law on the crime of piracy is much broader, and not limited to needing a private purpose and a private ship or aircraft. A person committing an illegal act of violence, detention, plunder against another ship with a political purpose is considered guilty of the crime of piracy under domestic criminal law. The *actus reus* of international criminal law emphasizes any illegal act of violence, detention, or plunder; whereas the *actus reus* of domestic criminal law includes more stipulations on illegal acts, such as the behavior of stealing. The advantage of the Canadian Criminal Code lies in its connection of international criminal law on the crime of piracy and the UNCLOS. It also adopts a broader definition of piracy under domestic criminal law in order to protect relevant interests.

However, both Japanese and Russian Criminal Code adopt a definition of the crime of piracy in their domestic criminal law. This can help maintain the integrity and stability of domestic criminal law. Moreover, it is simply more convenient

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18 V. M. Lebedev and Y. I. Skuratov eds., translated by Huang Daoxiu, *Commentary to the Criminal Code of the Russian Federation (Volume II)*, Beijing: China University of Political Science and Law Press, 2000, p. 612. (in Chinese)

to incorporate international criminal law's extant crime of piracy into domestic criminal law.

According to China's current legislation, there is no practice of separately regulating crimes in international criminal law. We have not differentiated the definition within the context of international criminal law and domestic criminal law. In this way, China's criminal code is similar to that of Japan and Russia. This strategy has proven feasible, and the legislation governing the crime of piracy should follow this example.

The specific chapter of domestic criminal law that is most suited to dealing with the crime of piracy is debatable among scholars. Some think it is appropriate to place the crime of piracy within the chapter of "Crimes against Property". This is based on the reasoning that the nature of the crime of piracy is at heart an act of infringement of property safety on a ship or aircraft on the high seas, while infringement on personal safety is just a means to this end.<sup>19</sup> Some scholars have proposed using a new section of Article 236, *bis* 1 (Crime of Piracy) (1) if any person on board a private ship or aircraft uses violence, intimidation, detention, and plunder against another ship or aircraft, or any person and property on board on the high seas or in any areas beyond national jurisdiction, his offence constitutes piracy, and thus he shall receive fixed-term imprisonment no less than seven years, life imprisonment or death penalty; (2) any passenger or crew on board pilots or directs a ship or aircraft intending to commit one of the acts referred to in paragraph 1 commits a crime of piracy; (3) any person who commits any of the acts above shall receive death penalty in case of causing death, and life imprisonment or death penalty in case of causing serious injury.<sup>20</sup> Some of the scholars have proposed putting the crime of piracy within chapter II Crimes of Endangering Public Security.<sup>21</sup> The authors are of the second opinion. Though the direct criminal intent is against property, it has always accompanied the infringement of personal safety from the beginning. Therefore, the crime of piracy endangers not only property but also people's lives. It is more reasonable to place the crime of piracy within the chapter of "Crimes Endangering Public Safety". This is based on our assessment

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19 Guo Qi and Zhao Wenyan, The Legislative Analysis of Domestic Criminal Law on the Crime of Piracy, *Journal of Guangdong University of Foreign Studies*, No. 4, December 2003. (in Chinese)

20 Kunchen Fu, *Legal Issues on Marine Managing*, Taipei: Wensheng Book Store, 2003, p. 402. (in Chinese)

21 Tan Zhujian, Chinese Criminal Law on the Crime of Piracy, *Journal of Fujian Public Security College (Research on Social Public Security)*, No. 3, March 2001.

that the crime of piracy is committed against legal interest of no particular person's or a number of people's lives, bodies, or property.

Specifically, similar to the Criminal Law of the People's Republic of China Article 120 (the crime of organizing, leading, or joining a terrorist organization), we are not necessary to provide the details of the crime of piracy. Under these circumstances, we can bypass the requirements of *mens rea* (private purpose) and *actus reus* (an illegal act of violence, detention, plunder). Moreover, the location of the crime of piracy will not be limited to the "high seas" and "areas outside the jurisdiction of any State". In this case, the regulation can not only cover acts of piracy as understood within the context of international criminal law, but also protect broader interests. Therefore, we think the provisions for dealing with those guilty of the crime of piracy should be as such: "Any person guilty of conducting an act of piracy should be sentenced... any person guilty of actively participating in a pirate organization should be sentenced... any other person guilty of participating in a pirate organization should be sentenced..." The act of piracy in Article 101(c) of the UNCLOS is dealt by the General Provisions, Joint Crimes of the domestic criminal law, which concerns solicitation and conspiracy. So there is no need to have separate provisions for dealing with those guilty of piracy specifically.

To discuss the various elements of the crime of piracy, it is helpful to start with its definition. First of all, any person or organization is capable of committing the crime of piracy. Specifically, any crew, staff, or passenger of a private ship or aircraft could commit the crime of piracy. And any crew or staff on a warship, government ship or aircraft who mutinies and takes control of the warship, government ship or aircraft to conduct an illegal act against another private ship commits the crime of piracy. If the criminal unit commits the act of piracy in an organized way, it can also be guilty of the crime of piracy. Some pirates escalated the severity of their crimes due to the support they received from massive pirate organizations. Therefore, it is necessary to include criminal organizations as one of the subjects capable of committing the crime of piracy. Moreover, under China's legal system, the Chinese government can punish both an individual criminal and a criminal organization, which can combat piracy more effectively. Secondly, the *mens rea* of the crime is intent, including direct and indirect intent. Mere negligence cannot constitute a crime of piracy. The international criminal law requires a private purpose, a stipulation which should not be adopted by domestic criminal law when dealing with piracy. Both private purpose and political purpose, or any other purpose for that matter, should be included within the *mens rea* of the crime

of piracy. This will help us fight piracy more effectively. Thirdly, the *actus reus* of the crime of piracy should be defined as illegally conducting an act of piracy, or participating in a pirate organization. General stipulations of the *actus reus* of the crime include not only an illegal act of violence, detention or plunder by any person against another ship or aircraft, or against people on board, but also the act of stealing another ship or aircraft. Then the content of piracy could be expanded. The *mens rea* and *actus reus* of piracy are changing to adapt to the times. The essential this legislation model is to make the definition of piracy within domestic criminal law more general and flexible enough to allow the provisions thereof to adapt to a changing situation.

Dealing with legislation concerning the crime of piracy is not only crucial to improving China's legal system, but also crucial for protecting China's maritime interests. The enactment of this legislation can provide China a legal basis for fighting piracy. It will also allow China to avoid interference on our coastline from other countries using these kinds of excuses. Therefore, it is necessary for China to strength research on the crime of piracy and initiate legislation on it as soon as possible.

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