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“Ransom Payments, Maritime Insurance, and English Common Law: A Legal and Economic Dilemma”

By Archie Popham

Introduction

Piracy for ransom, by its very nature, involves the taking of hostages to extract a ransom payment.²⁸⁷ Modern piracy has evolved into a systematic hijack-for-ransom model, where vessels and their crews are detained until payments are extracted—typically from shipowners and insurers—creating a high-stakes, economically impactful practice (Raffety, 2024).²⁸⁸ This model underscores the operational sophistication of modern piracy and its reliance on the vulnerabilities of international shipping and insurance systems. The financial toll is staggering: maritime piracy and extortion cost an estimated \$6–12 billion annually, with human costs peaking at 3,000–5,000 captives during the height of pirate activity around 2010.²⁸⁹ Yet, the full extent of these impacts is likely underreported due to fears surrounding security breaches and potential commercial liability, as noted by Lloyd’s of London, the leading maritime insurance broker.²⁹⁰ These challenges illuminate the complex interplay between economic interests, legal frameworks, and security concerns, setting the stage for examining how states and the private sector navigate the perilous waters of piracy and ransom payments.

This article explores how the private sector, notably the professional services sector (insurance and legal), contends with the strict government approach to ransom payments. Limiting the scope to government policy post-2010, the article outlines how the government does little to support the shipping sector, notwithstanding the implementation of the Counter Terrorism and Security Act 2015 which, from an industry perspective, ‘alienates’ those involved in a ransom dispute.²⁹¹ The issue is of great importance within English law due to the presence of UK-based insurers and the industry. While piracy is a global issue, London is the epicentre of “negotiations on ransom payments... between pirates and the shipping company affected” according to Mark Dickinson; it is not necessarily decided in the “countries of origin of the hostages or the flag state of the ship”.²⁹² This has enabled the civil courts to interpret cases in their domain, offering clarity on key stipulations friendly to the shipping industry. The article outlines two key cases, *Westminster N.V.*²⁹³ and *Masefield* to understand how public policy was instrumental in the decision to enable ransom payments.²⁹⁴ This is finally followed by a detailed examination of the industry’s and its stakeholders’ response to the proposed ransom ban, highlighting their strong opposition. Drawing on perspectives from London’s maritime, shipping, and

²⁸⁷ Sofia Galani, “The Human Rights and Maritime Law Implications of a Piracy Ransom Ban for International Shipping,” *Maritime Safety and Security Law Journal*, no. 3 (June 2017), 33.

²⁸⁸ Professor Matthew Raffety, “Pirates and Private Law: The Legality of Ransom Payments in the Age of Terrorism” (Essay, 2024).

²⁸⁹ Jadranka Bendekovic and Dora Vuletic, “Piracy Influence on the Shipowners and Insurance Companies,” *DAAAM International Scientific Book*, 2013, 711–15, <https://doi.org/10.2507/daaam.scibook.2013.42>.

²⁹⁰ Martin Kelly, “The Lloyd’s List Podcast: Where Have All the Pirates Gone?” *Lloyds List Podcast*, January 20, 2023, <https://www.lloydslist.com/LL1143685/The-Lloyds-List-Podcast-Where-have-all-the-pirates-gone>.

²⁹¹ Counter Terrorism and Security Act 2015.

²⁹² *Nautilus: Outlawing Ransom Payment Jeopardizes Seafarers’ Offshore Energy* 17 December 2014.

²⁹³ *Royal Boskalis Westminster N.V. and Others v. Mountain and Others*, [1999] QB 674.

²⁹⁴ *Masefield AG v. Amlin Corporate Member Ltd*, [2011] EWCA Civ 24, [2011] 1 Lloyd’s Rep. 630.

professional sectors, this section underscores the overwhelmingly negative reception to such a ban. It explores how an outright prohibition on ransom payments is argued to be both economically detrimental and physically perilous for all stakeholders involved.

The Legality of Ransom Payments: UK Jurisdiction

Piracy today is not what it once was; pirates do not usually seek to deprive shipowners of property but rather place an onus on extortion.²⁹⁵ Due to this, the UK still operates within a legal and political ‘grey area’ concerning maritime pirate activities. Recent cases, such as Chandlers’ case, highlight the political and legal difficulties. The Chandlers, left alone following the UK government’s “long-standing policy against ransom payment”, did “not have [the prerequisite sailing] insurance”,²⁹⁶ finding themselves captive for over nine months while the British Foreign Office offered little consolation bar “tea and sympathy”.²⁹⁷ On return to the UK, the Chandlers presented their situation to the Parliamentary Select Committee on Piracy, arguing that they, and all others held captive for ransom felt “let down” by the government, as they offered little assistance both prior, and during the ordeal.²⁹⁸ This lack of communication is a thematic example of the interplay between British home and foreign policy and the private sector concerning maritime ransom payments.

Yet, the official stance of non-intervention has been routinely broken in recent years. The Ministry of Defense reported in 2013, that over 100 illegal boardings have occurred over 5 years since 2008, with many of the vessels being recaptured under the guise of “national interest”.²⁹⁹ David Cameron stated in his 2013 address to the G8 that recent Royal Navy anti-piracy operations have seen the UK expand its original remit, extending to helping nations with strong relations with the UK in instances of illegal boardings and ‘mayday’ calls.³⁰⁰ One example was the 2012 boarding of the Italian Merchant Vessel Montecristo. The vessel, boarded by Somali pirates, sent a mayday call to the US frigate, De Wert, who alerted the nearby Royal Navy’s Royal Fleet Auxiliary Fort Victoria. “Equipped with a Royal Navy helicopter and Royal Marine boarding teams”, the Royal Navy successfully implemented the “tough, patient and intelligent approach” in dealing with maritime piracy seeking to extort ransom.³⁰¹ This showcased the UK’s tactful and non-negotiative stance towards what the G8 nations hailed as a “poisonous ideology” in 2012.³⁰²

²⁹⁵ Raffety, “Pirates and Private Law: The Legality of Ransom Payments in the Age of Terrorism”, 5.

²⁹⁶ Lee-Eilertsen, “The Legality of Maritime Ransom Payment in the Light of UK and Singapore Jurisdictions” (thesis, 2015), 32.

²⁹⁷ Caroline Davies, “Foreign Office Let Us down, British Kidnap Couple Tell MPs,” *The Guardian*, October 24, 2013.

²⁹⁸ Jessica Davis and Alex Wilner, “Paying Terrorist Ransoms: Frayed Consensus, Uneven Outcomes & Undue Harm,” *International Journal: Canada’s Journal of Global Policy Analysis* 77, no. 2 (June 2022), 356–67.

²⁹⁹ Ministry of Defence. “Viewfinder General.” *Defence Focus*, June 13, 2013, 26.

³⁰⁰ Lee-Eilertsen, “The Legality of Maritime Ransom Payment in the Light of UK and Singapore Jurisdictions”, 28.

³⁰¹ Ministry of Defence. “Royal Navy Helps Reduce Somali Pirate Activity.” GOV.UK, February 21, 2012.

³⁰² Cabinet Office. “Prime Minister’s Statement on G8 Summit.” GOV.UK, June 19, 2013.

<https://www.gov.uk/government/news/royal-navy-helps-reduce-somali-pirate-activity>.
<https://www.gov.uk/government/speeches/prime-ministers-statement-on-g8-summit>.

From this, one may attest that the UK's stance on piracy and subsequent ransom payments is clear and assertive, especially based on the action taken. Yet, on closer inspection, the perspective within Westminster is much more nuanced. Payments made by private actors (ie. insurance companies, shipowners, families) are not deemed illegal, yet are not condoned. The Foreign and Commonwealth Office in 2010 stated that "although there is no UK law against third parties paying ransoms, we counsel against them doing so because we believe that making concessions only encourages future kidnaps"; a plausible rationale as to why the government does not make or facilitate substantive concessions to hostage takers".³⁰³ Offshore Energy further reported that as of 2015, the government kept ransom payments to pirates legal, "pledging that it would not outlaw ransoms" ³⁰⁴ considering the stronger Counter Terrorism and Security Act 2015 (CTSA 2015) introduced.³⁰⁵ Nevertheless, the CTSA 2015 has made it increasingly more problematic and convoluted for those paying the ransom to pirates.³⁰⁶

The relevant issues surrounding the CTSA 2015, and ransoms are showcased within how pirates seeking ransom payments operate, and who the actors are connected to.³⁰⁷ The CTSA 2015 introduced enhanced legislation, namely a further burden onto third parties seeking to pay ransom.³⁰⁸ Within the legislation, amendments were made under part 6 of the act,³⁰⁹ in which the Terrorism Act 2000 (TA 2000) was amended to include "insurance payments made in response to terrorist demands".³¹⁰ Further, sections A and B make it an offence for an insurer to make a payment to pirates under the contract, or purportedly under it if "the insurer or the person authorising the payment on the insurer's behalf knows or has reasonable cause to suspect that the money or other property has been, or is to be, handed over in response to such a demand".³¹¹ The section also develops criminal charges for a corporate entity paying a ransom where suspected terrorist activity is involved. Subsection 2 (a and b) states a "director, manager, secretary" or "any person who was purporting to act in any such capacity" is guilty of the offence and is liable to prosecution.³¹² According to Lee-Eilertsen, this is cultivated by the controversial "long-time fears and discussions" on collusion between Somali pirates and terrorists in the region.³¹³ This therein has forced the UK's hand in enforcing piracy under the scope of counter-terror legislation, notwithstanding the pirates acting as mercenaries with no "political, religious or ideological cause" as per the TA 2000 (s 1) - only apolitical, financial gain.³¹⁴

³⁰³ BBC News. "UK Defends Not Paying Pirates Ransom for Kidnapped Pair." Bbc.co.uk. BBC, February 1, 2010.

<http://news.bbc.co.uk/1/hi/england/kent/8491301.stm>.

³⁰⁴ Offshore Energy. "UK Keeps Piracy Ransom Payment Legal." Offshore Energy, January 21, 2015. <https://www.offshore-energy.biz/uk-keeps-piracy-ransom-payment-legal/>.

³⁰⁵ Counter Terrorism and Security Act 2015.

³⁰⁶ *Ibid.*

³⁰⁷ *Ibid.*

³⁰⁸ *Ibid.*

³⁰⁹ *Ibid.*, p 6.

³¹⁰ *Ibid.*, s 42(1).

³¹¹ *Ibid.*, s 42(1a, c).

³¹² *Ibid.*, s42, ss 2(a, b).

³¹³ Lee-Eilertsen, "The Legality of Maritime Ransom Payment in the Light of UK and Singapore Jurisdictions" (thesis, 2015), 16.

³¹⁴ Terrorism Act 2000, s 1.

Galani (2017), believes that the CTSA 2015's anti-pirate measures are counter-humanitarian, as visible by the many examples of nationals stranded by their government.³¹⁵ This has led stakeholders within the maritime industry, such as Nautilus General Secretary Mark Dickinson, to note that delaying payment or even making such payments illegal, only "jeopardise[s] the safety of seafarers held captive"; further adding that the threats of violence and death to crew are more likely now due to lack of a ransom payment (Offshore Energy, 2015).³¹⁶ Dickinson's concerns hold merit, especially in light of other states having issues dealing with both terror and piracy-related incidents. Davis and Wilner notes that Canada, in implementing a no-payment clause for both terrorists and pirates, has reported that their citizens, and "citizens of non-paying countries, are often prioritised for execution to further compel potential paying countries",³¹⁷ undoubtedly marking those with a British passport to be at risk of increased danger considering the CTSA 2015.³¹⁸

Ultimately, a clear non-ransom policy against piracy only seeks to undermine the private sector, with seafarers bearing a substantive risk to personal safety as a result. The UK government's finding that ransom payments "may reimburse pirates linked with terrorist groups produces an environment which may facilitate the payment of terrorist ransoms".³¹⁹ Prima facie, the government's policy is valid, notwithstanding the real threat to sailors. Statistics show that a substantial amount of piracy is linked with a wide network of "organisers and financiers" who seek to use the ransom to fund and arm terrorist cells.³²⁰ Additionally, Freeman reported as early as 2009 that "pirate gangs" off the coast of Somalia were colluding with prescribed terrorist organisations' "smuggling operations" for financial gain.³²¹ Thus, Galani's counter-humanitarian argument leaves a lot to consider.³²² With no international cooperation or agreement, the UK policy on non-ransom payment would leave its nationals vulnerable. States who will (or can) pay often obtain better treatment in these situations, and therefore UK nationals held in captivity will face the consequences of the CTSA 2015 and the illegality of private payment of ransom, especially in light of EU states who cede to demands.³²³

³¹⁵ Galani, "The Human Rights and Maritime Law Implications of a Piracy Ransom Ban for International Shipping", 29.

³¹⁶ Mark Dickinson, "UK Keeps Piracy Ransom Payment Legal," Offshore Energy, January 21, 2015, <https://www.offshore-energy.biz/uk-keeps-piracy-ransom-payment-legal/>.

³¹⁷ Jessica Davis and Alex Wilner. "Paying Terrorist Ransoms: Frayed Consensus, Uneven Outcomes & Undue Harm." *International Journal: Canada's Journal of Global Policy Analysis* 77, no. 2: 002070202211303. <https://doi.org/10.1177/00207020221130308>, 358.

³¹⁸ Counter Terrorism and Security Act 2015.

³¹⁹ Lee-Eilertsen, "The Legality of Maritime Ransom Payment in the Light of UK and Singapore Jurisdictions" (thesis, 2015), 17.

³²⁰ *Ibid.*, 16.

³²¹ Colin Freeman. "Pirates 'Smuggling Al-Qaeda Fighters' into Somalia." The Telegraph, July 5, 2009.

<https://www.telegraph.co.uk/news/worldnews/piracy/5743328/Pirates-smuggling-al-Qaeda-fighters-into-Somalia.html>.

³²² Galani, "The Human Rights and Maritime Law Implications of a Piracy Ransom Ban for International Shipping", 29.

³²³ *Ibid.*

The Judiciary on Maritime Ransom

The courts are typically apolitical on matters of parliamentary governance, insofar as they do not seek to expand their mandate on government policy.³²⁴ Yet, the early 2010 case law within the English courts has permitted a closer inspection of the legality of ransom payments. Adjacent to the discussions within the political arena, simultaneous proceedings within the civil courts have determined the rationale for which ransom payments can be deemed legal within the UK. Looking at two key cases on the matter, *Westminster N.V.*³²⁵ and *Masefield*, the courts, tackling issues on maritime insurance law, deemed it necessary that in dealing with the substantive facts, the legality of ransom payments should be discussed.³²⁶ It will be demonstrated that both cases recognise the element of public policy as pivotal in determining the jurisprudence of the decision.

Whilst *The Longchamp* (2017) case is also significant in this context, its focus on the general average principle—a doctrine governing the equitable distribution of losses among maritime venture participants—places it outside the primary scope of this article.³²⁷ Unlike *Westminster N.V.*³²⁸ and *Masefield*, *The Longchamp* does not engage with the overarching theme of ransom payments as a matter of public policy but rather addresses contractual and commercial considerations within the shipping industry.³²⁹ Nevertheless, its judgment highlights the nuanced interplay between legal principles and maritime practice, a theme explored in later sections.

Westminster N.V v Trevor Rex Mountain and Others

The first case discussing maritime ransoms to reach the English courts in recent history was *Royal Boskalis Westminster N.V v Trevor Rex Mountain and others* (1997) (*Westminster N.V.*).³³⁰ The case, in front of the Court of Appeal (CoA), debated the insurance considerations of a ransom payment, particularly looking into the Marine Insurance Act 1906.³³¹ *Westminster N.V.* confirmed that where section 78(1) of the MIA 1906 applies under a “sue and labour clause”, “the assured can recover any expenses properly incurred pursuant to the clause” - in this case, ransom payment.³³²

However, principally to this discussion, the court further developed a rationale positing the acceptance of ransom payments. In doing so, Lord Justice Philips examined the compatibility of ransom payments and the public policy considerations regarding ransom, however, he “did not elaborate further on this issue”.³³³

³²⁴ Dr Kane Arby, “Reconsideration of the Exercise of Prerogative Powers Since GCHQ: Balancing Legitimate Judicial Control Against Government Interest”: Social Science Research Network (13 Jan 2024), 3.

³²⁵ *Royal Boskalis Westminster N.V. and Others v. Mountain and Others*. [1999] QB 674.

³²⁶ *Masefield AG v. Amlin Corporate Member Ltd*, [2011] EWCA Civ 24, [2011] 1 Lloyd's Rep. 630.

³²⁷ *The Longchamp* [2017] UKSC 68, [2018] 1 Lloyd's Rep. 1.

³²⁸ *Royal Boskalis Westminster N.V. and Others v. Mountain and Others*, [1999] QB 674.

³²⁹ *Masefield AG v. Amlin Corporate Member Ltd*, [2011] EWCA Civ 24, 630.

³³⁰ *Royal Boskalis Westminster N.V. and Others v. Mountain and Others*, [1999] QB 674.

³³¹ Marine Insurance Act 1906.

³³² *Royal Boskalis Westminster N.V. and Others v. Mountain and Others*, para. 6.

³³³ Galani, “The Human Rights and Maritime Law Implications of a Piracy Ransom Ban for International Shipping”, 30.

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Masefield AG v Amlin Corporate Member Ltd

By the Court “leaving [the discussion on public policy] for further consideration” in *Westminster N.V.*, a decade later the English courts clarified what embodies public policy concerning ransom payments.³³⁴ *Masefield AG v Amlin Corporate Member Ltd (2011) (Masefield)* concerned the seizure of a vessel by Somali pirates for ransom, leaving the crew and cargo subject to a \$2 million payment for their release.³³⁵ The claimant (Amlin Ltd) advocated that “although the payment of a ransom was not illegal, it was contrary to public policy”, leaving the courts to determine the scope of public policy in light of maritime ransom payments.³³⁶

The court in *Masefield*, similar to *Westminster N.V.*, was primarily interested in the insurance implications of the ransom payment. Yet, intertwined within stipulations of abandonment of cargo, Justice Steele in the court of first instance inspected the insured’s claim that “the court ought not to take into account the fact that the payment of a ransom would probably secure the release”.³³⁷ This was posited for two reasons - “because payment of bribes is contrary to public policy”³³⁸ and secondly, “because the insured could not be regarded as being under any duty to pay the ransom”.³³⁹

On the first matter, Justice Steele was “wholly unpersuaded”.³⁴⁰ Steele J’s judgement argues that, historically, there has not been legislation rendering ransom payments illegal for centuries and thus, it was not for the courts to discuss the merits of updated legislation.³⁴¹ Steele J further notes that “the repeal of the Ransom Act 1782, in light of the Naval Prize Repeal Act 1864, only served to “outlaw the payment of a ransom in respect of British ships taken by the King’s enemies or persons committing hostilities against the King’s subjects”, “only emphasising this fact”.³⁴²

Regarding the second matter, Steele J reaffirms and clarifies Phillips J’s judgement in *Westminster N.V.* that “it cannot be against public policy” to pay a ransom on the high seas.³⁴³ In doing so, Steele J referred to Arnould’s Law of Marine Insurance and Average (2008, 21-25), which states that “there appears to be little doubt that where a payment which is not illegal itself under any relevant law is made to secure the release of property, this

³³⁴ *Royal Boskalis Westminster N.V. and Others v. Mountain and Others*, [1999] QB 674., para. 14.

³³⁵ *Masefield AG v. Amlin Corporate Member Ltd*, [2011] EWCA Civ 24, 630.

³³⁶ Phillip Roche, “Public Policy and the Payment of Ransoms - *Masefield AG v Amlin Corporate Member* [2011] EWCA Civ 24 | Global Law Firm | Norton Rose Fulbright.” Nortonrosefulbright.com, <https://www.nortonrosefulbright.com/en/knowledge/publications/8d4607b6/public-policy-and-the-payment-of-ransoms---masefield-ag-v-amlin-corporate-member-2011-ewca-civ-24#section5>.

³³⁷ Kate Lewins and Robert Merkin. “*Masefield AG v Amlin Corporate Member Ltd*; the Bunga Melati Dua Piracy, Ransom and Marine Insurance.” *Melbourne University Law Review* 35, no. 2 (August 1, 2011), 723. <https://search.informit.org/doi/abs/10.3316/informit.129563291363275>.

³³⁸ *Masefield AG v. Amlin Corporate Member Ltd*, [2011] EWCA Civ 24 630, para. 58.

³³⁹ *Ibid.*, para. 64.

³⁴⁰ *Ibid.*, para. 60.

³⁴¹ *Ibid.*

³⁴² *Ibid.*, para. 63.

³⁴³ *Ibid.*, 64.

can be recovered even though the persons demanding the payment are not acting lawfully in so doing”.³⁴⁴ In reaffirming this point, Steele J made it clear that insurers had no legal barriers in paying out ransom sums.³⁴⁵

On a second reading in the CoA, a similar verdict was held. Leading the judgement, Rix LJ on the matter of public policy again accepted Steele J’s findings, agreeing that “the payment of ransom was neither illegal nor... against public policy” and thus, dismissed the appeal.³⁴⁶ Nevertheless, within the judgement, Rix LJ argued that while “pirates have been spoken of as the enemies of mankind”, he argued that paragraph 598 of *Kaufman v Gerson* (1904)³⁴⁷ (discussing the moral principality of ransom to pirates) is more relevant now than ever.³⁴⁸ Rix LJ furthered his examination of the matter by looking at the “mandate and effectiveness of the EU Operation Atalanta”, in particular, the payment of ransom to pirates.³⁴⁹ Rix LJ refers to a statement of Mr Kopernicki, Co-Chair of the UK Shipping Defense Advisory Committee who found that making ransom illegal in the Courts would drive “the process underground”, making the issue “far, far worse”.³⁵⁰

There is no escaping the fact that ransom payments encourage repeat attacks.³⁵¹ Yet as stated by both Steele J and Rix LJ, it is not in the scope of the judiciary to determine the legality of ransom payment, rather such a contentious matter is for the government to discuss. *Masefield’s* Judgement provided “welcome clarification on some of the legal issues raised by many”, both by the judiciary and law firms on ransom payments.³⁵² This decision provided vital legal assurance to the maritime industry at a time when discussions surrounding policy responses to piracy—including David Cameron’s 2012 proposal to outlaw ransom payments—were reaching their zenith.

An Outright Ban on Maritime Ransom Payments? – The Private Sector and Stakeholders Perspective

During the height of Somali Piracy, David Cameron sought to introduce a world-first policy making ransom payments to pirate’s illegal prior to the CTSA 2015. Speaking at the London Conference on Somalia in 2012, Cameron argued that an outright ban should be implemented on ransom payments to pirates to curb the unrelenting endemic piracy and ransom payments inflicted on the economy and lives of the sailors.³⁵³ According

³⁴⁴ Joseph Arnould, Robert Samuel, and C T Bailhache. *The Law of Marine Insurance and Average*. London: Stevens, 2008, 21-25.

³⁴⁵ *Masefield AG v. Amlin Corporate Member Ltd*, [2011] EWCA Civ 24 630, para. 68.

³⁴⁶ Kate Lewins and Robert Merkin. “*Masefield AG v Amlin Corporate Member Ltd; the Bunga Melati Dua Piracy, Ransom and Marine Insurance*”, 725.

³⁴⁷ *Kaufman v. Gerson*, [1904] 1 KB 591.

³⁴⁸ *Masefield AG v. Amlin Corporate Member Ltd*, [2011] EWCA Civ 24 630, para. 67.

³⁴⁹ *Ibid.*, para. 68.

³⁵⁰ *Ibid.*

³⁵¹ Kate Lewins and Robert Merkin. “*Masefield AG v Amlin Corporate Member Ltd; the Bunga Melati Dua Piracy, Ransom and Marine Insurance*.”, 727.

³⁵² Clyde and Co. “Shipping and Insurance Update - Piracy.” Clyde and Co, March 2010.

https://www.clydeco.com/clyde/media/fileslibrary/Publications/2010/Shipping%20Insurance%20update_Piracy_March2010.pdf.

³⁵³ Foreign and Commonwealth Office. “Piracy Ransoms Task Force Publishes Recommendations.” GOV.UK, December 11, 2012.

<https://www.gov.uk/government/news/piracy-ransoms-task-force-publishes-recommendations>.

to critics, Cameron's rhetoric was entrenched in the idea that ransoms “only ensure that crime pays”.³⁵⁴ While this is correct, one must take this, as Freeman argues, skeptically. With the “ultimate goal [being] where pirates are no longer able to profit from ransom”, Freeman argues that Cameron’s “trade” is obvious; now the UK can profit from the ransoms.³⁵⁵ London’s dominance in maritime insurance, legal and security services is renowned globally, and a nuanced view showcases that the “UK PLC” as Freeman calls it, will prosper from the illegality.³⁵⁶

This perspective is further showcased by government publishing, which suggests that those who were non-treaty to David Cameron’s Piracy Ransom Task Force largely consisted of many of the world's “great flag and ship register states... including the Marshall Islands, Hong Kong, and Singapore”.³⁵⁷ Alongside state objectors, private actors and industries globally disapproved of the remarks and potential illegality. The shipping and insurance industry for example in their open letter noted that a ransom ban would be catastrophic, not just fiscally, but under humanitarian and environmental grounds. This fails to acknowledge the positive financial implications that may arise.³⁵⁸

Following the Shipping Association letter in 2012, the legal market, spearheaded by Holman Fenwick Willan (HFW) remarked that “banning ransom payments to Somali pirates would outlaw the only method a shipowner has to remove his crew from harm’s way and rescue his vessel and cargo”.³⁵⁹ HFW’s report, in collaboration with Lloyds List, sharply condemned the plausibility of a ransom ban, deeming it “unconscionable ... to take away a shipowner’s only prospect of rescuing its personnel and assets and to prevent a potential environmental catastrophe”.³⁶⁰ With a ransom ban, it is “unconscionable” to expect the Government to intervene. At the height of contemporary piracy, over 30 British-flagged or insured ships were held for ransom concurrently, however, due to a lack of reporting, this figure is estimated to be much greater.³⁶¹ Neither the Royal Navy nor the established Task Force has the mandate nor the size to implement such a robust anti-piracy strategy. Even if it did, geopolitics and national military ambitions would exhaust the British Navy. During this period, the Royal Navy was under extensive pressure globally. Counterterrorism efforts in the Middle East and anti-piracy operations in South America and Southeast Asia saw the organisation stretched to its limits.

³⁵⁴ Freeman, Colin. “UK: Why Cameron Will Not Stop Somali Pirates Getting Their Pieces of Eight.” The Telegraph, September 6, 2012.

³⁵⁵ *Ibid.*

³⁵⁶ *Ibid.*

³⁵⁷ Foreign and Commonwealth Office. “Piracy Ransoms Task Force Publishes Recommendations.”

³⁵⁸ Galani, “The Human Rights and Maritime Law Implications of a Piracy Ransom Ban for International Shipping”, 24.

³⁵⁹ Holman Fenwick Willan, “Banning Ransom Payments to Somali Pirates Would Outlaw the Only Method a Shipowner Has to Remove His Crew from Harm’s Way and Rescue His Vessel and Cargo.” Lloyds List, January 2012.

³⁶⁰ <https://www.hfw.com/app/uploads/2024/02/HFW-LL-Article-Ban-Ransom-Payments-A4-4pp-February-2012.pdf>, 1.

³⁶¹ *Ibid.*, 3.

³⁶¹ ICC International Maritime Bureau. “Piracy and Armed Robbery against Ships - Report for the Period 2011.” Safety4Sea, January 2012. <https://www.safety4sea.com/wp-content/uploads/2014/09/pdf/IMB%20REPORT%202011.pdf>, 16.

HFW's open article discussing the banning of ransom payments echoed statements made around the UK legal sector.³⁶² The firm approved of Steele J's judgement in *Maesfield*, adding to his rhetoric on the legalisation of ransom payments, arguing that the judgement provided a "further peace of mind" for all relevant parties in the event of a ransom situation.³⁶³ HFW, as "global industry specialists", has further put forward the ramifications they determine would occur facing a ransom ban, including the massive loss to cargo which, from their experience would "fall on the shipowners and possibly their insurers, and ultimately on the public".³⁶⁴ Secondly, they believe a ransom ban would have a detrimental environmental impact. HFW argue that (at the time of publication) the "last very large crude carrier that was captured carried approximately two million barrels of crude oil", almost "eight times the amount lost from the *Exxon Valdez*" disaster in 1989 and 40% of the loss of the BP Horizon incident in 2010.³⁶⁵ It therefore is implausible from HFW, an industry-leading maritime law firm, that a ban should take place either from a fiscal, humanitarian, or environmental point of view.

A further point, only alluded to by HFW and other service sector stakeholders, is the adverse impact that piracy had, and is having, on the recruitment and retention of seafarers. A 2011 Foreign Affairs Committee discussion with Nautilus International raised this point, highlighting the need for additional support from the British government on hijacking and ransoms.³⁶⁶ The Maritime Exclusive, an industry news source, further argued the same. Here, they discussed the UK's potential ransom ban months before its announcement, arguing that "a one-sided view of public interest... has severely curtailed the human rights of the seafarer", leading to "a direct, negative impact on crew retention and natural replenishment of the workforce".³⁶⁷ Consequently, one can argue that curtailing a ban would have only fostered more resentment in the industry, whereby common consensus at the time showed that seafarers not only felt let down by the UK government but also unsupported in the event of a ransom situation. Little to no other private industry places as much legal and psychological consequences on employees, with cases at the time suggesting a swing towards criminalisation for negligence by the crew in some instances of hijacking.³⁶⁸ Therefore, solely from a workforce point of view, it was imperative again that the ban was not enacted. Not only would companies, who were already struggling lose many seafarers, but further, the economic loss "could not be understated".³⁶⁹

Finally, and as aforementioned, little evidence suggests a ban would deter pirates seeking ransom. Dutton

³⁶² Holman Fenwick Willan, "Banning Ransom Payments to Somali Pirates Would Outlaw the Only Method a Shipowner Has to Remove His Crew from Harm's Way and Rescue His Vessel and Cargo."

³⁶³ *Ibid.*

³⁶⁴ *Ibid.*, 2.

³⁶⁵ *Ibid.*, 3.

³⁶⁶ Foreign Affairs Committee. "Written Evidence Submitted by the Mancur Olson Institute for Comparative Political Economy, Lund University." Written evidence to the Foreign Affairs Committee. Session 2010-12, HC 1318.

<https://publications.parliament.uk/pa/cm201012/cmselect/cmfaaff/1318/1318we11.html>.

³⁶⁷ The Maritime Exclusive. "Criminalization and Piracy Are Damaging Seafarer Recruitment Warns InterManager." The Maritime Executive, January 2012. <https://maritime-executive.com/article/2010-3-23-criminalization-and-piracy-are-damaging-seafarer-recruitment-warns-intermanager>.

³⁶⁸ *Ibid.*

³⁶⁹ *Ibid.*

and Bellish noted that pirates would “simply abandon the illegal activities that have enabled them to reap huge monetary rewards”.³⁷⁰ This rhetoric is true, especially if it was only the UK that would have employed such a measure. While the UK government's stance on not paying ransom is backed by many in the maritime sector, the stance held by Cameron in 2012 is merely idealistic at best. Yet, the indecisiveness of government policy surrounding ransoms suggests to Galani ³⁷¹ that the government was aware of the ramifications that it could have on the industry, echoing Freeman's (2012) notion of the “UK PLC” years prior.³⁷² Consequently, it appears that Britain's ‘dilemma’ regarding ransom payments, which according to the UK Foreign and Commonwealth Office “[was] by no means a veto”, stems from the implications for the City of London - the maritime capital of the world.³⁷³ With the industry in acknowledgement that ransom payments, while having evident problems, are “often the only practical way to ensure the return of a ship”, such a ban would counteract the only safe and plausible way to keep the industry afloat, and as such, “a ban would severely limit its ability to operate”.³⁷⁴

Conclusion

The UK's position on ransom payments, shaped by counterterrorism efforts, legal precedents, and industry realities, highlights the tension between British national security objectives and the practical needs of the maritime industry. While the CTSA 2015 reflects the UK's commitment to preventing the financing of terrorism through piracy, its strict stance on ransom payments creates significant challenges for those operating in the shipping sector.³⁷⁵ Judicial decisions have clarified the legality of ransom payments. At the same time, the maritime industry remains resolute in its belief that these payments are often the only viable means of ensuring the safe return of hostages and vessels.

Moreover, Freeman's notion of “UK PLC” underscores how the broader economic interests of the UK, particularly in London's dominance in maritime insurance, legal services, and logistics, complicate the government's stance.³⁷⁶ As Freeman argues, the UK stands to benefit economically from maintaining a framework where ransom payments are legally permissible, thus reinforcing the UK's position as a global leader in maritime services. This economic dimension cannot be overlooked, and the interplay with security concerns forms a complex policy landscape. Without a shift in policy that balances security concerns with the realities of maritime piracy, the UK risks undermining both its legal framework and the safety and stability of the global maritime industry.

³⁷⁰ Yvonne Dutton and Jon Bellish. “Refusing to Negotiate: Analysing the Legality and Practicality of a Piracy Ransom Ban.” *Cornell International Law Journal* 47 (March 7, 2014), 301.

³⁷¹ Galani, “The Human Rights and Maritime Law Implications of a Piracy Ransom Ban for International Shipping”, 32.

³⁷² Freeman, Colin. “UK: Why Cameron Will Not Stop Somali Pirates Getting Their Pieces of Eight.”

³⁷³ Foreign and Commonwealth Office. “Piracy Ransoms Task Force Publishes Recommendations.”

³⁷⁴ David Osler, “Failure to Arrest Tanker Attackers Angers Intertanko.” *Lloyds List*, August 9, 2010.

<http://www.lloydslist.com/ll/sector/ship-operations/article342220.ece> and Charles Marts. “Piracy Ransoms: Conflicting Perspectives.” *One Earth Future*, August 9, 2010, 1–36.

³⁷⁵ Counter Terrorism and Security Act 2015.

³⁷⁶ Freeman, Colin. “UK: Why Cameron Will Not Stop Somali Pirates Getting Their Pieces of Eight.”

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