Mapping Counter Piracy Actors

Edited by Phillippa Lewis

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Contents

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Introduction

Phillippa Lewis

Increasing incidences of pirate activity in recent years have pushed the problem of maritime insecurity into the international spotlight as an issue that now requires major political attention. Piracy, at its core is a transnational threat and accordingly there are a number of actors addressing the advent of pirate activity. The problem is multifaceted in nature, and thus cannot be solved by military might alone and thus whilst a number of the world's navies have recognised maritime piracy as an area of crucial importance, their actions do not form the sole basis on which piracy is addressed. Instead, this increasing recognition of threat has resulted in a number of actors becoming involved in the fight, all of which address different aspects of the threat, in an often-interlinking way. The challenge, therefore, is to examine these different actors in order to assess the current state of the anti-piracy mission. This collection outlines the actions of those involved in anti-piracy missions and outlines the weaknesses of current policies in an attempt to help forge a more effective future for counter-piracy actions.

Whilst this set of essays focuses on pirate activity off the coast of Somalia, this by no means presents the limits of the problem. Instead, pirate activity is spreading and adapting in response to current counter-piracy measures. This growth and adaption makes the task of mapping counter-piracy actors that much more important. The purpose of this collection of essays, therefore, is to conduct an analysis of some of the core actors in the fight against piracy and address a number of key questions including: How does the actor understand the problem of piracy? What concrete measures are being implemented? How do these measures potentially interfere or contradict the measures of other actors? Together they serve to provide an in-depth analysis of the current piracy problem and the measures implemented to overcome it. The study of maritime piracy as an issue of international security is still a relatively small field, despite the growing importance of the problem to the international community. As such, knowledge about how different actors are involved in anti-piracy is not well advanced. This collection contributes to filling that gap. It is designed to serve as a useful tool for both piracy academics and counter-piracy practitioners to gain an insight into this complex field.

In the first essay, Robert Paige examines the role of the European Union (EU) in the ongoing counter-piracy operations in the Horn of Africa region. The essay examines the 'comprehensive approach' put forward by the EU as the solution to the piracy problem before examining the theoretical side of the piracy debate. This theoretical approach is followed with an empirical study of the approaches taken by the EU in 'Operation Atlanta', examining the differences between rhetoric and practice and lastly the limitations of the EU's approach to counter-piracy.

Darshana Mozinder Baruah studies the counter-piracy measures carried out by NATO. The essay underlines the effective concepts and methods adopted by NATO to prevent piracy and highlights the flaws that undermine the capacity of operations. A detailed analysis of Operation Ocean Shield is undertaken which includes its background, discrepancies between policies and practices, progress, the problems faced, critique and conclusions.

In examining the role of the United Kingdom as an anti-piracy actor, Jack Hansen undertakes a comparison of the UK specific frame of piracy and its actions. The UK is certainly not a unitary actor and so this essay looks separately at transport based, naval based, land based and prosecution based initiatives. The essay argues that the UK predominantly views pirates as criminals and that the primary means to eradicate a criminal problem is to arrest and prosecute as many as possible in an effort to change a pirate's risk/benefit analysis.

Phillippa Lewis examines the multi-dimensional role of South Africa in its anti-piracy efforts. South Africa is a newly emerging actor in counter-piracy, and thus, an inherent contradiction lies between South Africa's need to protect itself against the spread of piracy towards its shores and the need to address its own internal economic and security threats. The essay examines the disparity between the strong military rhetoric and the lack of naval capabilities in the South African navy as the country struggles to project itself as a regional power within the Southern African Development Community.

Emma Pryor studies the United Nations Office on Drugs and Crime (UNODC) and the actions that it is taking to combat piracy. The essay considers the problems in Somalia and the reasons why piracy is considered to be such a lucrative business. It goes on to discuss the UNODC's counter-piracy initiative, and its work in four key areas: law enforcement, prosecution, courts and prisons. It then evaluates the work of the UNODC, describing its successes and considers what is yet to be done.

Christopher Crook examines the Security Association for the Maritime Industry (SAMI), a British born organisation that has sought to establish itself as a regulatory body for the accreditation of standards for private security personnel and equipment within the maritime industry. By acting as a union body, it aims to help increase the standards of safety against the threat of maritime piracy. This essay investigates how much of an effect SAMI has had on the industry, both as an individual actor and in conjunction with other actors.

Finally, Jessica Williams studies the Maritime Piracy Humanitarian Response Programme (MPHRP), which aims to help seafarers and their families with the 'humanitarian' aspects of pirate attacks and hostage situations. The MPHRP is examined, along with organisations of a similar nature, to determine the effectiveness of the programme and highlight concerns over whether its actions are guided by motives that are economic rather than humanitarian.

The European Union as a Counter-Piracy Actor

Robert Paige

The meteoric rise in pirate attacks since 2007/8 has forced the world to take notice of the Horn of Africa region and Somalia in particular (the Gulf of Aden being a key shipping route) as a flashpoint for security issues. This transnational threat has no discrimination in its targets in terms of nationality; any vessel that is seen as an easy target is boarded, the crew taken hostage and a ransom negotiation started. The international response to this threat culminated in the issuing of UNSC resolution 1816, which proposes that acts of piracy off the coast of Somalia *"exacerbate the situation in Somalia which continues to constitute a threat to international peace and security in the region"* (United Nations Security Council 2008:2). The resolution also encourages international action in the waters around Somalia in order to try to control the increasingly chaotic situation. Following the resolution, a large number of states, institutions, and organisations responded with naval forces patrolling the area and implementing counter-piracy measures. One such institution is the European Union.

The European Union was created officially with the signing of the Maastricht Treaty in 1992 (European Union 2012c). The Union consisted of 12 member states and sought to achieve close political, economic and social union between its members. The EU has its roots in the 1950's and the creation of the European Coal and Steel Community in 1951 by six member states (Belgium, Germany, France, Italy, Luxembourg and the Netherlands). From this point the organisation has changed its name, expanded its membership and forged a single currency (the Euro). The EU now consists of 27 member states and is an organisation with global power. In this essay I will be examining the role of the European Union in the ongoing counter-piracy operation off the coast of Somalia as well as looking at how the EU understands the problem and how it plans to tackle it. I will provide some criticisms of the way in which the EU approaches piracy as well as examine how the actions 'in the field' compare to the strategy put forward in rhetoric.

Basic Information and Mission Objectives

In December 2008, the EU launched operation Atalanta through the EU NAVFOR (naval force) Somalia with the goal of policing the Gulf of Aden area and establishing a rapid reaction force to respond to any vessels under attack from pirates. The operation was launched within the framework of the Common Security and Defence Policy (CSDP) of the EU and is the first naval operation carried out through this avenue.

Of the 27 member states of the EU, only four do not participate in the operation (Austria, Denmark, Estonia, and Slovakia). Operation Atalanta also receives support from outside the EU, with Croatia, Montenegro, Norway, Switzerland, and Ukraine all actively contributing to the operation. The objectives of the operation are set out in a media brochure produced by EU NAVFOR and made readily available on their website. The primary objective of the operation is stated as *"the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast"* (EU NAVFOR Somalia 2012c). This is carried out with commendable cooperation with a multitude of other actors such as NATO (North Atlantic Treaty Organisation), IMO (International Maritime Organisation), and other major world powers such as China and Russia. Another significant objective of the mission is to provide protection for vessels delivering food aid to *"displaced persons in Somalia"* under the banner of the World Food Programme (WFP) (EU NAVFOR Somalia 2012c). This follows the hijacking of two WFP-chartered ships in 2005 and the attempted hijackings in 2007, 2008, and 2009 of vessels carrying humanitarian aid to Somalia, which receives 90% of food aid by sea (World Food Programme 2007, 2009). The EU NAVFOR also engages in the protection of African Union Mission in Somalia (AMISOM) vessels (EU NAVFOR Somalia 2012c). A further objective of the mission is to protect *"vulnerable shipping off the Somali coast on a case by case basis"* (EU NAVFOR Somalia 2012c:2). This goes hand in hand with a separate EU initiative, the Maritime Security Centre – Horn of Africa (MSC-HOA), which was set up in September 2008 (International Maritime Organization 2011:71). The MSC-HOA is a command centre in which vessels transiting through the region are monitored 24 hours a day. Group transit systems are arranged for transport through the Gulf of Aden, and up-to-date information about piracy attacks is relayed to captains and naval forces in the Horn of Africa region through an interactive website (EU NAVFOR Somalia 2012d). Finally, in response to concerns that illegal fishing off the Somali coast by large, transnational fishing companies using trawlers is one of the main motivators for Somalis to turn to piracy (Bahadur 2011), Operation Atalanta also aims to *"contribute to the monitoring of fishing activities off the coast of Somalia"* (EU NAVFOR Somalia 2012c:2).

Some basic data provided by the EU (correct as of 10th April 2012) show moderate success in the mission so far. For example, the EU NAVFOR has a 100% success rate in escorting WFP ships carrying humanitarian aid, with 150 completed since the start of operation Atalanta. The EU has also successfully escorted 126 AMISOM vessels. Over the last four years, 60 pirates have been remanded with 57 of those actually charged (EU NAVFOR Somalia 2012c).

In terms of how the operation itself actually functions, The Political and Security Committee (PSC) control the political and strategic direction of the operation under the responsibility of the Council of the European Union. The European Union Military Committee (EUMC) monitors the execution of the operation. Rear Admiral Duncan L. Potts is the commander of operation Atalanta and Rear Admiral Gualtiero Mattesi holds the position of deputy commander. Finally, Rear Admiral Enrico Credendino is the force commander and controls all military forces 'in the field' around the Horn of Africa region. The operational headquarters are based in Northwood (UK) and the flagship headquarters rotate on a four monthly basis between states contributing vessels (EU NAVFOR Somalia 2012c, a).

Timeline of Involvement

Operation Atalanta was launched in December 2008 but the EU's involvement in Somalia goes back to the mid 1990's with the provision of both humanitarian aid and the coordination of projects to assist peace-building operations through the UN (European Commission 2012). In 2007, the EU announced active support for the AU mission (AMISOM) in Somalia with financial and technical assistance amounting to €325 million since 2007. In December 2011, the EU appointed a Special Representative to the Horn of Africa (Alexander Rondos) in order to help coordinate regional and international efforts in the Horn of Africa region (EU NAVFOR Somalia 2012c). On March 23, 2012, the EU announced the extension of the EU NAVFOR mission in Somalia until the end of 2014 and expanded the mandate within which naval forces could pursue pirates (Council of the European Union 2012).

The 'Comprehensive Approach'

The EU, along with several other counter-piracy actors, identifies the occurrence of piracy as a result of the instability and conflict in Somalia and so proposes what it terms a 'comprehensive approach' (EU NAVFOR Somalia 2012c). This includes both sea and land based approaches to the problems in Somalia, with EU NAVFOR Somalia taking the lead on sea operations, and a wide range of tactics employed on land, although stopping short of intervention in Somalia itself. One important example of this approach is the EU training mission – EUTM Somalia – in Uganda, which engages in the training of Somali security forces in order to strengthen the Transitional Federal Government (TFG) and provide some measure of security on the ground in Somalia. Another example of this indirect approach is the contribution of humanitarian and development aid and assistance to key areas. On the EU's Security and Defence YouTube page, the EU claims it is *"the world's biggest donor to Somalia, addressing both the current symptoms and the root causes of the crisis"* (EU Security and Defence 2012). The EU has contributed development aid from the European Development Fund (EDF) totalling around €215 million for the period 2008-2013. On top of this, development assistance in key sectors has been provided, with €52 million given towards Governance & Security, €36 million towards Education, and €48 million towards Economic Growth. This sectoral approach aims to establish the basis for strong governance in Somalia, something that the EU sees as fundamental in mitigating the problems (including piracy) in the region (EU NAVFOR Somalia 2012c). Finally, the EU has provided €198 million of humanitarian aid for Somalia since 2005 through the European Community Humanitarian Office (ECHO). This 'comprehensive approach' is aimed at stabilising governance in Somalia, but some argue it is the uploading of Western and European ideas of how a state should function onto Somalia, with a centralised decision making body and democratic principles (Ehrhart and Petretto 2012). Despite this potential undertone of 'westernisation', the comprehensive approach is beneficial to the Somali people; it doesn't just aim to deter pirates through naval patrols and arrests at sea, it actually proposes the rebuilding of the Somali state and an end to the crisis that has ravaged the area since 1991. The EU is widely respected for its capacity in state-building (Chalmers et al. 2005) and therefore poses the greatest potential for a solution to the problem rather than a containment of it, as is arguably the case with the NATO operation 'ocean shield'.

Introduction to Frames: What is Piracy to the EU?

Maritime Piracy means different things to different people and organisations. In order to examine the EU and its particular standpoint on piracy it is first necessary to establish a framework within which we can see the various ways in which actors respond to piracy. For this essay I will be using the concept of problem frames and more specifically, the 'security', 'legal', and 'development' frames. A 'problem frame' allows an analyst to break an incredibly complex issue down into different frames within which the majority of actors and approaches exist (Sil and Katzenstein 2010). The security frame analyses the problem at hand in terms of a 'threat'. It then responds to this threat in much the same way a state would respond in wartime, with extra-ordinary measures – often seeing the people identified within the 'threat' as the enemy (Buzan et al. 1998:21). This frame is particularly relevant to the USA's war on terror for example. The Legal frame, on the other hand, identifies the problem as one of law-breaking. In the context

of piracy, this means that people committing crimes that fit into the internationally defined definition of 'piracy' are criminals and need to be prosecuted. Finally, the development frame sees a problem in societal terms; it sees the people involved in the problem as a symptom of a wider issue. In the case of piracy, the development frame argues that the pirates themselves have turned to piracy because they could not make money any other way; the situation in the region in which they live has forced them to turn to piracy. The dominant frame within which the response to piracy is conducted is the legal frame, although the security frame comes in at a close second. In an article published in 2011, Christian Bueger, Jan Stockbruegger & Sascha Werthes argue that this is primarily down to historical reasons *"since it has been navies who have historically eradicated piracy and international lawyers who have established the norms and rules of addressing piracy in the contemporary legal order"* (Bueger et al. 2011:363).

Having established the basics of the three main problem frames/paradigms, it is now possible to examine the approach of the EU within the context of these frames. The EU is a particularly interesting case in this respect. Different aspects of the EU's approach to Somali piracy can be slotted into different frames, making analysis of EU policy more complex. This may be expected because of the EU's 'comprehensive approach' and the way in which it would like to engage piracy; using all three frames logically seems the best way to achieve a 'comprehensive' approach to a problem. The justification for counter-piracy measures given by the EU clearly sits within the security frame. The first paragraph of the EU NAVFOR media brochure reads – *"The European Union is concerned with the continuing impact of piracy and armed robbery at sea off the coast of Somalia on international maritime security and on the economic activities and security of countries in the region"* (EU NAVFOR Somalia 2012c). An example of the security frame in action is the 23 March 2012 announcement that operation Atalanta will be extended until at least the end of 2014. The mandate concerning the use of force has also changed. EU NAVFOR vessels will now be permitted to attack land based pirate infrastructure through both warships and helicopters launched from warships. EU ministers have agreed that the mandate for use of force will now include *"coastal territory and internal waters"* and forces could target boats and fuel dumps (Council of the European Union 2012; Hall 2012).

Having used the security frame as justification for its involvement in Somalia, the EU has traditionally followed a legal framework at sea. Confrontation with pirates very rarely ends in death, although this has happened under the command of individual member state forces, such as the killing of two pirates in April 2009 by French Special Forces (CNN 2009). The primary aim of operation Atalanta, in this respect, is the capture and prosecution of pirates. However, this can prove difficult; once captured, where are the pirates prosecuted? The EU has signed deals with Kenya in 2009, Seychelles in 2009, and the Republic of Mauritius in 2011 (EU NAVFOR Somalia 2009; European Union 2012a, b). However, the Kenyan deal was cancelled by Kenya in October 2010 (BBC 2010) despite significant investment from the EU through the UNODC (United Nations Office on Drugs and Crime) in Kenya's legal system.

Up until the 23 March announcement of the expansion of operation Atalanta, the EU had taken a development frame view when dealing with land-based operations in Somalia. Considerable amounts of financial aid have been supplied to Somalia (see the 'comprehensive approach' above) since 2005 and the EU has consistently referred to the 'root causes' of piracy being on land in development and governance. The level of aid provided is impressive and shows a willingness to tackle the 'root causes' of piracy by the EU that other counter-piracy actors seem to avoid. However, the EU can be accused of both throwing money at the problem and ignoring the complex social structures in place in Somalia. The EU is seemingly focused on establishing a centralised, western form of government in Somalia by strengthening the TFG with both financial aid and through the EU Training Mission Somalia in Uganda, training TFG forces to provide a stronger security force. In their article 'The EU and Somalia: Counter-Piracy and the Question of a Comprehensive Approach', Hans-Georg Ehrhart and Kerstin Petretto argue that the EU *"should consider supporting alternative approaches to centralized forms of governance... such as decentralized systems of governance... if this better suits local power"* (Ehrhart and Petretto 2012:4).

A key concept to highlight here is that of 'human security', which is the underlying theme of the European

Security Strategy (ESS) of 2003 and is mainly associated with the work of Mary Kaldor and the Barcelona study Group. The concept puts forward the idea that the security of the individual is crucial when determining the security and stability of the state as a whole. The core assumption is that an individual is much less likely to commit crime or violence when they feel safe and secure in their environment (Kaldor et al. 2007). Given the key role of the ESS in European security planning, it is hardly surprising that the EU has taken such a lead – amongst counter-piracy actors – in the development frame in Somalia.

Alternative Motives for Involvement

With the potential for 'mission creep' arising after the March 23 announcement, it is important to ask why the EU is even engaging in counter-piracy in Somalia in the first place. Restoring peace and security to the region is the reason cited by the EU (EU NAVFOR Somalia 2012c) and is the primary objective of the UNSC resolutions that have been passed in relation to Somalia (particularly Resolution 1816). The EU also cites the protection of global trade as a key reason for getting involved. This is directly in the interests of the EU, with up to *"95% of EU member states' trade (by volume) transported by sea"* (EU NAVFOR Somalia 2012c:8). This is perhaps the most compelling motivation for EU involvement in counter-piracy. A third potential reason for involvement is the Human Security dimension of the problem. As I have previously mentioned, the EU's human security approach in the 2003 ESS (and the 2008 ESS amendment) is at work behind the scenes in the development frame on land. A further component of the Human Security approach is the idea of security 'black holes' (Kaldor et al. 2004) which have an indirect effect on the EU through crimes such as drug smuggling and human trafficking (Solana 2003:5). Following this line of thought, it is reasonable to expect the EU to be involved in Somalia to further its own security. This is backed up in counter-terrorism strategic thinking; in an interview with Gilles de Kerchove (the EU's counter-terrorism coordinator) in November 2010, the online news site 'Europolitics' claimed that de Kerchove was concerned with the *"phenomenon of citizens living in Europe leaving for a hot spot like Yemen or Somalia for the jihad and fighting there."* Adding that: *"Several return after receiving their training and indoctrination to plan terrorist attacks in the Union"* (Watson 2010). Another consideration that has been ignored in the public relations documents and the rhetoric is the energy security angle. Basil Germond and Michael Smith point out that a large share of the EU's oil imports are likely to transit through the Gulf of Aden because *"six million barrels a day – more than 12 per cent of global oil transport"* (Germond and Smith 2009:580) travel through the Gulf. This is particularly import when you consider the EU's reliance on Russia for energy supplies; the power Russia could gain over Europe if oil is no longer transported from the Middle East through the Gulf of Aden could potentially be reason enough to involve the EU in counter-piracy. Finally, the desire to prove its worth as a global security actor may also be behind the EU's involvement in counter-piracy. EU NAVFOR Somalia is the first naval operation launched under the CSDP, which itself has historically been a controversial arm of the EU due mainly to US/NATO opposition. The opportunity to really take the lead on a global issue has the potential to establish the EU as a realistic provider of security globally (Germond and Smith 2009:582).

What Are the Actor's Specific Suggestions for Countering Piracy?

Having now looked at the theoretical ways in which the EU approaches counter-piracy, it is appropriate to focus on the practical side of the EU's response to piracy in Somalia.

The EU provides support to ship owners and captains through the MSC-HOA website, providing specific actions and measures to counter piracy in both the private industry and naval domains. In terms of the EU's recommendations to industry, the MSC-HOA website is the key port of call. Captains are advised to register with the centre and provide route information by submitting the 'Vessel Movement Registration Form' when travelling through the Gulf of Aden or Indian Ocean in order to enable the centre to provide manned monitoring of the vessel 24 hours a day. Another key aspect of the centre's operation is the *"provision of an interactive website"* that *"enables the Centre to communicate the latest anti-piracy guidance to industry"* (Maritime Security Centre Horn of Africa 2009). This involves relaying current pirate locations and/or recent attack locations to vessel captains and owners in order to enable them to

alter course if necessary to avoid travelling through dangerous zones. This impressive and innovative operation greatly enhances the capacity of a ship's captain to avoid being pirated. MSC-HOA has also overseen the introduction of the 'group transit system', whereby merchant vessels are co-ordinated to travel through high risk areas overnight (when pirate attacks are historically less likely to occur) in large groups, therefore reducing the risk of attack. It is worth noting that this transit system does not have a naval escort, it is purely about safety in numbers and deterrence of an attack. The centre also identifies *"particularly vulnerable shipping"* and coordinates *"appropriate protection arrangements"* from within EU NAVFOR or through other naval forces in the area (Maritime Security Centre Horn of Africa 2009). Finally, the EU NAVFOR is actively involved in the production of BMP (Best Management Practices) and strongly recommends their use in counter piracy.

What is the Actor Actually Doing to Counter Piracy?

Having looked at the recommended side of practical action, it is now time to look at what the EU is actually doing to counter piracy. There are currently (correct as of 05 October 2012) six EU NAVFOR vessels patrolling the seas around Somalia; two from Spain, one from Italy (who currently hold the rotating flagship position), one from Germany, one from France, and one from Romania. There are also four aircraft currently active providing reconnaissance and transport roles (EU NAVFOR Somalia 2012b). Patrolling the seas around Somalia is the primary counter-piracy action of the EU. The EU NAVFOR website is updated with reports of any piracy attacks that have been intercepted or any pirates that have been captured. EU NAVFOR also uploads videos to a YouTube account run by the EU called 'EU Security and Defence' (http://www.youtube.com/user/EUSecurityandDefence) detailing the outline of operation Atalanta and showing some footage of successful pirate captures. The EU is using helicopters and helicopter carriers successfully to counter piracy. For example, one of the Spanish ships currently active (as of 5 October 2012) has the capacity to carry and launch up to six helicopters which are used to search the waters for suspected pirates (EU NAVFOR Somalia 2012b).

The investment in Somalia through humanitarian and development aid, technical assistance for improving governance, and the training of security forces represents the real action by the EU, taking a lead in the fight against the 'root causes' of piracy is certainly impressive. But how is the EU actually getting involved in Somalia on land? Is it simply throwing money at the problem? The EU training mission in Uganda is the obvious example of direct action to solve the crisis. Since the mission started in April 2010 and until the mandate ends in December 2012 there will have been four intakes of Somali troops trained over consecutive 6-month periods (EUSecurityandDefence 2011; European Union External Action 2012). In terms of humanitarian and development aid, the EU has been incredibly active in funding NGO projects and even providing technical assistance to some projects. In January 2010, the European Commission Development Programme (ECDP) produced a report on its involvement in Somalia and more importantly, produced a Microsoft Word document with maps detailing the projects it has supported either financially or technically, their locations, and the money spent on the project. The maps show in detail the sheer number of projects in Somalia that have benefited from EU support since 2008 and show a commitment to the development frame of the piracy problem that other counter-piracy actors have struggled to achieve.

Are the Actions Consistent with the Rhetoric and Planning of the Operation?

The rhetoric and planning of the operation has focused on restoring peace and security to the Horn of Africa region through the 'comprehensive approach'. The EU's actions can be seen to be attempting to emulate the 'comprehensive approach' but, as Ehrhart and Petretto put it, a *"piecemeal approach... is still prevalent"* (Ehrhart and Petretto 2012: 44). The desire to solve the Somalia governance crisis through the support of the TFG can be seen as the easy, short term route for the EU, the harder but potentially longer term route is the support of a system of regional governments drawn up along the lines of the clan based social structures in Somalia. This demonstrates the mismatch between EU rhetoric and action on land at least, the promise to cure the 'root causes' of piracy in the rhetoric has translated into a short term view of installing security in Somalia through the TFG.

What Are the Limits to the EU's Approach?

When considering any military operation it is necessary to also consider the limits of the operation. In respect to operation Atalanta, it is potentially limited by power politics between member states but also by conflict between the European Commission and the Council of the European Union. This is a common criticism of the EU, as Germond and Smith point out, *"one of the major criticisms of the EU as a global actor has been its inability to coordinate its various resources – which in fact are quite vast – in the service of its common political or security interests"* (Germond and Smith 2009:574). This criticism is particularly relevant to counter-piracy (and security in general) as the Council controls the direction of the CSDP and therefore operation Atalanta whereas the Commission controls the budget of the EU and more importantly, the EC Development Fund. This means that work undertaken within the security and legal frames will be controlled by the Council whereas work undertaken in the development frame will be controlled by the Commission. Trying to coordinate two separate decision making bodies for the 'comprehensive approach' inevitably leads to conflict and therefore longer decision-making times. In a study of the Council and Commission's role in the CSDP, based on interviews, Hylke Dijkstra argues that *"inter-institutional relations become tenser when there is a lack of clarity, perceived overlap or competition in roles"* (Dijkstra 2009:449).

Does the EU Contradict Any Other Organisation?

When it comes to cooperation or contradiction with other counter-piracy actors, the EU can be seen as a cooperative organisation. It has worked (and continues to work) very closely with industry through the MSC-HOA and has worked with industry and other actors to develop the BMP 4. The contradictions that exist with the EU actually tend to come from within the EU itself. For example, the general stance of the EU is to arrest pirates and then transport them to neighbouring states to be charged. However, in April 2008 French Special Forces pursued pirates inland with direct approval from President Nicolas Sarkozy. Then in September 2008, French Special Forces were ordered to use deadly force to rescue two French yachters, resulting in the death of one pirate (Germond and Smith 2009: 580). In 2009, deadly force was authorised again by the French government, resulting in the death of two pirates and one hostage (CNN 2009). There has since been a convergence towards the legal frame and operations involving storming yachts have subsided, but the very nature of the EU as a collective of member states is exposed by these examples; the policy of capture and arrest cannot be enforced over the will of a member state to engage in military force.

Conclusion

In conclusion, the EU has shown in both rhetoric and action that it aims for a 'comprehensive approach' to a solution for the piracy problem. It can be seen to adopt a multiple frame approach to counter-piracy, acting in the security, legal, and development frames. In the security frame, the EU has justified its action in Somalia by identifying piracy as a threat and has started along the path to extra-ordinary action in the 23 March announcement of military action on coastal territory and internal waters. In the legal frame, the EU has consistently pursued a policy of deterrence of piracy at sea through naval patrols and the capture and arrest of pirates over the use of deadly force to resolve the problem. In the development frame, the EU has perhaps been the most prominent actor. The multitude of different approaches used in this frame, such as the training of Somali security forces, humanitarian aid, development aid, and technical assistance shows the EU actively pursuing the development of Somalia into a functioning state. It is in the development frame that the EU has shown its potential as a problem solver, with both rhetoric and action focusing on the principles of Human Security. Despite these successes, much remains to be done in Somalia by the EU if the piracy problem is to be solved. The support of the TFG is one potential limitation of the EU approach to this problem, with many critics advocating a regional, rather than centralised, form of governance in Somalia based on traditional clan lines.

The announcement on 23 March 2012 of increased use of force by EU NAVFOR may turn out to be a key turning point in the EU's mission in Somalia. The potential swing of the mission towards the security frame could have dramatic effects on the work the EU has done in the development frame and may even lead to increased involvement in Somalia through mission creep.

Overall, the EU can be seen to be taking the lead on the development issues in Somalia with action on the issue and not just rhetoric. The struggle for a comprehensive approach to problem solving opens the EU up to a lot of criticism about what it should be doing better, but I feel the EU should be commended for having the commitment to follow through with its promise to try and solve the 'root causes' of piracy on land, in Somalia.

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is further divided into:

Headquarters Allied Maritime Command HQ Northwood, GB

Headquarters Allied Air Command Ramstein (HQ AC Ramstein)- Ramstein, DE

Headquarters Allied Force Command Heidelberg, DE

NATO has two Immediate Reaction Forces: the standing NATO Maritime Group composed of the SNMG1 and SNMG2; and the standing NATO Maritime Mine Countermeasure Groups composed of SNMCMG1 and SNMCMG2. The SNMG1 and SNMG2 are multinational, integrated maritime force composed of vessels from various allied nations that is permanently available to NATO. SNMG1 is usually employed in the Eastern Atlantic area, although it can be deployed anywhere NATO requires. SNMG2 is usually employed in the Mediterranean area although it can be deployed anywhere NATO requires. The composition for the groups varies as it depends on the contribution by the member nations on a rotational 4-6 months basis. Its current operations are in Afghanistan, Horn of Africa/Gulf of Aden, Kosovo and the Mediterranean sea. Its operation in Horn of Africa/Gulf of Aden is the counter piracy operation. NATO started its counter piracy operation in 2008 while providing escort for the World Food Programme (WFP) vessels carrying humanitarian aid to Africa. Its current operation is Operation Ocean Shield (OOS), which started in 2009 and has been extended till the end of 2012. However, on 19 March 2012, the allies agreed on the need to continue counter piracy operations off the Horn of Africa and Operation Ocean Shield has been extended for further two years until the end of 2014.

Counter-piracy Operations

The counter piracy measures adopted by NATO are patrolling, information sharing, providing self-protection measures, spreading awareness among the shipping industry, and keeping the community informed about risk zones and incidents via alerts. NATO's approach to counter-piracy is through cooperation and self-awareness. NATO works in cooperation with other forces present in the area involved in counter-piracy activities such as the EU operation Atlanta as well as with individual nation's deployment. The presence of NATO forces along with the others have led to a decline in the number of incidents in the Gulf of Aden. However, the negative side to this improvement is that it has resulted in the pirates increasing their area of operations and spreading out to the Indian Ocean, which is a much larger area to monitor.

The NATO Shipping Centre (NSC) is the point of contact between the maritime community and NATO. It is a part of the Allied Maritime Command Headquarters Northwood in the United Kingdom. NSC provides the link for information exchange between the NATO forces and the international shipping community. It alerts the shipping community about incidents and potential threats in the region. The NSC website suggests that along with counter-piracy actions it supports NATO, national and multinational Naval Cooperation and Guidance for Shipping (NCAGS) operations and exercises. The aim of the Shipping Centre is to provide accurate and up-to-date information regarding merchant shipping vessels present or transiting in the area to the naval forces and to provide information to the shipping community on the situation in the risk zones.

The Maritime Community is central to OOS. The NSC advises vessels and ship owners of precautionary measures and relies on these measures for a reduction in piracy incidents. It provides its guidelines in the BMP (Best Management Practices) and claims that ships adhering and implementing the BMP are less likely to be attacked or approached. The focus of the operation is at sea, but more needs to be done onshore as the base of piracy is not the water, but the land. It is futile fighting a virus if the cause is not addressed. OOS provides regional capacity building assistance to states, which makes it different and improved from its predecessors. However, it is interesting to note that this new feature by OOS does not earn NATO any brownie points, as its engagement with capacity building activities has been insignificant. A report on External Information Sharing in support of NATO counter-piracy operations (2011) underlines the *"lack*

NATO

Darshana Mozinder Baruah

Introduction
Background and Composition

The North Atlantic Treaty Organization (NATO) is a political and military alliance of 28 countries from North America and Europe. The heart of the treaty lies in article 5, which states, *"an armed attack against one or more of them in Europe or North America shall be considered an attack against them all"*.

The structure of NATO can be broadly divided into Civilian structure, Military structure and Organizations, and Agencies. The military structure of NATO is comprised of the contributing forces and equipment of the member countries participating in the military aspect of the alliance. The Military structure of NATO is divided into:

1. International Military Staff

2. Allied Command Operations (ACO)

3. Allied Command Transformation (ACT)

4. Other NATO Command & Staff Organisations

Each category is then further divided into a number of divisions and sub-divisions. This paper is concerned with the ACO and its sub-division of Headquarters Allied Joint Force Command HQ Brunssum, which

of a common network" to counter-piracy forces in sharing information, which is highly detrimental to the purposes of the operation.

Piracy is a major threat to important trade route and dangers the lives of innocent seafarers. Over the years the Somalia pirates have come to be known as notorious with increasing attacks and vessel hijacking. International Maritime Bureau (IMB) reports show that majority of the world attacks in 2011 happened in East and West Africa. The report also shows that currently there are 13 vessels and 197 hostages under Somalia pirates (as of 19 March 2011). So far, out of the nine hijackings in 2012, seven have been from Somalia pirates. There is an increase in the number of Somali incidents in 2011. However overall, there is a drop in the number of incidents recorded in 2011 after four consecutive years of increased piracy and armed robbery. In all, there were 45 vessels hijacked, 176 vessels boarded, 113 vessels fired upon and 105 reported attempted attacks in 2011 (IMB).

This paper examines the counter piracy operations carried out by NATO and the measures adopted to meet its purposes. It underlines the effective concepts and methods adopted by NATO to prevent piracy as well as to point out the flaws that undermine the capacity of the operations. The paper outlines a detailed analysis of OOS which include its background, measures required, measures adopted, progress, the problems faced, drawbacks and a conclusion which lies in the fact that to combat piracy one has to address the problem which is firmly rooted in the soil of Somalia.

Operation Ocean Shield (OOS)

Aims and Purposes

NATO operations are carried out along the principles outlined in the Strategic Concept. NATO invoked its article 5 for the first time after the September 2011 attacks in the United States of America in the form of operation Active Endeavour. The latest strategic concept document is the strategic Concept 2010 "Active Engagement, Modern Defence" which clearly states NATO's tasks and principles. In consistence with this strategic concept, NATO developed an Alliance Maritime strategy adopted in January 2011. The document identifies four roles for NATO's maritime forces: deterrence and collective defence, crisis management, cooperative security-outreach through partnerships, dialogue and cooperation and maritime security.

NATO's counter piracy operation began when the United Nations Secretary General requested naval escort for the World Food Programme vessels to Africa in 2008. Operation Allied Provider (October-December 2008) was a temporary programme which laid the foundation for NATO's two other piracy operations in the region. The basis for NATO's counter piracy operations are found in the Final Communique: Meeting of the North Atlantic Council at the level of Foreign Ministers held at NATO Headquarters, Brussels (3 December 2008):

> *'As demonstrated by NATO's rapid deployment of Operation Allied Provider, we are greatly preoccupied by the rising incidence of piracy off the Horn of Africa and are committed to assist in fighting this scourge, in full respect of relevant United Nations Security Council resolutions.'*

Operation Allied Provider was followed by Operation Allied Protector (March - July 2009) conducted by SNMG1 vessels. The current operation to prevent and deter piracy is Operation Ocean Shield carried out by SNMG2 vessels. Allied Joint Command Lisbon is in overall command of OOS while Maritime Component Command Headquarters Northwood, United Kingdom, will execute day-to-day tactical control. The SNMG2 and SNMCMG 2 fall under the command of Allied Maritime Component Command (CC-Mar) Naples. However, for OOS, SNMG2 comes under the operational control of Component Command Maritime Headquarters Northwood, and under the overall responsibility of Joint Headquarters Lisbon. The area of operation as stated by the Allied Command Operations in their website is 1 million square kilometers in the Gulf of Aden and the Somali basin.

Operation Ocean Shield was approved by the North Atlantic Council on 17 August 2009 and now has been extended until the end of 2014. The NATO website justifies its presence in a counter-piracy operation in the region by stating, *"Piracy threatens to undermine international humanitarian efforts in Africa and disrupt vital sea lines of communication and commerce in the Indian Ocean"*. OOS broadens its scope of counter piracy activities through a new approach by providing assistance to regional states in capacity building to combat piracy. The NATO Shipping Centre website, which is NATO's point of contact with the maritime community explaining the capacity building efforts, says

> *'While at-sea counter piracy operations will continue to be the focus, a new element of regional state counter piracy capacity building has been developed for Operation Ocean Shield. NATO's capacity building effort will aim to assist regional states, upon their request, in developing their own ability to combat piracy activities. This element of the operation is designed to complement existing international efforts, and will contribute to a lasting maritime security solution off the Horn of Africa.'*

NATO naval operations aim to contribute in the areas of deterrence and collective security, crisis management, cooperative security and maritime security. The NATO shipping Centre outlines Operation Ocean Shield's in the following manner:

1.   Deter, disrupt and protect against pirate attacks, rendering assistance to ships as required and if available.

2.   Actively seek suspected pirates and prevent their continued activity through detention, seizure of vessels and property, and the delivery of suspects and evidence to designated law enforcement authorities, in accordance with NATO agreements.

3.   Facilitate and support the development of regional states' capacity to conduct effective counter-piracy operations, in coordination with other related international efforts.

4.   Coordinate NATO operations and initiatives with coalition maritime forces, EU naval forces, and other non-NATO forces conducting counter piracy operations off the Horn of Africa.

Counter-Piracy Measures

In order to fight piracy in the region NATO forces rely on a variety of methods. These include patrolling pirate infested waters, use of the Internationally Recommended Transit Corridor (IRTC), use of self-protecting measures by vessels, implementation of the Best Management Practices (BMP), information sharing between the naval forces and the merchant community. In addition, awareness and analysis through SHADE (Shared Awareness Deconfliction) meetings is also used to tackle pirate activity. SHADE group meetings are held on a monthly basis in Bahrain, which is a platform for coordination of activities between the maritime industry and NATO (OOS-TF 508), EU (Operation Atlanta-TF 465), the US led Coalition Maritime Force (CMF- TF- 151), along with the deployment of individual nations, which have included Australia, Bahrain, China, Egypt, India, Jordan, Pakistan, Russia, Saudi Arabia, Seychelles, Singapore, South Korea, Ukraine and Yemen. Along with SHADE, NATO uses the platform provided by the Contact Group on Piracy off the Coast of Somalia to coordinate activities across a broad range of actors present in the area. The Contact Group was established in January 2009 in consistence with the UNSC resolution of 1851 to facilitate discussion and coordination of actions among states and international organisation to overcome piracy off the coast of Somalia.

The self-protecting measures suggest onboard security measures to minimise the threat of a pirate attack. Some of the examples and measures that the NSC provides to the ship owners include: to hinder the use

of companionways and ladders onboard by placing barb wires on it or some other form of obstruction, removing access ladders and restricting access to the accommodation by locking the lower access doors and hatches, windows blank off to prevent breaking in, use of razor wire around the dock of the vessel and by using propeller arrestor. The BMP is the most efficient and reliable tool for the shipping community as suggested by the NSC. The purpose of the BMP is to *"assist ships to avoid, deter or delay piracy attacks in the high risk area"*. The BMP asserts that the implementation of self-protection measures outlined in the booklet is very effective and the consequences of not following the BMP are severe. The three fundamental requirements of BMP are to register at MSCHOA (EU NAVFOR, Maritime Security Centre-Horn of Africa), report to UKMTO (UK Maritime Trade Operations) and implement SPMs (Self-Protecting Measures). The NSC advises and strongly recommends ships to register at MSCHOA on entering the high-risk area. The ships can do this by filling a form online or by fax or email. The vessels are also encouraged to report daily to the UKMTO (UKMTO) at 8:00 hours GMT if operating within the high-risk area. The most recent edition of the practices is BMP 4, which was published in August 2011. The BMP is put together on the experiences of the shipmasters and provides details on how to implement these measures. The BMP lists out six key points to avoid being a victim of piracy:

- Do not be alone: The ships are advised to report to the UKMTO and register with the MSCHOA along with using the IRTC.

- Do not be detected: The ship owners are suggested to be aware of warnings and alerts by visiting the websites and make themselves aware of the pirate operating locations

- Do not be surprised: the use of radar, CCTV and increased vigilance is highly recommended.

- Do not be vulnerable: To deter and prevent pirate attacks ships are encouraged to use visible and physical obstructions onboard such as razor wires or water.

- Do not be boarded: On spotting any suspicious behaviour the vessels are advised to increase their speed and maneuver their vessel.

- Do not be controlled: the shipmaster and the crew are advised to follow well-practiced procedures and drills and deny the pirates use of any tools, equipment or access routes.

The NATO TV (2010) provides insight into how the forces carry out helicopter surveillance to trace ships and identify potential pirate bases. They then closely monitor these bases and in the event of a pirate launch from any of the suspected points, the NATO maritime security forces advances on to the pirates before they can attack any vessel. The pirates often do not offer any resistance to the well-equipped soldiers and surrender. Once they are caught, their weapons are seized and their boats/skiffs destroyed. The pirates are then given enough food and water and sent back to the land. An overview of the measures adopted by NATO for its counter-piracy operations almost seems impeccable.

If attacked, a ship is required to call the UKMTO, giving the name of the ship, position and the nature of the attack on telephone. The NSC provides daily and weekly piracy updates. It reports on incidents and alerts provided by the naval forces and the ships and vessels in the area. It informs the reader of any attacks that may have happened in the last 24 hours of reading the content as well as of the past week. It also provides weekly assessment of the situation in the region. It updates its alert details providing insight into the kind of pirate threat existing in the area, which includes the information on mother ships or skiffs. The shipmaster and the crew can also get an idea of the kind of tactics used by the pirates to attack by reading the alert details. The NSC website issues pictures of Motherships that pose a threat to the transiting vessels and encourages reports on these ships if spotted. The crew is also encouraged to take pictures and if possible videos of suspicious behavior by another ship or if being approached by potential pirates and send them to NSC, UKMTO and MSCHOA. If the shipmasters closely monitor the alerts and incidents posted in the NSC website as well as implement the BMP and adhere to the advice provided, it

is possible to evade a pirate attack.

The aims and objectives set out for the mission are in consistence with their measures besides two points. The first one is lack of information on coordination with law enforcement agencies and the second one is the new element in the operation of regional capacity building assistance. The information for these two factors is almost negligible although it is underlined in the aims and objectives of the mission. Along with these two factors, there also other problems and areas of concern that the counter-piracy operations should focus on. I will discuss the problems in the following section.

Critique

The NATO counter-piracy operation has contributed immensely towards keeping the Gulf of Aden safe. The measures adopted by the actor are in consistence with the objectives of the Operation. It provides guidance and suggestions to the shipping community, informs the concerned communities of the pirate situation through alerts and assessments, carries out patrols to deter any attack from taking place, provides preventive measures and destroys pirate vessels. A look at the picture and it seems like everything is being done that is possible. However, the operation is flawless only until we talk about preventive measures. It talks about avoiding pirates and prepares the shipping community to do so but interestingly; avoiding a problem does not make it non-existent. There is a big problem which is affecting not just the trading routes but also human lives. The entire practice of shipping has become more expensive than ever due to the high insurance prices attributed to piracy. It is time that NATO stops looking at piracy as just something to prevent but as something that needs attention at the root cause of the problem. In case of piracy, the root cause is on land and not on water.

To begin with, Operation Ocean Shield is said to be based on the experiences and lessons learned from the previous counter piracy operations by NATO. One of the lessons learned was that more needs to be done onshore and hence NATO OOS has a new function. As mentioned above, it provides assistance to regional states in capacity building to combat piracy. The work carried out in this regard is negligible. There is no information available as to what is meant by 'capacity-building', how NATO aims to carry this out and what has been done so far. The only thing available is the mention of Coast Guard as an example given within brackets. If NATO has realised that it is important to strengthen the capabilities of individual states in fighting piracy, then it should focus on capacity building along with patrolling the pirate infested waters. The question then, is does NATO have the mandate to carry out operations onshore? The answer to this is found in the Security Council resolution 1851. UNSC resolution 1851 *"Authorizes States to use Land Based Operations in Somalia"*. A report on the resolution by the UN News Centre states:

> *'The Security Council today decided that, for the next year, States and regional organizations cooperating in the fight against piracy and armed robbery at sea off Somalia's coast -- for which prior notification had been provided by Somalia's Transitional Federal Government to the Secretary-General -- could undertake all necessary measures "appropriate in Somalia", to interdict those using Somali territory to plan, facilitate or undertake such acts.'*

The resolution was adopted on 16 December 2008. If the UN has provided for all necessary measures to be taken, then why is there insignificant initiative to curb piracy as a long-term solution? Although there could be a lot more reasons, research shows that the most evident reason for piracy is lawlessness in Somalia. Chalk (2010), a senior political scientist at the RAND Corporation suggests that piracy is an extension lead of the poverty and lawlessness tormenting the people of Somalia since the fall of the Said Barre dictatorship in 1991. Writing a commentary in the Los Angeles Times (February 2011) Chalk says that the buildup to piracy leads back to the people of Somali fighting foreign ships for fishing in their territorial water and dumping toxic wastes. Acting on the anger provoked by the foreign ships stealing their fish and by the prevalent poverty, piracy seems to be a more lucrative method than a risk. The report on UNSC resolution 1851 by the UN News Centre points out that the Secretary-General of the United Nations reminds the member nations that piracy is *"a symptom of the state of anarchy that had*

persisted in Somalia for more than 17 years. Anti-piracy efforts, therefore, must be placed in the context of a comprehensive approach that fostered an inclusive peace process in Somalia and assisted the parties to rebuild security, governance capacity, addressed human rights issues and harnessed economic opportunities throughout the country." Along with academic scholars and the United Nations, the task forces involved in fighting piracy off the coast of Somalia as well, believes in the need to bring stability to Somalia as the key to eradicate piracy. In an episode by the NATO TV on "Horn of Africa: Pirate Menace" Commodore Christian Rune (Commander, Task Force 508/SNMG1, Royal Danish Navy) talking about the inability of the use of force as a long term solution says *"we are sort of fighting the symptoms and not the disease down here and to really solve the problem of piracy we have to solve the problem of Somalia".* The commodore goes on to say, *"[we] need to help the local in the area to build up their own capability to curb or fight piracy".* The need for capacity building, as mentioned earlier is ingrained in the purposes of Operation Ocean shield. It is interesting to note that despite a unanimous opinion the solution to eradicate piracy, there is no peace-building operation in Somalia as of yet. That is probably because restoring peace and stability in Somalia is a political matter. It is accepted that the process of solving the problem in Somalia is complex but the agencies involved in counter-piracy actions can contribute by at least starting to focus on their capacity building agenda.

The other problem related to piracy is the lack of legal capacity to capture and punish pirates. Most of the time the detained pirates are freed without any trial due to the lack of law enforcement bodies to investigate and prosecute the cases. The UN Secretary General (resolution 1851) acknowledges both the *"...lack of capacity, domestic legislation, and clarity about how to dispose of pirates after their capture"* and the need for willing states and organizations fighting piracy to come to an agreement regarding *"... prosecution of persons detained as a result of operations..."* (UNSC Resolution 1851). There is very little information on what happens after the pirates are caught by the NATO forces. The process of trying the captured pirates is complex. There is no clarity as to under whose jurisdiction the trial lie if pirates are caught for example on an Iranian origin vessel, flying the Greek flag, on international water with Indian crew. Every time the pirates are captured and released without taking any action, they come back with new and improved tactics. The New York Times (2012) in news analysis on the lack of legal rules quotes a released victim as saying: *"every time these navies' countries let them go, the pirates just laugh at that".* If the international community does not want to take on the responsibility of the captured pirates then they should prepare Somalia to be accountable for their people. It is futile for navies to carry out these high-risk operations only to just let them go free. International politics plays a major role in tackling this problem.

The increase in piracy has led to rise in insurance prices. Hijackings and ransom payment has had an immense effect in insurance prices. In case of an attack the ship owners prefer to pay off ransom as the amount of the ransom is much less compared to losing of the vessel and the money lost while in captivity (Chalk, 2011). There are alternative routes that ships can take around the Cape of Good Hope, but this route is mostly ignored as it increases the length of the journey. The longer the journey, the more is the cost of the journey and with the increasing prices in oil; this is definitely not a preferred option for the ship owners (Chalk, 2011). It is also suggested that piracy is not just constraint to the hunger stricken Somali Pirates. In fact, it is like a business which encompasses more than just the people carrying out the attack. The negotiations that follow include lawyers and negotiators and it is an industry in itself (BBC Magazine, 2009). I will not go into the details of the negotiations and the methods involved in the process but would like to point out the problems involved in rescuing the hostages and how piracy affects the economy. Delivering the ransom money to the pirates is always a problem as sailing the pirate infested waters with huge amounts of money is like a sitting duck for the pirates and dropping off ransoms by air is very costly (Askins BBC, 2009). Lord Levene, the Chairman of Lloyds of London commenting on the problem of piracy from the commercial perspective says that the cost of the maritime industry and insurances increases more due to piracy. He goes on to say that to tackle the problem of piracy, *"[you] have to get to the root cause of the problem. [The] root cause of the problem is not in the ocean, it is on the land".*

Conclusion

The Somali pirates continue to be a major threat to the safety and security of the Shipping Community, constituting approximately 54% of the world attacks (IMB). It threatens maritime routes, world trade, and seafarer's safety, increases the costs of the maritime industry and causes menace in international relations. The work done by the forces of NATO and EU to deter attacks are admirable and have helped increase the safety of the seafarers. Without their presence in the area, the situation would be far worse and it would affect the world trade and economy enormously. The NATO forces are doing commendable work in deterring attacks and protecting the seafarers from the clutches of the Somali pirates. The size of the area is overwhelmingly huge and it is not possible for the forces to be there every time an attack is launched. The self- preventive measures provided in the BMP helps the ships to take preventive measures and reduce the risk of an attack.

However, the operation is focused mainly on preventive measures. With the increase in the number of attacks, preventive measures are no longer sufficient. NATO forces are lacking in carrying out one of the important purpose of the operation-capacity building. Through this paper, I have built an argument regarding the need to address the root cause of the problem. Capacity building is a stepping-stone to tackling the root problem of Piracy. NATO is involved in the counter-piracy operation for three years now and has extended it for another two years. The experience that the forces have in dealing with the pirates has increased and if NATO has outlined the need for capacity building based on these experiences, then it should focus on carrying out the objective. Preventive measures are adopted before a crisis is anticipated not after. Once the crisis has occurred there is no alternative but to address the problem rather than its effects.

The lack of legal jurisdiction to prosecute the captured pirates hinders efforts by the naval forces. The international community should unite to find a solution and a way to fight piracy. It is agreed that the condition prevailing in Somalia makes it difficult to address the piracy problem on shore. There are a lot of hindrances and legal constraints in the path. However, forces like NATO with a mandate to go onshore should take decisions that help facilitate capacity building. The focus on land should be equal to the focus at sea. Measures should no longer be just preventing piracy and it is not enough to merely include needed measures in the purposes of the operations. NATO should carry out all of its purposes outlined for a successful and effective counter-piracy operation. It is time that NATO carries out its operation with the aim of 'eliminating' the problem rather than 'preventing'.

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The United Kingdom

Jack Hansen

Introduction

'The origin of piracy as a criminal offence, in English law, lies in the 1536 acte for the punysshement of pyrotes and robbers at sea' (Kavanagh, 1999:129).

From this we can instantly see that Britain has a long history of dealing with piracy and, importantly, viewing pirates as criminals. In this paper, I will argue that the UK predominantly views pirates as criminals and that the primary means to eradicate a criminal problem is to arrest and prosecute as many as possible in an effort to change a pirate's risk/benefit analysis. It is important not to oversimplify this discussion as the UK is not a unitary actor but one with many different opinions, priorities and capabilities. 'According to the Foreign Secretary: The FCO works closely with the Ministry of Defence, the Department for Transport and the Department for International Development on the issue of Somali piracy' (HoC[1] : Foreign Affairs Committee, 05 January 2012: 42). In addition, I will take the Royal Navy as distinct from the Ministry of Defence as it had a rather more focused view.

There are currently three naval coalitions in the Gulf of Aden, and the UK at some point has been involved

in all of them. They include the US led Combined Joint Task Force-151, the NATO Operation Ocean Shield and the European Union's EU NAVFOR Atalanta. The UK has been active in securing prosecutions for pirates building up a number of transfer agreements with countries in the region so that the Royal Navy can transfer them. There has been an effort to work with the United Nations Office on Drugs and Crime (UNODC) on capacity building in and around Somalia. As a nation with a strong maritime history, it would seem the UK feels it has a vocation to provide a lead in the fight against piracy. This was reaffirmed by the Commons Foreign Affairs Committee who said: 'As a state whose strengths and vulnerabilities are distinctly maritime, the UK should play a leading role in the international response to piracy.' (HoC: Foreign Affairs Committee, 05 January 2012: 3). This explains Britain's efforts to take a lead in counter piracy. For instance EU NAVFOR Atalanta is the first CSDP mission to be under British command, both NATO and EU missions choosing to base their headquarters at Northwood, and the UK Maritime Trade Operation in Dubai, which operates a 24 hour reporting centre to enable swift communication between merchant shipping and naval forces (FCO[2] Naval Operations, 18 August 2011). As I shall discuss, the British lead is important because it is backed up by a heroic narrative whereby the British Royal Navy are sailing off to defend its citizens against cruel pirates in film like style. The dominant understanding of piracy, however, is centred on criminals and prosecutions, which I believe can be tied to the British understanding of how to deal with criminals domestically. I will examine how strong the pull is to more land based activities as well as the idea that there is a war against pirates. It would seem that on a basic level the UK acted on its states perception of the piracy threat, however, the closer you get the more confused policy seems to become.

The UK's Perception of Piracy

In a speech to the Chamber of Shipping, FCO minister Henry Bellingham stated 'the turnover of the British shipping industry is worth £10.7Bn of our national GDP' in an effort to demonstrate why piracy is important to the UK (Bellingham, 12 October 2011). In examining the UK perception of piracy and its importance, whatever other frames are mentioned, the economic aspect is behind it. This may explain the main tension between a naval approach and the relentless rhetoric stating 'we have always been clear that the problem of piracy has got to be solved on land' (Bellingham, 12 October 2012), 'It has become a truism that the long-term solution to piracy lies on land in Somalia' (HoC, Foreign Affairs Committee, 05 January 2012: 4) and '...whilst the root causes of piracy lie on land so does the solution.' (Hague, 23 February 2012). It is stated that for piracy to occur you require economic dislocation from rapid development, recognition of piracy as an available cultural possibility and the opportunity to carry out piracy (Vagg, 1995:63). In line with this, the UK appears to focus specifically on the final factor through naval forces patrolling the Indian Ocean and Gulf of Aden. A second set of conditions that are required for piracy have been identified, focusing specifically at the Somali example. They are - the existence of a favourable environment, the prevalence of ungoverned spaces, the existence of weak law enforcement, and the availability of great rewards for piracy while the risks are minimal (Samatar et al. 2010:1378). The government appears most conscious of the high rewards on offer and seeks to 'change the perceived risk/ reward ratio for pirate activity' (HoL[3] , European Union Committee, 2010:6). In addition to changing the risk/reward ratio, it is stated that 'the government is clear that pirates must pay for their actions' (Bellingham, 2011). This indicates that there is something more than simply making sure that UK trade does not suffer, with the inclusion of justice and moral standards. The UK government could be accused of oversimplifying the issues by creating a 'bad guy' image for the pirates, which I will return to in regards to the Royal Navy.

I have mentioned that I take the UK's dominant perception to be one of a criminal problem but it is useful to be aware of the varying views with the UK as an actor. The Ministry of Defence has set out seven military tasks, three of which demonstrate a commitment to counter piracy. They are a commitment to 'supporting the civil emergency organisations in times of crisis', 'defending our interests by projecting

power strategically and through expeditionary operations', and finally 'providing security for stabilisation' (MOD[4] The Strategy for Defence, 2011:3). All three of these areas can encompass piracy showing it as recognised within military tasks. The second task mentioned links to the idea that 'the political need to fight piracy has presented a political opportunity for nations to increasing their naval presence in the region to serve other national purposes' (Willett, 2012:20). Linked to the statement 'you don't need to be a big navy to make a difference' (Willett, 2012:22) it is easy to see why this is a strategically attractive option for the British Royal Navy who, while not being small, is challenged by cuts and opposing operational demands.

While not in the headlines, The Department for Transport (DfT) is involved in everyday counter piracy measures. The DfT view piracy as a security, and a health and safety issue. This can be seen by their 'Guidance to UK Flagged shipping on Measures to counter Piracy, Armed Robbery and other acts of violence against merchant shipping' (DfT[5], 2011). The DfT focus far less on the pirates and their activities but instead provide information to assist 'all UK registered ship owners, companies, ship operators, masters and crews' (DfT, 2011: 5).

The Department for International Development (DFID) is the department charged with coming up with a 'solution on land'. The DFID[6] demonstrates a more humanitarian perception of piracy focussing less on the crimes committed and changing the debate to look at piracy as a symptom of larger problems. They argue that 'unemployment and extreme poverty ... play a key part in young men turning to piracy...' (DFID world must address failure..., 2012). Although only partly involved in counter piracy activities I will return to the DFID when looking at activities as there is a possibility the UK may recently be moving further to this position.

I mentioned the idea that the government is simplifying the issues of piracy where pirates are 'bad guys' and the Royal Navy are playing the part of the valiant police. I argue that the Royal Navy is developing a heroic narrative and this is displayed in various ways. One recent news article simply finished with the statements: *"the Crews final comment was: please help." "And that is what we went in to do"* (Royal Navy 'Overwhelming show of force..., 2011). Language of 'pirate-busting' (Royal Navy the Knight rides..., 2011) and 'efforts to strangle the piracy scourge' (Royal Navy Naval Force Returns..., 2012). These news reports published by the Royal Navy all point to the view that the UK think of themselves as the 'good guys' saving poor fishermen and guarding the World Food Programme. The War in Afghanistan, dragging on for over ten years with virtually no positive press may give the Royal Navy an incentive to parade its counter piracy activities as wins. The narrative also provides cover for the more traditional power based reasons for being in the region. However, the main issue to note with the heroic narrative is the idea that the Navy will sail in and arrest the 'bad guy' fixing the piracy problem forgetting that the solution lies on land as the government has stated.

In an essay directed at the European Union (EU) several reasons were outlined for why the EU is concerned with piracy, and although not intended, I contend that the list fits the UK as well as its order being quite telling. Firstly, the reason was given that piracy constitutes a threat to EU citizens, and secondly that pirate raids harm maritime trade. Thirdly, it was said that piracy in the horn of Africa constitutes a threat to energy security and fourthly, is the possibility that pirates would form a link with terrorist groups. The fifth reason is the concern that piracy constitutes a risk to marine environment and lastly, both in this list and in importance, I would argue is that piracy harms Somalia (Germond and Smith, 2009:580). Now that we have discussed some of the various perceptions the UK holds on piracy and reason for why the UK is interested in piracy I will move on to the UK's counter piracy activities.

The UK's Counter Piracy Activities

4   Ministry of Defence
5   Department of Transport
6   Department for International Developement

To examine the UK's counter piracy activities I have divided the discussion by looking separately at the Department for Transport based initiatives, Naval Based activities, initiatives directed at the prosecution of pirates and finally any land based activities. Although there is inevitably going to be some overlap, there will be merit in identifying which of these areas are favoured before I move on to examine if there are any inconsistencies between perceptions of piracy and activities.

Transport Based

The DfT has developed 'guidance to UK flagged shipping on measures to counter piracy, armed robbery and other acts of violence against merchant shipping' in 2011. This includes some basic information on 'the importance of taking action to deter such acts and advises on how to deal with them should they occur' (DfT guidance to...., 2011:5). The DfT also play a quasi-regulatory role with regard to armed guards stating 'shipping companies that decide to use armed guards...must refer and adhere to the government's interim guidance to UK flagged shipping on the use of armed guards...' (DfT guidance to...., 2011:34). The DfT is responsible for the 'United Kingdom National Maritime Security Programme' 'to provide a comprehensive protective security regime for UK ships and ports' (DfT brief overview of..., 2008). The DfT regulates the International Ship and Port Facility Security (ISPS) code, which was created post 9/11. The National Maritime Security Committee is used for consultation with the maritime industry (DfT brief overview of..., 2008). The DfT contributes with other departments to contingency plans and responses to maritime security alerts and incidents (DfT brief overview of..., 2008). From these measures we can see that the DfT have a low key but very important role in regulating and advising maritime security for UK shipping.

Naval Based

There are currently three multinational task forces to counter piracy in the Gulf of Aden and off the coast of Somalia. The Royal Navy states that their 'purpose is to deter, disrupt and suppress piracy and protect ships going about their lawful business, securing freedom of the seas for all nations.' (Royal Navy, Counter Piracy) In addition to the multinational task forces, national navies also act unilaterally. To coordinate these efforts in 2008 the Shared Awareness and Deconfliction (SHADE) mechanism was established to improve coordination and minimise duplication (HoC, Foreign Affairs Committee, 2012:29). Further to this, UN resolution 1851 called for the establishment of the UN Contact Group on Piracy off the Coast of Somalia (CGPCS). The contact group has five working groups and the UK chairs Working Group 1. Working Group 1 works 'improving naval operational co-ordination and building the judicial, penal and maritime capacity of regional states to ensure they are better equipped to tackle piracy' (FCO, International Response, 18 August 2011).

The European Union's EUNAVFOR Operation Atalanta is the first ever EU Naval operation. Its original mandate was for one year from December 2008, but was extended in 2009 and 2010 to 2012 and looks likely to be extended further (HoC, Foreign Affairs Committee, 2012:28). EUNAVFOR Atalanta's main tasks are to escort merchant shipping vessels carrying aid for the World Food Programme as well as vessels of the African Union Mission in Somalia (AMISOM), protect vulnerable shipping in the Gulf of Aden and Indian Ocean, and lastly to monitor fishing activity off the coast of Somalia. (EUNAVFOR Somalia, 31 January 2011). Member states can contribute to the operation in a number of ways including navy vessels, maritime patrol and reconnaissance aircrafts, Vessels Protection Detachment teams as well as providing staff for the headquarters. The force usually consists of four to seven surface combat vessels and one to two auxiliary ships. (EUNAVFOR Somalia, Mission: 2). The Mission claims to be utilising a comprehensive approach with an EU Training Mission in Uganda, support to AMISOM, giving Development aid from the EDF and Humanitarian aid from ECHO (EUNAVFOR Somalia, mission, 31 January 2011). This approach has, however, been criticised as not comprehensive enough with 'a piecemeal approach...still prevalent' and secondly by those who hold that the EU has placed too much emphasis on military means with the dangers that come with becoming embroiled in a civil conflict (Petretto and Ehrhart, 22 March 2012). These criticisms are important as they are echoed in the UK approach, which has a challenge to

coordinate all the different departments and may be guilty of prioritising military means. The British have had some reservations about CSDP missions in general and were lukewarm to Operation Atalanta. NATO, however, was becoming overstretched in Afghanistan and thus 'it was still preferable to doing nothing or- even worse- allowing the French to take the lead in a high-profile multinational anti-piracy operation that clearly affected British shipping interests.' (Petretto and Ehrhart, 22 March 2012). Once agreed the UK's role was enhanced when it was decided that the operation would be commanded by a British rear admiral and that the headquarters would be located at Northwood in the UK (Petretto and Ehrhart, 22 March 2012).

NATO launched Operation Ocean Shield in August 2009 and succeeded two shorted counter piracy operations, Operation Allied Provider from October to December 2008 and Operation Allied Protector from March to August 2009 (NATO, Counter-piracy operations, 09 February 2012). Its primary focus is counter piracy activities at sea but it also contributes to capacity building efforts for regional states wishing to act against piracy (HoC, Foreign Affairs Committee, 2012:28). This winter NATO has had a 'surge' against piracy with the Royal Navy having disrupted the actions of seven pirate groups, freeing 43 sailors held hostage and handing over 36 suspects for prosecution. (Royal Navy, Navy's surge..., 15 February 2012).

The third operation in counter piracy is the Combined Joint Task Force 151 (CTF-151) launched in January 2009 as a US led multinational force (Hoc, Foreign Affairs Committee, 2012:28). The CTF-151 works 'actively to deter, disrupt and suppress piracy'. The Royal Navy acting under NATO, in conjunction with the CTF-151 launched a mission to rescue hostages held on the Italian ship the MV Montecristo on 11 October. With the crew taking safety in the citadel, the Royal Navy launched a Lynx to hover overhead with snipers while Royal Marines proceeded to board the ship before the pirates surrendered (Townsley, The MV Montecristo...). This is important as it shows a growing willingness to use force to arrest pirates and free hostages. Further to the liberation of the hostages, later in the same week the HMS Somerset acting under the CTF-151 stopped a suspected pirate mothership thought to have been used to launch the attack on the MV Montecristo whilst also freeing 20 Pakistani fishermen (Royal Navy, Navy strikes third.., 20 October 2011). This would signal growing success in the naval operations which corresponds with the fact that while the number of attacks in 2010 remained consistent with the previous year, the number of attacks that had been prevented went up by 70% (HoL, European Union Committee, 14 April 2010: 14). This kind of hostage rescue operation was explicitly advocated by the Chandlers who were kidnapped on 23 October 2009 with the Royal Navy acting more cautiously than in the case of the Montecristo (HoC: Foreign Affairs Committee, 05 January 2012: 17). There are worries however that this signals an escalation in the violence involved with piracy. This was demonstrated recently when a Danish warship open fired on a pirate mothership to prevent it from fleeing. There were 18 hostages on the boat and two of them died (Los Angeles Times, 28 February 2012). The use of force seems to be a constant tension within the UK with some arguing for more interventions but the Foreign Affairs Committee concluded 'the cautious approach to military operations when hostages are involved is appropriate and agree that protecting the safety of hostages is paramount. However, if the use of violence against hostages continues to increase this may change the balance of risk in favour of military intervention in the future' (HoC: Foreign Affairs Committee, 05 January 2012: 34). This statement gives us a clear willingness to increase the use of force if the treatment of hostages changes.

Prosecution Based

In the communiqué from the London Conference on Somalia it was stated that 'there will be no impunity for piracy. We called for greater development of judicial capacity to prosecute and detain those behind piracy' (FCO, London conference on Somalia, 23 February 2012). The international law on piracy is laid out in articles 100 to 107 of the UN Convention on the Laws of the Sea (UNCLOS). Article 105 states 'On the high seas, or in any place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons

and seize the property on board' (Treves, 2009:401-402). This has been extended by Security Council resolutions to permit counter piracy actions within Somali waters.

The UNODC[7] counter piracy programme has been in place since May 2011, with two related aims. Firstly, to support regional piracy prosecutions and secondly, to support additional prison capacity in Somalia through the piracy prisoner transfer programme (UNODC, Counter Piracy Programme..., 2011:1). The UK has confirmed that it will make a further donation this year to the UNODC of £2.25 million to support work in Mauritius, the Seychelles, Tanzania and Somalia (Bellingham, 2011).

Unlike land-based efforts, which we will see are largely based around donations with regard to prosecutions, the UK has made some unilateral efforts. The UK signed a MOU[8] with Kenya for the transfer of pirates for prosecution in December 2008 and another with the Seychelles in July 2009 (FCO, prisoner transfers, 16 August 2011). An example of this was demonstrated recently when the RFA Victoria arrested 14 pirates on a hijacked dhow before handing them over to the Seychelles for prosecution (Royal Navy, Pirates face justice...2012). Further to this, at the London conference on Somalia it was announced that a MOU with Tanzania had been signed and an agreement with Mauritius would follow later this year (FCO, Somalia conference sees important..., 23 February 2012). With prison capacity work continuing, in a new move the UK has also pushed for post-sentence transfers back to Somalia with Somaliland signing an agreement with the Seychelles and Puntland showing interest. The Foreign Affairs Committee, as well as the HoL European Union Committee, have criticised the government for failing to track ransom money and letting 'kingpins' get away, with the Minister admitting 'it is fair to say that we were possibly slow to look at this area as a priority' (HoC, Foreign Affairs Committee, 2012:59). This looks set to change with William Hague announcing 'the UK is to provide the director and fund the construction of the new Regional Anti-Piracy Prosecutions Intelligence Co-ordination Centre (RAPPIC) based in the Seychelles' (FCO, International Community Targets Kingpins, 21 February 2012). The RAPPIC will be used to turn intelligence into useable evidence, which has been a big problem for the Navy with hostages being unwilling to testify, the need to catch pirates in the act and the general difficulty in telling the difference between pirates and fishermen (HoC, Foreign Affairs Committee, 2012: 45). From these new measures we can see a substantial shift away from disrupting pirate activities to prosecuting pirates. The UK appears to be taking a lead in finding new and novel ways to tackle the issues that arise when attempting to prosecute pirates. However, the Kenyan agreement has run in to difficulties with the Kenyan government who are 'unhappy with the lack of support provided for prosecuting and holding pirates' (Hoc Foreign Affairs Committee, 2012:51). It may also be asked if the Naval operations, coupled together with the huge diplomatic effort involved in constructing these agreements, are worth it when you look at the number of pirates detained. The table below shows firstly the low number held but also the fact that a number of other states have prosecuted pirates domestically, while the UK has refused so far to do so.

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7   United Nations Office on Drugs and Crime
8   Memorandum of Understanding

Country		Number Held	Notes
Belgium		1	
Comoros		6	
France		15	
Germany		10	
India		119	
Japan		4	
Kenya		143	50 Convicted
Madagascar		12	
Malaysia		7	
Maldives		37	Awaiting deportation in absence of law under which to prosecute
Netherlands		29	5 convicted
Oman		22	All convicted
Seychelles		6	All convicted
Somalia	Puntland	290	Approximately 240 convicted
	Somaliland	30	All convicted
	South Central	18	Status of trial unclear
Republic of Korea		5	
Spain		2	
Tanzania		12	6 convicted
United Arab Emirates		10	
United States		28	8 convicted
Yemen		120	All convicted
TOTAL STATES: 20		**983**	

Source: United Nations Office on Drugs and Crime, 3 November 2011

Land Based

'In 2010, the UK Government set up the British Office for Somalia, based out of the British High Commission in Nairobi,' and on 2 February 2012 the British announced its first ambassador to Somalia in 21 years, with an embassy opening when possible (FCO, UK Diplomatic Relations..., 02 February 2012). The UK supports the establishment of the UN Political Office for Somalia in an effort to engage with the local politics. Further to this, the UK supports AMISOM with approximately £27.3 million over this financial year (HoC: Foreign Affairs Committee, 05 January 2012: 63). In March 2011, the DFID announced it was to increase its aid to Somalia to £63 million per year while the FCO has provided over £6 million in the last year to support counter piracy capacity building programmes (HoC: Foreign Affairs Committee, 05 January 2012: 3). In October 2011, Henry Bellingham announced that the government was to commit £2 million to 'community engagement and economic development in coastal regions' (Bellingham, 2011). Interestingly, Bellingham also stated that the government was working with industry to attempt to bring them in to the fold with regard to land based development (Bellingham, 2011). Although this sounds like quite a progressive policy, so far it is just a good idea and nothing more. However, under the DFID there are some more concrete plans to tackle the causes of piracy. The DFID states that 'aid projects focused on resolving local conflict and strengthening the police are expected to double next year', as well as, stating that 'job creation and economic development will also double, creating 45,000 jobs across Somalia by 2015' (DFID, World must address..., 30 January 2012). This has a clearer focus and was announced shortly before the London Conference on Somalia held on 23 February 2012. On 22 February 2012 Andrew Mitchell, the International Development Secretary, announced the creation of the International Stability Fund to be led by Britain to 'help create jobs, agree local peace deals and set up police, courts and basic services in areas where there is less fighting' (DFID, UK leads efforts... 22 February 2012). These recent developments could be seen as a trend towards a more land based approach. However, it is far too early to tell if they are purely rhetorical or a genuine change.

Consistencies between Perceptions and Activities

I noted before that the UK's main perception of piracy appears to be of a criminal problem that requires prosecutions. Following this frame, it would appear that the UK is acting relatively consistently. Although arguably low numbers have been prosecuted, the UK has made an effort to establish procedures for the effective prosecution and detention of pirates. The FCO has stated that it is 'working to ensure pirates can be detained and prosecuted, that the proceeds from piracy are pursued and stopped, and that the shipping industry is able to conduct its business as safely as possible' (FCO, Piracy, 2011). The recent establishment of the RAPPIC display the government fulfilling its stated commitment ransom payments. The Royal Navy's recent assertiveness in dealing with pirates also shows the UK's willingness to act against pirates for prosecutions. However, as I stated the number detained have been low and this may point to the main disadvantage of the UK's approach. The UK is pursuing a policing approach with the Navy arresting pirates in the act and organising transfer agreements and capacity building projects to ensure pirates are brought to justice. This 'tough on crime' approach can be linked to a traditional British approach to crime in the UK. New labour claimed to change British policy to a policy of 'tough on crime, tough on the causes of crime' (Labour Party, 1997:348) but whether this was achieved in the UK it is not for discussion here. What is clear is that with regard to piracy the UK are tough on crime in the Indian Ocean but failing to be tough on the causes of crime in Somalia. The main problem with this approach of being 'tough on crime' is that after pushing pirate activities out of the Gulf of Aden and into the wider Indian Ocean it is near impossible to police. In 2011, I could have finished this evaluation here with a damning verdict on the UK's 'tough on crime' approach. Yet in 2012, there does seem to be a change of tactic with hostage rescue missions (tougher on crime if you will) and a higher engagement with Somalia itself with visits from William Hague to promises of donations for important programmes. It is much too early to tell if these are simply grand statements made for the benefit of the London conference on Somalia but definitely progression to watch.

Conclusion

In this essay while examining the UK's role in counter piracy it has been important to note the differing perspectives and actions of actors that come under the umbrella of the UK. However, I have stated that the UK's dominant perspective is of a law enforcement role which has been carried out more and more effectively building up transfer agreements, supporting capacity building projects and the recent establishment of the RAPPIC show real intent on this front. My second conclusion is that while the UK is acting consistently with its main perspective on piracy, it has so far failed with regard to a land based solution. I noted that there have been recent developments and promises by the government, notably the inclusion of British industry on land. The effectiveness of these measures will have to be the subject of a further essay when these policies can be scrutinised more fully. I noted some criticism of the European Union's comprehensive approach with an emphasis on military means and a piecemeal approach when it came to land based activities (Petretto and Ehrhart, 22/03/2012). If the UK is viewed, as I believe it should be, not as a unitary actor but as a group of opposing actors then this criticism can be said of the UK as well. The main issue is whether the London Conference on Somalia is a signal towards a more coherent, comprehensive approach or further hollow rhetoric of a land based solution.

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South Africa

Phillippa Lewis

Introduction

Piracy does not currently present a problem within South African territorial waters; however, the country has become increasingly concerned about such acts since December 2010 when Somali pirates launched their southernmost successful attack, hijacking a Spanish fishing trawler, the Vega 5, and her 24 crew in Mozambique waters (Mwangura 2012). This shift in activity southwards led to a recognition by South Africa of the need to act to curtail the threat. Whilst the South African Navy has spoken of its preparedness to tackle this threat, criticisms have emerged about the South African naval capabilities and their ability to undertake anti-piracy missions.

Whilst a large amount of anti-piracy rhetoric is based on naval capabilities, piracy is not merely a security problem and thus, cannot be tackled by purely military means. Fundamentally, it is multidimensional in nature. Rittel, Horst, and Webber (1973) speak of 'wicked' problems, those of which no 'solution,' in the sense of an objective or definitive answer can be found. 'The search for scientific bases for confronting problems of social policy is bound to fail, because of the nature of these problems' (Rittel et al. 1973:155). Piracy is reflective of such a notion and it is important that discourse is not limited by an emphasis on hard measures. An examination of piracy, and resultantly anti-piracy, must contain a multitude of perspectives including, security, legal, law and order, development, humanitarian, and governance.

South Africa is a complex anti-piracy actor. Due to the nature of the problem facing the country, its approach does not form a coherent doctrine, but instead it is multi-faceted and aims to tackle the many dimensions of the piracy. An emphasis is necessarily placed on co-operation with a multitude of regional and international actors, as South Africa recognises that piracy cannot be solved by one country alone, and cannot be solved purely by military might. Instead, importance is seemingly placed on the need to address the 'root causes' of piracy, illustrated by renewed efforts to work with the Transnational Federal Government in creating political stability within Somalia (BUA NEWS:2012). Whilst there has been increasing emphasis on tackling piracy problems (notwithstanding questions as to their effectiveness), South Africa faces a decision of priorities. While its relative economic strength in the context of the Southern African countries places a certain burden of responsibility on the country to assist in the

development of the region, South Africa is facing its own developmental problems as it deals with inequality and tensions in the post-colonial and post-apartheid eras. The recognised link between piracy and instability creates a need for regional development in order to tackle the root causes of the problem, but South Africa must balance this with the needs of its own people and its own national interests.

As already noted, South Africa is a complex anti-piracy actor due to the nature of South Africa as an actor and the nature of the piracy problem facing the country. This essay seeks to provide an insight into the development of anti-piracy measures in South Africa, and place them within the wider context of South Africa's national, regional and international commitments and responsibilities. While South Africa recognises piracy as a threat, its role in tackling it is necessarily only part of a wider international effort to secure waters. Whilst such an international effort will prove essential in addressing the threat of piracy in the long-term, South Africa is also faced with the negative repercussions of such efforts, most notably a spread of pirate activity further southwards and closer to South Africa's waters. The spread of piracy has the potential to place South Africa in conflict with other anti-piracy actors, most notably those like the European Union, which is undertaking substantial naval missions in Somali waters. Whilst South Africa speaks of co-operation, it is clear that there is growing pressure on the country to play an active role in counter-piracy missions, both due to its status as a leading power in the region, and in an attempt to offset the negative effects of international naval missions.

South Africa and the Problem of Piracy

South Africa is a maritime nation. According to statistics outlined in an address by Minister of Transport Mr Sibusiso Ndebele, during the 106th Session of Council of the International Maritime Organisations (IMO) in London 2011, South Africa's sea-borne trade accounts for over 50% of its GDP, and 98% of South Africa trade volume or 80% of its trade value by sea. He described South Africa as a leading power in Africa's intra-regional and international trade, whose key partners, including those in the BRICs (Brazil, Russia, India and China) are regional powers with vast maritime interests and capabilities in sea trade, commerce and naval influence. Furthermore, he stated that 'South Africa's maritime strategic interests bring with them huge obligations that include providing for the safety and security of navigation and ships, ensuring the effective protection of the maritime environment' (Ndebele 2011).

Ndebele also spoke of South Africa as part of the continent of Africa, which has yet to assume its rightful place in the international maritime industry. This was attributed to the fact that, 'the African content has the lowest intra-regional trade levels compared to any other region in the world' and 'Africa is the only region in the world with no merchant tonnage under its control (registry) to handle her coastal intra-regional and extra-territorial seaborne trade' (Ndebele 2011). In light of this, the current recession is seen to offer South Africa and the continent a 'unique opportunity to implement the African Maritime Charter – which was adopted in Durban to implement the African Union (AU) Maritime Conference in Durban in 2009- through a comprehensive African Maritime Development Strategy' (Ndebele 2011).

Trade statistics, therefore, illustrate the pivotal part that maritime security has on trade and the South African economy more generally and thus the importance of engaging in anti-piracy missions. Within this context, the Maritime Transport and Service Industry Black Economic Empowerment Charter states as its overarching long-term vision 'to develop South Africa to become one of the world's top 35 maritime nations by the year 2014' (BEE Charter 2003: clause 2.1.1). Such a vision is premised on the goal to 'substantially increase the number of SA flagged vessels and develop new South African shipping companies that are globally competitive' (BEE Charter 2003: clause 2.1.3). The development of South Africa's maritime industry is undoubtedly dependent on its maritime security and the maritime security of the region more generally and thus the effective curtailing of piracy activity.

Whilst pirate activity provides much disruption to the area and succeeds in undermining maritime security, it forms part of a larger framework of maritime threats that challenge both South Africa and the global community. A 2008 United Nations Office on Drugs and Crime (UNDOC) Report notes that West

Africa, which has never had a drug problem in the past has become a hub for cocaine trafficking (roughly 50 tonnes a year pass through the region) (UNODC 2008:1). Illegal, unregulated, and unreported (IUU) fishing is estimated to cost-sub-Saharan Africa about $1 billion annually (MRAG 2005:7), the catch from which floods international markets, depresses prices, and discourages legal and environmentally sustainable practise around the world. More generally, Africa's $1 trillion per annum maritime economy is overrun with illegal trafficking. This includes a multibillion black market in military arms, illegal logged forest products that represent as much as 70 per cent of African timber harvests, (World Bank 2006) and counterfeit medications that account for up to 50 per cent of all sales on the African continent (UNODC 2009:34). Such examples, as outlined by Vogel (2011) illustrate just a few of the problems in a large, complex and interconnected framework of security challenges, which require extensive resources to tackle and often detract attention away from piracy (although all are somewhat interlinked). Whilst all do not necessarily affect South Africa directly, they form part of the larger challenge, which it and the international community must address in order to secure international waters and uphold maritime security in the region creating economic benefits. The scale of the maritime security problem, as illustrated by these figures, also indicates that current measures are failing, and in some cases allowing the security situation to worsen. Whilst a large quantity of South Africa's maritime-security rhetoric is focused on piracy, it is clear that these acts form part of a wider picture, and must not overshadow other problems, which have great developmental consequences despite the fact that they do not contain as many vested interests from international actors and do not fall as far into the international spotlight.

On a local level, South Africa, being a maritime nation is 'endowed with a double geo-political identity, namely the land and the sea. In turn, this twin blessing (often ignored) to a large degree shapes the country's maritime and naval interests' (Siko 1996:41). South Africa's Maritime Doctrine (2006) describes the country as having a coastline of 3924 kilometres with an Exclusive Economic Zone (EEZ) of 1,553,000 square kilometres. Furthermore, 'the geo-strategic position the RSA occupies as a country is an important factor that guides the country's use and security of the seas. The importance of its geo-strategic position is followed by its maritime zones, marine resources, marine ecology and conservation – and all of these factors carry with them immediate national, regional and international obligations' (Maritime Doctrine 2006:15). This obligation is partly due to South Africa's location as a maritime choke point in the Southern Hemisphere, surrounded by the Indian, South Atlantic and Southern Oceans and a major shipping route. Such obligations to protect its waters increase international pressure on South Africa to become a power projector and to undertake an active part in anti-piracy missions.

> "*It is this (the Cape Sea Route) route that is the Navy's ward. It is the Navy's duty to police it … To watch it… To care for its users - the mercantile fleets of the world. For this they work, and while doing it, the grey ships can strengthen the bonds of friendship with our neighbours, and can make new friends, and can hold all that is best in maintaining the brotherhood of the sea. Then they are doing their proper appointed peacetime task. They are the 'Grey Diplomats'*" (W.J. Flesh and Partners 1973).

These concluding words of South Africa's Navy: The First Fifty Years, as quoted on the South African Naval Website illustrate the perceived responsibilities that the navy face in the context of an increasingly dynamic security situation. Siko (1996) speaks of certain rights and responsibilities that come with having such a vast area under its sovereign control. 'South Africa is a member of the International Maritime Organization (IMO), and also the International Hydrographic Organization (IHO). As a subscriber to the United Nations Convention on the Law of the Seas (UNCLOS), and including being a signatory to the convention on Safety of Life at Sea (SOLAS), South Africa is morally bound to observe these normative international guidelines' (Siko 1996:41). Thus, sovereign right is balanced with a responsibility to protect the area for the international community and so the country must be seen to be playing an active role in counter-piracy missions.

The South African economy is served by several ports on its coastline: Durban, Richards Bay, Port Elizabeth, East London, Cape Town, Mossel Bay, Saldanha Bay and Coega. Whilst pivotal to the South

African economy, these ports also serve those economies of its landlocked neighbours and those in the Southern African Development Community (SADC). South Africa, therefore, is not alone in having a vested interest in protecting both its waters, and those waters around it more generally against piracy in times of a growing threat. The South African Maritime Doctrine describes South Africa as an island economy: 'This virtually complete reliance on the ocean for trade renders South Africa very vulnerable and emphasises the strategic importance of commercial ports and the oceans bordering the country. The same are vital to the economies of the rest of Southern Africa and the interdependence of these economies and the South African maritime community cannot be over emphasised. This implies that ports, as vulnerable economic choke points, must be protected at all cost' (Maritime Doctrine 2006:20). This point is reflective of the increasing importance placed on piracy, and maritime security more generally within South Africa as a form of preserving the country's self-interest and as part of the multitude of actors with which it is involved.

South Africa relies on the UNCLOS definition of piracy as defined in their Maritime Doctrine (20061:111):

As defined in 1982 UNCLOS, piracy is an act that can only be committed on the high seas and for which universal jurisdiction applies (that is to say, any state can apprehend a pirate vessel, regardless of its flag state). As defined piracy consists of the following:

(a) any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or passengers of a private ship or 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 any 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 a. and b. above.

Such acts of piracy committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft, are treated in the same way as acts committed by a private ship.' (UNCLOS 1982: 60-61).

The recognition of this definition of piracy illustrates the legal framework in which piracy is viewed by South Africa. Accordingly, under this perspective an emphasis is placed on the law and order side of piracy, namely criminalising the act of piracy itself. This apparent focus on law and order is in conflict to the apparent focus on naval and military methods as a means to combat pirate activity. Furthermore, such attempts to focus on the criminalisation of piracy are necessarily hampered by an inadequate legal framework in many of the African countries and a relatively poor international record of arresting pirates.

The problem of piracy was emphasised in an address by Lindiwe Sisulu, Minister of Defence and Military Veterans at the SADC Extraordinary Meeting on Regional Anti-Piracy Strategy (2011). She noted that piracy had been a recurring feature on the agenda since 1995 and expressed a wish to move it from the discussion agenda to the operations agenda, although she expressed thanks for current levels of cooperation. In describing South Africa's interest in anti-piracy, Sisulu notes the relative distance from piracy that South Africa had previously enjoyed. However, this changed due to the increasing vulnerability of their major trade artery in Eastern Africa. 'One major reason why speculations point towards pirates moving southward is the recent discovery of oil and gas off the Tanzanian coastline. Six million tonnes of oil are transported around South Africa's western coastline, which makes this a prime target for pirates' (Sisulu 2011). It is clear therefore, that South Africa is growing as an anti-piracy actor having defined

maritime piracy as a security threat to the region in recognition of the need to protect its self-interests in time of changing circumstances by stopping the spread of piracy before it become a serious problem in South African waters.

Underpinning South African rhetoric on piracy is a need for cooperation, and an awareness of the effect of piracy, not just on South Africa, but the wider region and its development illustrated by its work with regional development bodies, which will be examined later. South Africa's interest, is ultimately underpinned by the movement of piracy in to the waters of Southern Africa, although not in South Africa specifically, and the exposure that it entails. It is noted that the region is becoming increasingly vulnerable and is seen as 'an alternative to Somali pirates as they try and avoid the clamp-down of various maritime task forces around the Horn of Africa and the Gulf of Aden – purely by moving into largely unprotected parts of the Indian Ocean' (Sisulu 2011). This increasing instability and vulnerability in the South African maritime domain is an apparent unwelcomed side effect of other piracy actors – namely the international anti-piracy forces. Although not limited to the actions of international naval forces, this point does prove a necessary weakness of the approach in combatting piracy, namely that resources are not sufficient to cover the whole area and thus, the likelihood is that pirates will adapt to the changing circumstances and move to new areas further weakening international efforts. This change in the location of piracy also illustrates the potentially conflicting aims between the actions of South Africa and other international naval forces when tackling piracy – namely South Africa's aim to prevent the spread of piracy southwards and the larger operating area used by pirates as a result of international efforts to prevent its occurrence off the coast of Somalia. Similarly, the spread of piracy has also been attributed to the increase in the number of ships taking the longer and more hazardous route around the Cape of Good Hope in order to try to avoid pirate activity in the Gulf of Aden and the Suez Canal – notable piracy hotspots. Such a diversion of ships is not only detrimental to the spread of piracy, but also to the economy as the cost of shipping increases with the necessary increase in fuel and time. *'Rerouting a single tanker from Saudi Arabia to the United States around the Cape of Good Hope adds approximately 2,700 miles to each voyage and about $3.5 million in annual fuel costs'* (Mbekeani and Ncube 2011:6). Such increases in costs are likely to be passed on to the consumer having a negative effect on the economy. Pirate activity necessarily has negative consequences on trade, but its effects are not limited to this. Tourism forms an essential part of nations' economies, and its success is widely based on stability. Piracy and other maritime security issues undermine such stability and confidence in the eyes of the international community and thus have a negative impact on the tourist industry affecting the jobs of local populations. Additionally, whilst there have been reports of the East London Harbour Port potentially benefitting from the re-routing of ships around the Cape of Good Hope (Africa.gm 2008), these are described as 'minor' and are largely unsubstantiated in official documents.

South Africa's approach to piracy is necessarily co-operative and one that acknowledges that it is a problem that cannot be placed within a security framework alone and thus one that cannot be solved via purely military measures. Recognising the importance of the sea, South Africa is working within a number of international organisations including the United Nations (UN), the African Union (AU), and the Southern African Development Community (SADC). In addition, it is taking unilateral action as a nation-state. In an US Africa Command-organised Maritime Security Conference (2010), AU Commission deputy chairman Erastus Mwencha spoke of Africa as 'under attack'. Outlining all of the potential problems that Africa faces, including human trafficking, dumping of toxic waste, money laundering, piracy, corruption, Mwencha stated that 'the leading threat to Africa's maritime domain however remains the threat of ignorance.' Accordingly, 'until there is a true understanding of the geo-strategic importance of Africa's maritime domain for Africa's socio-economic development growth, how central it is for the wellbeing and prosperity of millions of Africans, the scope and magnitude of all the afore mentioned threats and vulnerabilities will continue to grow' (Mwencha 2010). This view was recognised by the US AFICOM Commander General W.E Ward who, in his remarks at the conference stated that 'a phrase we routinely heard during the earliest days of the U.S. Africa Command was "African solutions to African challenges." We agreed, and still agree and we know that imposed strategies won't work' (Ward 2010). Although

cooperative then, an emphasis both within South Africa and within the organisations with which it works, is that of creating a regional, or continental based strategy that seeks to address the issues from an African perspective rather than that of internationally enforced ideas and mechanisms. This focus on African solutions, however, contrasts sharply with the high level of international involvement in the area and the leading role that organisations such as the United Nations and European Union are playing in the fight against piracy, illustrating the shortcomings of regional methods.

South Africa's Counter-Piracy Practices

A speech by Mr Thabang Makwetla, Deputy Minister of Defence and Military Veterans to a conference on 'Forging a Common Approach to Maritime Piracy' in Dubai (2011) outlined the South African position on anti-piracy measures. Makwetla expressed support for the sentiment expressed by the Secretary General of the United Nations, Ban Ki-Moon when he emphasised the need for stability in Somalia in order to halt pirate activity. 'There is indeed an urgent need to combine the vital sea-based anti-piracy strategies and efforts to find a permanent political settlement of the Somali conflict... this means, at the same time, to address the root causes of piracy and taking decisive actions against piracy and impunity' (Makwetla 2011). In accordance with this view, South Africa recognises the need for a holistic approach, and one that must have both short and long term objectives for Somalia in both creating a stable country and ending pirate activity – two aims that are interlinked.

In addition, Makwetla expressed agreement with the position of the African Union Peace and Security Commission (AU-PSC) when it addressed the need to combat the dumping of toxic waste and illegal fishing, which was proving detrimental to the lives and livelihoods of Somalia's population. Moreover, Makwetla expressed the wish to support the sentiment expressed by *'the Minister of Foreign Affairs of the Republic of Tanzania, His Excellency Mr Bernard Membe, regarding the indictment on all of us for the unconvincing performance over two decades during which Somalia has progressively regressed into a failed state'* (Makwetla 2011). Support for such a statement further indicates South Africa's position on the need for a political solution in Somalia as a pre-requisite to maritime security and thus indicates a framing of the issue of piracy as a governance problem. However, this statement also illustrates the ineffectiveness of previous actions taken by states to tackle the political problems in Somalia and thus doubt can be placed on whether future policies will cause any improvement. Emphasis is put on the notion of good governance, and this is not merely limited to Somalia, but encompasses a responsibility of all states. *'The importance of policies designed to curb corruption in African states, ensure transparency and accountability in the management of national resources, greater investment in human development, and strengthening of the democratic (especially the electoral) processes to ensure the emergence of credible leaders cannot be over emphasised'* (Onuoha and Ezirm 2010:55). This emergence of good governance is vital in order to create a stable political situation in which state development can prosper creating viable alternatives for populations to piracy but it is that which requires active and responsible engagement from the international community, most notably from regional actors, on a scale that it is unlikely to meet.

Speaking on the topic of intervention more generally, Thabo Mbeki, former South African President has spoken of the need for African countries to take responsibility of their own security to combat Western interference:

'Unless, practically, we assume responsibility for the advancement of democracy, the protection of human rights and the realisation of the objective of good governance on our continent, and act to guarantee peace and security, these powers will intervene in our countries in pursuit of their selfish objectives, legitimising such intervention by presenting themselves as "friends of Africa", intent to give us the gift of democracy, human rights, peace, good governance and progress, regardless of our wishes' (Mbeki 2012).

As such, an emphasis must be placed on good governance, both to combat the 'root causes' of piracy, and create confidence among the international community in solutions. This is related to the need for a regional or continental based solution to the piracy problem, one that is sympathetic and responsive to

the unique nature of this 'wicked problem'. Such rhetoric, however, seemingly fails to take responsibility for the failings of the African continent and the African institutions in tackling both the political situation in Somalia and the increasing levels of piracy in the region. A truly effective counter-piracy programme requires local, regional and international forces to co-operate in order to achieve a multilateral and comprehensive approach. Anti-western rhetoric could prove to have negative ramifications when trying to secure the necessary resources to effectively tackle piracy.

Within the context of the Southern African Development Community (SADC), Makwetla expressed recognition with great concern of the growing levels of piracy activities in and around the Gulf of Aden and off the coast of Somali; particularly their southwards spread towards the Mozambican Channel. He states that *'South Africa's main priority is to ensure smooth trade and safe movements of cargo within the SADC Maritime Zone and the continent at large'* (Makwetla 2011) illustrating both an apparent increase in the willingness to intervene and the importance placed on economic priorities and the development of the region

In an address to the third Indian Ocean Naval Symposium (IONS) held in Cape Town (2012), Sisulu echoed the sentiments found in previous speeches, namely of the need for cooperative action and a holistic approach to maritime security that does not focus purely on military but instead good governance, development, and stability. Moreover, she expressed the envisagement of a better South Africa, which contributes to a better and safer Africa in the world. South Africa additionally expressed the wish to discuss on board security as an anti-piracy option, stating that it *'has been raised with us by a number of European countries. We are grappling with this development. We would like to be advised by yourselves on the ethics and viability of this'* (Sisulu 2012).

At a national level, South Africa has increasingly expressed its preparedness to deal with the growing threat of piracy. Chief Maritime strategy director Bernhard Hein Teuteberg said the Navy is prepared to meet the threat of piracy, which is moving towards South Africa (Times Live 2012). The Department of Defence's Overarching Strategic Statement (2011) echoes this by naming maritime security as a strategic priority and stating that 'the defence and security of South Africa is inextricably linked to that of the region and the continent. Being a littoral country, South Africa needs to have a balanced maritime capability to effectively respond to arising maritime security threats affecting South Africa' (Department of Defence 2011:6). Whilst rhetoric clearly illustrates the importance that South Africa places in the ability to secure both its waters and the waters of the continent more generally, serious doubt has been placed in its ability to do so.

As part of its on-going naval measures to tackle piracy, South Africa will continue to patrol the waters of the Mozambique Channel in an effort to secure the area against growing insecurity. Under Operation Cooper, the Navy, with the aid and support of Mozambique has maintained an anti-piracy patrol in the area since early 2011. The Naval presence generally consists of a frigate supported by a C-47TP Dakota reconnaissance aircraft of the South African Air Force (Wingrin 2012). In addition, a trilateral agreement was signed by South Africa, Tanzania and Mozambique in February 2012 allowing the three countries the right to, among other things, patrol, search, arrest, seize, and undertake hot pursuit operations on any maritime crime suspect. In accordance with the trilateral agreement, the SA Navy are authorized to patrol as far as Tanzania (Wingrin 2012).

South Africa's anti-piracy mission was further boosted by a joint navy exercise 'Good Hope V' near Simon's Town Naval Base. The large-scale exercise between the South African Navy, Air Force and the German Navy, takes place biannually and is the largest undertaken by the German Task Force Group outside of its NATO obligations. The exercise was this year commanded by South Africa for the first time and was focused specifically on anti-piracy. Although the exercise was scaled down due to financial considerations on both sides *'the aim of Exercise Good Hope V was to conduct exercises that would facilitate the sharing of expertise in general and anti-piracy operations in particular, thus enhancing the SA Navy's capability in terms of anti-piracy operations within the Mozambican channel,'* (Wingrin 20122) an area deemed to be of

particular strategic importance to South Africa.

As part of a further boost to South Africa's Naval security an intelligence-driven operation is under way to create specialised maritime surveillance centres around the country, which will form part of the Navy's early warning system. The operation forms part of the SADC's regional maritime security strategy, and an effort to secure Southern African waters from the spread of piracy. Rear-Admiral Bernard Teuteberg, chief director of Maritime Strategy described the urgency and importance of cooperative efforts: *"to put it bluntly, and there is no other way of doing it, to stop piracy in our waters we have to drive them north. By (our) deploying off the Somali coast all we will do is drive pirates east and south, which is not what we want"* (Hoskin 2012). This statement illustrates the conflict between international naval efforts in Somali waters and the interests of South Africa, namely that pirates are increasingly adapting to operations by changing tactics and increasing the area in which they operate to increase pressures on resources and thus are increasing the South Africa's vulnerability. In an effort to tackle this growing area of pirate activity, later priorities will also include extending the mission to the West coast of the SADC, with emphasis on Angola, Namibia and the Democratic Republic of Congo although this is dependent on the availability of resources.

Whilst it is not possible given space constraints to give a full analysis of South Africa's naval operations, such examples illustrate the strong emphasis on naval force. In spite of this, however, criticisms and scepticisms have been raised as to the ability of South Africa's Navy to respond to the challenge, notably when missions are expected to be extended. The Department of Defence Annual Report FY 2010/2011, described the financial year as extremely demanding for the SA Navy due to increased operational tempo. It was said that *'although the Directed Levels of Capabilities as stipulated in terms of the force employment requirements for the respective capabilities were achieved, the SA Navy will not be able to sustain these levels of capability into the future, due to continued underfunding'* (Annual Report 2010/11:74).

Deane-Peter Baker (2012) notes the contradiction between the sentiment of 'African solutions for African problems' and the little active contribution to securing Africa's maritime domains, most notably by the South African Navy. Baker attributes this lack of action to 'a combination of a mismatch between the assets the navy has available and the security challenges it needs to combat, budget constraints, and a lack of political will' (Baker 2012:152). Defence spending in South Africa is just 1.3 per cent of GDP, which amounts to about $4.4 billion for the 2010-11 financial year. Approximately 7 per cent of its budget is allocated to the Navy's operational budget, about US $308 million (Baker 2012:154). Such figures somewhat undermine the increasing naval rhetoric of promises to fulfil anti-piracy missions and will undoubtedly have negative repercussions on the stemming of pirate activity in the area.

South Africa's limited spending capabilities however, must be viewed in the context of the other challenges that South Africa is facing. Whilst it has come under criticism for its lack of action in anti-piracy efforts, this must be considered along with the fact that 'South Africa has played a leading role in addressing conflict and defusing tensions in the Democratic Republic of the Congo, Burundi, Côte d'Ivoire, and São Tome and Principe, and it has contributed additional forces to the African Union (AU) and UN Missions in the Comoros, Darfur, Ethiopia, Eritrea, and Liberia' (Baker 2012:151). Such examples of South African action (notwithstanding questions of effectiveness and need) illustrate that South Africa has priorities beyond those of maritime security. Whilst securing its waters and the waters of the SADC are increasingly cited as major priorities of the nation, these must be considered within the context of the missions that South Africa has engaged inland and the resources that they require which necessarily reduce the country's capabilities to take effective action against piracy. Furthermore, South Africa's part in land-based missions are pivotal to the need to address political issues and tensions within states to create state stability, which is needed to address the root causes of piracy and as a pre-requisite to secure waters.

In addition to its naval measures, and in an attempt to help foster political stability in the country, South Africa has renewed diplomatic efforts with the Transnational Federal Government (TFG) of Somalia. It has allocated the government R100 million, which will go towards building adequate institutions, which will be sustainable beyond the TFG's current mandate and assist the independent running of the country. Furthermore, Nkoana-Mashabane, South Africa's International Relations and Co-operation Minister called for a political solution to the problem and called upon all armed opposition groups, including the Al Shabaab, to lay down their arms and join the peace process (South Africa Info 2012). Such sentiment illustrates the importance placed on a political solution and the creation of a stable country to address the root causes of piracy on land and foster a long-term solution. Whilst South Africa is heavy on development rhetoric, it seems apparent that progress in this area is shortcoming – Somalia has faced ever increasing civil and political upheaval and instability and South Africa, in unison with the regional and international communities must recognise that effective and sustained action and support are needed, not merely rhetoric.

Conclusion

In conclusion, the part that South Africa plays in anti-piracy efforts is multi-dimensional. Inherent contradictions and conflicts necessarily lie between its need to project itself as a regional actor, and the need to address its own economic weaknesses and internal security threats. 'It is clear that in the case of a nation such as South Africa, which encompasses within its borders both components of the First World and the Third World, the notion of security and the factors that influence its security are related more to issues of development than of pure military or territorial security' (Mills 1996). Piracy, for South Africa therefore, is an issue, which is placed within security, legal, law and order, development, humanitarian, and governance frameworks. Whilst an importance is placed on the securitisation of the issue, namely the necessary need to address it via naval operations due to negative side-effects of international naval operations, this is balanced with its recognition that piracy is part of a larger problem that must be addressed via political stability in Somalia and the continent more generally.

Through its role in a variety of regional and international actors, South Africa recognises that piracy will only be solved via cooperation between nations and that piracy is a problem that must be solved as a matter of urgency. It seems however, that a contradiction lies between its desire to project itself as a force exporter, and its poor defence spending. This fact is compounded by the internal 'guns versus butter' debate- whether South Africa can justify spending on its military when it has disproportionately vast numbers of it citizens in poverty emanating in part from its earlier colonial and apartheid eras. Prosperity will necessarily depend on economic growth and this in turn is dependent on maritime security, both within South Africa's territorial waters and the region more generally. As such and as expressed by government sentiments, piracy is a growing problem for the country and one that cannot be ignored. Given economic constraints, however, South Africa must concentrate its efforts on co-operative measures that emphasise the projection of political stability in the region via good governance. Current estimates show that naval force is unsustainable without the necessary defence spending and thus South Africa must play to its strengths and seek longer-term solutions to the piracy problem, which is currently dominating its maritime security agenda. Furthermore, the negative side effects of international efforts in Somali waters illustrate that current naval strategies are not working. Whilst South Africa places a lot of emphasis on 'African solutions for African problems' this is not necessarily matched with effective action to tackle piracy, illustrated by the large international presence dominating the area in terms of naval capacity and international aid. South Africa must therefore, use its relative strength and influence in the area to push for longer-term political solutions to the Somalia question that has remained unanswered for decades. It is only when the land-based root causes of piracy are addressed that positive effects will be seen on the reduction of pirate activity. Furthermore, South Africa, and the international community more generally must realise the part that they have to play in the continued pirate action and work to address the local grievances in order to foster an environment where piracy is not a desirable option. At present talk is strong, but it appears action is weak and thus South Africa must follow-through on its pledges and continue to engage in co-operative action. However, with differing priorities, low naval spending and a poor economic environment, it seems unlikely that South Africa will ever match its tough rhetoric in the fight against piracy.

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United Nations Office on Drugs and Crime

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Introduction

In recent years, piracy has become an ever-increasing worry on an international scale. Indeed, piracy has evolved and pirates have adopted new measures such as ensuring that their attacks are carried out upon vessels not following the best management practice (Hook, 2011:2). Furthermore, attacks are often carried out in the open sea in order to avoid counter piracy measures being carried out in the Gulf of Aden. Attacks have been reported to have occurred as far south as the Seychelles and beyond EU NAVFOR's operating area (Pflanz, 2012). The fact that pirates often use 'mother ships' to allow them to hijack large vessels hundreds of miles of the coast is particularly worrying. Pirate attacks have become increasingly violent and ransom negotiations have taken longer to carry out (Hook, 2011:2). They have also become more aggressive and some pirates have been equipped with assault rifles and rocket propelled grenades. There is also concern that piracy may well be used as a way of funding terrorism in the future (Zimmermann, 2011). Some piracy groups have been linked to other types of organised crime. Thus far, counter piracy missions have been relatively unsuccessful and it is widely agreed that the issue needs to be addressed and resolved. In order to resolve the problems posed by piracy, it appears that a land based solution needs to be found, rather than trying to resolve the issue from the sea (Bueger, 2011:1). There

are many governmental and non-governmental groups trying to address piracy off the Horn of Africa, including the United Nations Office on Drugs and Crime (UNODC).

The UNODC handles a range of issues including corruption, organised crime, human trafficking, money laundering, terrorism prevention and piracy among others. It is a relatively young organisation, having been founded in 1997 following a merger between the United Nations Drug Control Programme and the Centre for International Crime Prevention. The work of the UNODC is based upon three fundamental pillars: "field based technical cooperation projects", "research and analytical work" and "normative work" (UNODC, 2012).

The UNODC began its counter piracy programme in 2009. Initially, it planned to assist Kenya in responding to increasing numbers of attacks by Somali pirates but since then, its mandate has widened considerably and it now works in six countries within the Somali basin region. The counter piracy programme works to achieve its two main aims; support of regional piracy prosecutions and greater prison capacity in Somalia through the Piracy Prison Transfer Programme. (UNODC, 2012) This will be discussed in greater detail later on. Overall, it can be said the UNODC's counter programme has been somewhat effective, but it has also run into difficulties. It is important to remember that piracy is extremely difficult to tackle given that it is seen as an extremely lucrative business in Somalia, where the economic situation is poor.

This essay will examine the UNODC's stance on piracy, the actions that the UNODC is taking to combat piracy, the problems faced by the organisation and a summary of its successes and failures thus far.

Framing

When considering piracy, it is first necessary to consider the political situation in Somalia. The World Bank puts Somalia at the bottom of its comparisons tables in terms of quality of governance (World Bank: 2007). Having become independent in 1960, Somalia was autocratically governed by Mohammed Said Barre (Hook, 2011:4). However, his administration was somewhat corrupt and tensions between different clans ultimately resulted in civil war in 1991. Since then, a stable government has not been introduced and Somalia regularly observes armed conflict and the result of such instability is poverty. Somalia is one of the world's poorest countries, with an estimated per capita GDP of just 273 US dollars (Hook, 2011:4). Many have blamed the absence of any central government for the development of piracy.

This political unrest is only one of Somalia's worries. The Somali economy is best described as fragmented and there is a definite lack of economic development. Additionally, there is huge variation in prices and Hook goes on to explain that piracy is a key source of income in Somalia: a lot of pirate ransoms are converted into Somali shillings, cattle prices have increased alongside the development of piracy and piracy benefits consumers due to lower commodity prices (Hook, 2011:2). It is therefore suggested that one potential land based solution to piracy could be to *"replace it as a source of income"* (Hook, 2011:2).

It is vital to realise that the UNODC understands that piracy is very lucrative, given Somalia's bleak economic situation. Hook describes Somalia as the *"archetypal failed state"* (Hook, 2011:4). The International Monetary Fund (IMF) declared that the Somali government has failed to restore order in Somalia, when conducting its 2009 assessment of Somalia (IMF, 2009:3). Piracy is therefore seen as an attractive option; in 2009 it was estimated that 5,000 Somali men were working as pirates (Hook, 2011: 5). Piracy has the ability to generate a large income relative to the size of the economy of Somalia, notably Puntland (Hammond et al. 2011:53).

It seems that UNODC is very much in agreement with those that believe that a land based solution to counter piracy should be sought (Boot, 2009). At a London based conference in 2011, Major General Buster Howes explained that over the past few years naval counter piracy measures *"have failed to strategically deter piracy"* (Hook, 2011:2). UNODC understands that the problems within Somalia need to be tackled in order to make progress, and they are keen to implement measures to ensure that a land based solution can be found.

In recent times, two types of major onshore projects can be identified (Bueger, 2012:2). The first of these involves law enforcement and policing and the second type involves a development model with the intention of addressing the causes of piracy. The UNODC's counter piracy initiative very much corresponds to the first type: law enforcement and policing and as mentioned briefly in the introduction, UNODC focuses upon supporting regional piracy prosecutions and providing additional prison capacity. It would be fair to say that UNODC believes that to counter piracy, requires a strong legal system.

Counter-Piracy Practices

Despite the enormous challenge it faces, the UNODC is focusing upon efforts to detain and prosecute those suspected of piracy. There is a strong belief that strengthening the legal and judicial systems will greatly help to counter piracy. The UNODC's counter piracy programme is one of several programmes aimed at improving law enforcement on the East African Coast (Bueger, 2012:3). Others include the International Maritime Organisation (IMO) and its "Djibouti Process" (Bueger, 2012:3).

The work of the UNODC to counter piracy involves working in four key areas: law enforcement, prosecution, courts and prisons. Obviously, it is intended that enhancing the judicial "infrastructure" in East Africa will ensure the fair treatment of pirates and strengthen the justice system for all citizens. This is highlighted by Geiss and Petrig who explain that UNODC aims to *"enhance the capacity of the judicial and corrections systems"* (Geiss & Petrig, 2011:185).

In terms of law enforcement, UNODC realises that once pirates have been handed over to the relevant authorities, certain procedures must be followed to ensure a fair trial for example the correct handling of evidence. For this reason, the organisation has provided guidelines to help ensure that evidence packages meet the legal obligations of regional legal systems. In addition, UNODC has provided police stations with vehicles and other equipment to facilitate their investigations as well as ensuring the transfer of weapons seized from pirates to Nairobi for ballistic examination (UNODC, 2012). Funds have been provided for the training of police in Kenya, as well as the installation of IT systems and exhibit rooms (Kraska, 2011:171). In July 2009, UNODC issued further guidelines, which were developed with the Kenyan Department of Public Prosecutors and other organisations, for countries wishing to transfer piracy suspects to Kenya (Kraska, 2011:170). UNODC has also shown support for so-called "shiprider" agreements which allow regional law enforcement officials to be seconded to international ships and vessels to arrest piracy suspects. These agreements mean that situations whereby pirates are rapidly released, and thus allowed to continue their activities, are avoided (Weitz, 2011:153).

As well as these guidelines, additional guidelines were produced for transferring piracy suspects from foreign warships to Mombasa, following the adoptions of the IMO Code of Practice (Kraska, 2011:171). These guidelines basically reiterate what has already been mentioned; commanding officers must ensure that all evidence is sealed, photographed and labelled to ensure a fair trial. Furthermore, the preparation and translation of witness statements into the English language is essential and pirates must be given food and basic medical care. If possible, pirates should be identified although this can prove to be very difficult. The guidelines offered by UNODC are specific, and when the warship transfers the suspect it can deliver a presentation to the authorities in Mombasa, detailing the facts. The Kenyan authorities are then able to choose whether or not they will accept jurisdiction over the pirates (Kraska, 2011:171). It is important to note that piracy suspects are not arrested on the warships given that these are protected by sovereign immunity in customary international law (Shortell, 2008:4).

In one of its counter piracy publications, UNODC details training courses that it has run for Kenyan detectives. An example is that of UNODC police advisor Scott Girling, who has acted as a mentor for Kenyan CID officers to ensure that they are able to investigate piracy offences effectively and make sure that they receive the necessary level of support. This includes Regional Learning Exchanges as well as the provision of the necessary equipment (UNODC 2011:8). UNODC has expanded on this, and a police learning exchange was also organised in Seychelles in 2011 (UNODC, 2011:8).

As mentioned above, the second key area in which UNODC focuses is that of prosecution. UNODC is particularly active in this area, assisting prosecutors in developing legal resources for example. UNODC also helps prosecutors in facilitating their presence at international piracy conferences, arranging for translators and interpreters for example. It recognises the complexity of the task of trying people for crimes at sea (UNODC, 2012), thus furthering facilitating the process by organising seminars and workshops, and by arranging travel for witnesses. Indeed, in order to develop an understanding of the issues involved when dealing with pirates at sea, UNODC brought officials from regional participating states together (UNODC, 2011:9). The Counter Piracy Programme aims to engage pirates effectively at sea *"within the framework of international law"* (UNODC, 2011:9). In order to achieve this, a *"Rules of Engagement legal training workshop"* (UNODC, 2011:9) was held in Nairobi in September 2011. This course covered a range of issues in maritime law and offered a range of perspectives from various groups, which was especially beneficial as the East African officials were able to engage with other officials with whom they would not usually communicate.

Linked closely to this is the third area in which UNODC works; courts. Similar to the way in which it facilitates prosecution, UNODC helps to enable the attendance of witnesses from overseas and again provides translators and interpreters. In Kenya and Seychelles, UNODC has also been able to provide a transcription service (UNODC, 2012).

Perhaps the most striking area in which UNODC is working is that of prisons. In the case of Kenya, UNODC is working alongside the government to improve prison facilities. Those suspected of piracy awaiting trial in Kenya are held in Mombasa, at Shimo-La-Tewa Prison (Geiβ & Petrig, 2011:176). As a result of the work of UNODC, this prison has been raised to international standards and problems such as overcrowding have been drastically reduced. Furthermore, the work of UNODC has improved sanitation, water supply and other conditions (Geiβ & Petrig, 2011:176).

Issue seven of the UNODC's Counter Piracy Programme, published in September 2011; also details UNODC's work relating to prisons in Seychelles. This publication highlights the important role played by Seychelles in the prosecution of piracy suspects (UNODC, 2011:6). The situation in Seychelles was originally similar to that of Kenya: prison capacity was extremely limited. Therefore, UNODC, alongside the government of Seychelles, assisted in the design and creation of a prison that would meet the requirements of Seychelles. This has resulted in a facility that meets international standards and has the capacity to cope with the sixty-four piracy suspects held in Seychelles (UNODC, 2011: 6). UNODC has also provided further support in the form of a mentor to ensure its smooth running. Further work in Seychelles has included training Seychellois police officers in dog handling. In 2011, a programme jointly funded by UNODC and the government of the United Kingdom enabled six Seychellois officers to be trained in handling dogs used for drug detection for example (UNODC, 2011:3). This will also be beneficial when searching pirate vessels for explosives and ammunition.

UNODC's work in Seychelles has arguably been an important foundation for further work in Mauritius. The government of Mauritius and EUNAVFOR have already signed an agreement that allows piracy suspects to be tried in Mauritius courts. Consequently, UNODC has launched another *"regional prosecution programme"* similar to that in Kenya and Seychelles (UNODC, 2011:12). UNODC presides over this programme with the European Union (EU) and it intends to support police, prosecutors and those working in courts and prisons. As Geraint Roberts explains, UNODC will make sure that Mauritius is fully prepared thanks to *"a number of lessons we have learnt from supporting piracy prosecutions in Seychelles and Kenya"* (Roberts (UNODC) 2011:12).

It is also important to consider the UNODC's work in Somalia itself. UNODC strongly believes that prisoners convicted overseas should return to their own country to serve their sentences. Somalia's current prison system is extremely underfunded and it does not have the capacity to be able to prosecute pirates. In addition to this is the fact that many states refuse to send piracy suspects to Somali prisons on the basis that the conditions do not meet the international standard of human rights. UNODC has been responsible for the creation of a new prison in Hargeisa. Hargeisa Prison is seen as a way of helping to solve the problem of repatriating pirates convicted around the world, a number of more than 1,000 (UNODC, 2011:10). This is clearly important for UNODC, given its belief that prisoners should return to their home country to serve their sentences. Indeed, UNODC is continuing its work on prisons in Somalia and has begun work on Bosasso Prison in Puntland. Once the work here is complete, Bosasso Prison will be able to accommodate two hundred extra prisoners (UNODC, 2011:11) again meaning that more prisoners will be able to return home to serve their sentences. These achievements cannot be underestimated. Hargeisa Prison was the first new prison to be opened in Somalia for many years, which many would argue indicates that Somaliland is absolutely committed to improving its prisons and legal system. UNODC states in its Counter Piracy Programme brochure that in turn, it is absolutely committed to ensuring that the authorities receive all of the support that they require to ensure success (UNODC, 2011:12).

The Executive Director of UNODC, Yury Fedotov, has expressed the importance of ensuring that Somalia upgrades its prisons and courts so that those piracy suspects convicted overseas can return to Somalia to serve their sentences (UNODC, 2012). To understand the importance of this, the work of Kraska is vital; he explains that as long as nations cannot send piracy suspects back to Somalia they will *"resist taking potential asylum seekers into their national court and prison systems"* (Kraska, 2011:172).

UNODC is a key actor in terms of calling for more to be done in Somalia to counter piracy. Consequently, it has begun an "awareness campaign" (UNODC, 2011: 10) in Somalia, as discussed with President Farole and other key figures such as clan elders, clerics and former pirates. One key former pirate who is a key figure in the scheme is "Boyah" (Bueger, 2012:7). UNODC is hopeful that this programme could bring about a certain level of success, based on the fact that in 2010 President Farole lead an attempt to at generating awareness of the problems associated with piracy. Although it was not overly successful given the lack of funding and international support available, there were some notable successes particularly in Eyl. Following a visit from clerics and elders, villagers forced invading pirates to leave. UNODC has been keen to learn from experiences such as these and it is for this reason that it has introduced a programme whereby anti-piracy messages are broadcast across Somalia (UNODC, 2011:10). There are a range of messages that include facts about how piracy has damaged Somalia's reputation on an international scale, is destroying Somali culture and is "haram" and therefore against Islamic practices (UNODC, 2011:10). Other actions that will make up this campaign include a writing competition, comic strips in local newspapers and work with the diaspora (Bueger, 2012:7). President Farole will also visit imprisoned pirates in order to spread the anti-piracy message. Indeed, UNODC is working to ensure that developments regarding piracy and the counter-piracy movement are broadcast across Somalia in the hope the success observed in Eyl can spread across the region as a whole. The project is funded mainly by the government of the United Kingdom and the One Earth Future Foundation and should not be underestimated given its size; it is an eighteen month project costing 1.1 million US dollars (Bueger, 2012:7).

Another aspect of UNODC's extensive counter-piracy work is its management of a Trust Fund on behalf of participating organisations, programmes and UN departments (UNODC, 2012). The *"Trust Fund to Support the Initiative of States to Counter Piracy off the Coast of Somalia"* (UNODC, 2012) was introduced in 2010 and works in two key areas; prosecution and detention, and "other priority activities". Therefore, the trust fund is used to allow payment of expenses relating to investigation and prosecution of piracy suspects and to financially support national jurisdictions in gathering evidence for example. It can also be used to assist in implementing other counter piracy objectives, such as public communication initiatives (UNODC, 2012).

Evaluation

It is clear that the work of UNODC has had some great successes. Prisons such as that in Shimo-La-Tewa now meet international standards; sewage capacity and water supply have been increased, a welfare

service has been provided as well as medical care and educational equipment (UNODC, 2012). Further improvements will be made in the form of rebuilding a prison kitchen and the provision of further medical staff. It is also important to remember that this is going on in several other prisons, not just in Kenya but other places such as Seychelles and Mauritius. In addition to this, prisons, such as Hargeisa Prison, have been constructed in Somalia, highlighting a commitment to improving the legal sector. This also means that UNODC has achieved one of its key aims; that of ensuring that pirates convicted overseas can return to their home country to serve their sentences.

Thanks to UNODC, fair and effective trials can now be carried out, due to the provision of resources and training. Evidence is treated appropriately, and trying suspected pirates has been facilitated thanks to the provision of legal resources and conferences. UNODC has also provided office space and interpreters and translators to make sure that the whole process runs as smoothly and effectively as possible. UNODC has also facilitated the attendance of witnesses at trials and improved courtroom facilities and security. Measures such as ensuring the availability of translators and interpreters cannot be underestimated, as they are paramount in ensuring fair and efficient trials.

The multimedia campaign run by UNODC is particularly interesting considering that it is in fact attempting to "integrate" (Bueger, 2012:7) the diaspora into its counter piracy activities. This is perhaps extremely encouraging, and this campaign is arguably more significant than similar campaigns by NATO, which have been somewhat limited. It is vital to make the local people aware of the consequences of piracy and the risks involved. Of course, it should also be taken into consideration that this campaign is expensive, and requires a lot of resources. Rashid explains that working with religious leaders a useful strategy (Rashid, 2009) but many youths may not be interested in the stance that religious leaders take on piracy. Indeed, it has been suggested that some youths may prefer to deviate from compliance with religion and follow the alternative lifestyle that they associate with piracy (Bueger, 2012:8).

Conclusion

Although some might consider the successes of UNODC to be somewhat limited, the very scale of the challenge must be taken into consideration. It cannot be forgotten that Somalia remains in an exceptionally difficult situation and whilst it would be ideal to create alternative jobs and livelihood programmes (Rashid, 2009:21) this cannot be achieved easily. Piracy remains a lucrative business and as a result it is difficult to sway young people in particular, from partaking in piracy. It cannot be forgotten that piracy is an important source of income in Somalia for many people. Bueger suggests that if piracy cannot be prevented, the international community should perhaps find a way of ensuring that ransoms lead to "real investments in Somalia" (Bueger, 2012:14).

To conclude, it is interesting to look at certain articles that judge the effectiveness of certain anti-piracy measures. One such article, the "Somalia Report" is an online article in which it is explained that UNODC praises Kenya in its anti-piracy actions. Yury Fedotov also speaks of his "gratitude" to Kenyan authorities. Alan Cole has even described Kenya as the "regional leader" in response to piracy (Yusuf, 2011). Indeed, this indicates that UNODC has been able to work with Kenyan authorities to make real progress in the fight against piracy. This highlights the fact that UNODC has indeed been somewhat successful in its Counter Piracy Programme, something that is further evident when we consider the fact that its practices have also spread to other places such as Mauritius and Seychelles.

However, it is also important to bear in mind that progress has only recently been made in Somalia itself and there remains a long way to go. The "Somalia Report" mentions that *a long term solution* is required to *strengthen the judicial system of Somaliland and Puntland* (Yusuf, 2011).

UNODC is effectively trying to build up weak institutions in Somalia, addressing the problem of piracy within a rule of law framework. Its campaigns and programmes are also attempting to build up pride in Somalia's own institutions as well as ensuring that they become capable of dealing with the problems they are faced with. It can be said that piracy has come about as a direct result of instability, poverty, and weak governance all of which are rife in Somalia. The UNODC hopes that by building up these institutions and strengthening the rule of law, not only will it be able to defeat piracy but also build a fair and stable society for all citizens (UNODC, 2012). According to Yury Fedotov, the only real solution to piracy in the long term is to *"restore law and order in Somalia and its waters"* (UNODC, 2012).

It is vital that UNODC continues to work alongside partners such as the International Maritime Organisation (IMO), the Eastern Africa Peace Institute Trust and INTERPOL among others, to ensure that as much is being done to counter piracy as possible. UNODC has made huge progress in its work, but it is essential that it continues to cooperate so that all aspects of the counter piracy movement are carried out to the highest possible standard. Thus far, UNODC has seen a considerable amount of success but there is still a very long way to go. It is beginning to achieve its aims, and by persevering, there is hope that it will continue to learn lessons and thrive.

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The Security Association for the Maritime Industry (SAMI)

Christopher Crook

Introduction

The Security Association for the Maritime Industry (SAMI) is a particularly important organisation to consider when looking at worldwide attempts to counter piracy. Maritime Piracy is a significant security risk for both shipping companies and seafarers worldwide. While piracy has existed for much of our known history, in the last two decades it has grown massively and has become a serious international security issue. It is especially problematic in the critical shipping route off the coast of East Africa, in the Gulf of Aiden. In his book Contemporary Maritime Piracy, James Kraska notes that 'Worldwide there were nearly 3,000 attempted or successful Maritime piracy attacks during the period 2000-2009' (Kraska 2011:1). SAMI is a non-governmental organization which seeks to produce a level of regulatory discipline and to create better awareness of the problems of piracy. While this promotion can be aimed at the wider world, SAMI specifically deals with shipping companies and how they can best protect their ships and personnel while at sea. SAMI has a diverse range of members; ranging from security consultants and trainers to manufacturers of technology and equipment. It can be considered an international organization with 152 companies that are registered as members from 35 different nations. They also hold direct links to the commercial shipping industry, oil and gas companies and ports. This distinction separates them from many of the other counter-piracy actors. The vast majority of the main counter piracy actors are either flag states or multi-national co-operative organizations, whereas as SAMI is concerned with protecting private and business interests against the threat of piracy. Consequently,

SAMI is mostly an advisory organisation that seeks to put pressure on governments to create regulatory legislation for the accepted measures of protection against pirates. It aims to represent the interests of the shipping industry in the shaping of counter piracy measures at an international governmental level. Based in London on the historic ship HQS Wellington, SAMI was founded in July 2008 with the express concern of being the trade and regulatory body for the maritime security industry. However, it didn't come to active existence until May 2011. While the organization is involved in counter-piracy measures, it is of course only a part of its wider mandate and responsibility. However, much of the work that SAMI does directly affect interpretation and prevention of maritime piracy. It sees its role in counter piracy as that of educating its members and equally the public of the dangers of piracy. An example of this can be seen in an A-to-Z brochure that was released to raise awareness of how to best ensure maritime security, which refers to the threat of piracy in it. In its description of piracy, it alludes to the definitions of piracy as referred to in UNCLOS (United Nations Charter on the Law of the Sea) and by the IMB (International Maritime Bureau). It explains the legal definition of piracy, as well as a brief overview of the re-development of piracy off the coasts of Asia and Africa. While it should be accepted that the responsibility of security of the sea should fall to international governments and associations, SAMI's representation of the shipping industry makes it an important and different voice in the debate. In 2011 alone, SAMI members were subject to attack by pirates an astonishing 441 times. This significant number of attempted attacks highlights the depth of the problem of piracy throughout the world.

Framing

As J.L Anderson noted, 'The problem of piracy – parasitic, intrinsic, episodic – will continue to exist as long as there are criminally inclined persons and maritime zones of ineffective law enforcement' (Anderson 1995:199), therefore making piracy an eternal problem that can only be dented rather than eliminated. Thus, in its simplest terms, SAMI sees piracy as a clear threat to the harmony and safety of business interests that are transported via the sea and more widely, as a part of the political problems facing the regions they operate in. By simple definition, the complex problem of piracy in Somalia can be tackled in a number of ways. To understand how counter-piracy measures work however, one must consider how the actor is seeing the threat of the pirate activity. There are three major frames from which an actor would normally view at piracy; the legal frame, the security frame and finally, the criminologist frame. At first glance, one would think that as SAMI are responsible for accreditation of the private security forces, they would see piracy strictly from a security frame. This however, is not necessarily true. The security frame for analysing piracy sees the pirate in very distinct terms. It sees piracy as a threat and the pirate as an enemy. Thus under an attack by pirates, they would use extra-ordinary measures to eliminate the threat.

While it is fair to suggest that this approach might have been used in the past by default, the growth of importance of international law in both combat and political decision-making causes difficulties with strictly adhering to a security frame. The legal frame on the other hand also has its difficulties. By governing under this frame, an actor would see piracy as rule-breaking and the pirate as a criminal. It's response to such action would be to prosecute and ultimately imprison any person involved in such activity. The major issue with this approach can also be seen when applied to the threat of global terrorism. Both terrorism and piracy experience fluidity in terms of the methods and tactics that are employed. In addition to this, there is major difficulty in putting together a mutually acceptable international standard for the arrest and prosecution of those involved. While in the example of terrorism, there is large public support for holding the perpetrators accountable. This is simply not the case for piracy. Piracy is seen as an issue overseas for the vast majority of the world's population, and thus, the political pressure to enforce the law and eliminate the problem of piracy is minimal at best. As Peter Cook suggested in an article for SMT Online, 'the asymmetric threat of terrorism continues to challenge national security forces, and the maritime domain opens a new paradigm of possibilities. Terrorists are becoming more sophisticated. They can watch, wait and then identify the weaknesses of security measures discovered by criminals, and find ways to exploit any gaps in the armour' (Cook 2011). The suggestion that the two threats can be somehow

intertwined is intriguing. An argument can be made given the attack on the USS Cole in Aiden in 2002 that terrorism can be considered as dangerous to maritime security in the region as piracy. However, piracy can be seen somewhat differently in the sense that for some in Somalia it is simply the best way to make a living. The large number of fishermen in the region makes the fishing industry far less lucrative than it perhaps might be in a more economically and politically developed state. Therefore, piracy is for most people in the region, the easiest way to make enough money to survive. This problem feeds into the criminologist paradigm that sees piracy as a deviant behaviour and a possible example of a failed state. Their solution to the problem of piracy would be the rehabilitation of the pirates, and eventually the state. This particular frame however is not suitable for SAMI given that it is an advisory organization, this would be much more applicable to an international organization with governmental powers. In reality, it is not possible to put SAMI definitively into one particular frame. It sits somewhere between the legal and security frames due to a conflict in priorities. The clear goal is set out as aiming 'to facilitate clear dialogue and a common standards framework in the delivery of maritime security products to the shipping community.' By setting up the standards of accreditation, there is a clear consideration for the legal frame. This is concerned as much with the legality of the security personnel and equipment as it is the pirates themselves. However, it is also clear that they are concerned with the security frame. For many of the security personnel, and indeed the seafarers, piracy is seen as a threat to their wellbeing and to the business that they are undertaking at sea. The reactions of the two frames leave very different responses to a pirate attack.

However, it can be argued that one is considered more important to SAMI members. In a 2011 publication regarding a meeting of the All-Party Parliamentary Group on the Great Lakes Region of Africa, the priority becomes clear. It is noted that 'it was clear that serious problems remain, and one ship owner spoke of the fears, the sleepless nights of stress and of feeling abandoned. A view echoed by others, especially when concerns about potential escalation of the violence used by pirates were voiced.' In this sense it is clear that the priority for the membership is that security personnel be given the legal authority to be able to retaliate against pirates when under attack. It is also made clear that at the time, it was still illegal for a ship bearing the British flag to have armed guards on board. However, the committee did make it clear that a reversal of this was under serious consideration. In essence this shows that the PMSC's are looking for the legal authority to be able to fulfil their security mandate without the fear of prosecution.

While there is clearly a serious threat to maritime security from piracy, SAMI's genuine concern is with the promotion of improved maritime security as a whole, and not exclusively to piracy. However, it is clear that their efforts, in conjunction with other organisations improved the standard of on-board security greatly. The co-operative measures that SAMI engages in with other organizations have proved valuable to on board security. The requirement of its members to implement the BMP procedures has improved the standards of security immeasurably. They also offer the live piracy map on their website via the IMB, which allows their members to track the piracy hotspots throughout the region they are in, and the wider world. This clearly suggests that the feeling of SAMI is that counter-piracy measures are best focused in prevention rather than elimination as without serious political and cultural change, piracy will inevitably continue.

SAMI has had great success in the UK in its dialogue with the government over the legislative issues that will allow it to take the first steps towards a more hands on role in combating the threat of piracy. In the 2010-12 House of Commons Foreign Affairs Committee report on Somali Piracy, SAMI laid out its desire for shipping companies to be able to use armed guards on board its ships both legally and effectively. Within the document, it is made clear that there is a considered need for further integration of PMSC's into the discussion of how to best combat piracy. Within the document, it is noted that there has been a level of integration, for example, SAMI were welcomed into the leadership forum of OHQ Atalanta at the EUNAVFOR base in Northwood. However, they recommend that the 'British Government, EU or NATO led anti-piracy operations and initiatives can seek the collaborative support

from the professional private maritime security companies via SAMI' (Ottaway 2011:191). In their eyes, by receiving the approval of government, the PMSC's will be able to effectively react to piracy as a security issue. While it is clear that a legal approach is preferable for most actors involved, for SAMI's members, the ability to defend its security is vital. In addition to this, SAMI recommended to the government that PMSC's are allowed to be represented within the UN and IMO. The core of the vision is that the security companies should be able to pursue their mandate of protecting the shipping industry in conjunction with governmental organisations ensuring the law is respected. It does not have to be a choice between a security frame or a legal frame, the two should be able to work hand-in-hand to control the threat of maritime piracy.

Counter Piracy Practices

SAMI exists as an important voice in the debate over counter-piracy measures, however it is key to note that the scope of actors involved is large. By simple reality, flag states and international organizations such as the United Nations, the International Maritime Bureau and the International Transport Federation have a wider reaching mandate than the smaller independent actors. However, in the case of SAMI, it is also important to note its link with the Maritime Security Review Organisation through its founder and Chief Executive Peter Cook. Much of the expertise accumulated through the MSR allows for SAMI to recommend up to date security protocols which are concurrent with the ever-changing threat. As noted in SAMI's Executive Summary document, during 2011 there was a significant increase in the number of shipping companies adopting the IMO guidance for contracting Private Contracted Armed Security Personnel (PCASP) to provide security for their ships transiting the High Risk Area (HRA) of the Indian Ocean. It is believed that currently somewhere between 35-40% of ships transiting the HRA have PCASP embarked. Concern has been expressed over the rapid proliferation of PMSCs without government or an international framework in place.

SAMI's expertise has been put into many of the initiatives that they encourage their members to implement on their craft. The widely used Best Management Practice (BMP) system for reporting threats and securing vessels is prominently mentioned in their literature, and it is possible for companies to receive the updates of BMP through SAMI for implementation. There is also the recommendation for the use of particular security infrastructures such as Citadels. Citadels are a safe room located on a ship from which those being attacked can lock themselves away from their attackers and survive for an extended period of time on supplies held inside. Citadels are not without their critics however. There is an argument that they can be ineffective when those on a ship either do not have the means to contact a warship, or if the warship is too far away. There is also a potential issue of pirates firing on the citadel with automatic weapons and injuring those contained inside. However, as Jay Bahadur argues, Citadels 'have been effective even when a warship was not in the immediate vicinity' (Bahadur 2011:183). The containment of on-board personnel until help can arrive buys vital time for the safety of those on board. The collaborations between SAMI and the wider industry can be seen in a multitude of counter piracy measures. For example, SAMI publishes the IMB live piracy map on its website so its members can keep an eye on up-to-date threat assessments in the piracy affected regions. The technical advice offered by the organisation allows for easier implementation of the BMP and thus provides a better opportunity for better standards of security throughout the industry. For example, on their website alone, SAMI offers documentation and a podcast detailing the implantation of BMP4, the latest edition of the Best Management Practice programme.

The BMP programme has proven to be the most widely implemented counter piracy measure within the shipping industry. In fitting with SAMI's vision for an accepted level of standards for armed guards on ships, the BMP programme offers a minimum set of standards required to effectively combat piracy. According to James Kraska, the BMP programme 'consists of planning and operational practices for ship owners, operators, managers, and masters of vessels transiting in the Gulf of Aiden and the Somali Basin' (Kraska 2011:59). In terms of pure security, it is clear that the implementation of BMP has been critical in the efforts against piracy. A major reason that it has been successful is the fact that it has targeted the major technical reasons why a piracy attack is likely to succeed. It recognises that low speed, vessels sitting

low in the water, inadequate safety planning, lack of defensive measures and readiness and slowness to react to an attack are major reasons for attack success. Thus, the measures in BMP are aimed at combating these particular problems. While it is true that SAMI are not alone in the implementation of these standards, and they were also not created by them, it represents a significant standard when they made BMP mandatory for all companies applying to be members.

It also publishes details of meetings discussing the practical details of the use of citadels, or more specific details on Norwegian ships. There is also the interesting development of Q-Ships, which are defined as armed vessels, which are disguised as regular commercial vessels in order to actively attract an attack. While being a relatively simple idea, it is necessary to continue to evolve and change its counter methods. This is down to the fact that as criminals, pirates will continue to evolve their attack strategies to facilitate the most success. SAMI also published details on their website of how they accredit standards for the use of Security personnel on board ships. It has formed two working groups, Standards and Accreditations Working Group (SAWG) and Rules for the Use of Armed Force Working Group (RUFWG). SAWG has been working with maritime law firms to draft a standard contract for the engagement of PMSC's (Private Maritime Security Companies). These working groups were set up in response to the will of both flag states and the wider shipping industry. They consider concerns from shipping companies and associations, the marine insurance industry and the wider maritime community. The RUFWG is tasked with formulating a proposal for standard rules on the use of force on ships.

According to the SAMI website, the work of this focus group will be 'reviewed by a QC who specialises in maritime law before presentation to the flag States and shipping associations'. It is unclear as to how much the working groups have achieved to this point as there has been no documentation from SAMI of the work that they have done to date. However, within the House of Commons Foreign Affairs Committee Papers there is evidence of progression of the arguments that the working groups are looking to consider.

However, it is the use of force on ships that has proven most controversial. Normally flag states are responsible for determining whether the use of armed guards is permissible. There have been different responses to this issue, for example the United States allows ships bearing its flag to have armed guards on board, whereas South Africa allows un-armed guards to roam the ship. In many ways, this lack of cohesion over the issue on an international basis shows that SAMI's work to try and help facilitate an accepted international procedure is needed.

There has also been a push for greater government backing of PMSC's due to a historical cultural habit of shipping companies. The shipping industry has traditionally advised its workers not to antagonise or resist a pirate attack. Clearly this gave the personnel on board very little chance of evading an attack and left them and the ship under significant risk. As with any long established mantra, old habits die hard. It is clear that there is a place for armed security guards given their unique skill sets, which would simply not be held by your average seafarer. As Kraska suggests, 'personnel must also be able to recognise threatening behaviour, attempts to circumvent security measures; be skilled in crowd management, communications and security equipment, emergency procedures, and contingency plans' (Kraska 2011:73). However, with the growth of the implementation of counter methods, shipping has become safer, albeit not completely safe. This realistic approach of limitation rather than elimination has helped many seafarers and shipping companies protect themselves and their assets from piracy attacks. As noted in SAMI's documentation on the A-to-Z of Maritime Security, armed guards have to be regarded as a necessary, if unsavoury reality in the fight against the evolving threat of maritime piracy.

Evaluation

Given its relatively short existence, SAMI can understandably have only made the beginnings of the impact it hopes to. However, there is significant evidence to suggest that there is significant support and need for the mission that it is attempting to undertake. Considering the growing demand from shipping

companies for the right to have armed guards on-board their ships to protect personnel and assets, it is clear that an international accepted code of conduct for implementation of armed guards is required. The stark reality that piracy is a serious threat in the Gulf of Aiden in particular is a fact that shipping companies are starting to take notice of. It is also fair to say that news coverage of the threat of piracy has also highlighted it as a more serious threat in the eyes of the public. In the UK, the coverage of the case of British woman Judith Tebbutt who was held by Somali pirates for more than six months highlighted the dangers of piracy in the region.

In terms of SAMI's attempts to create an effective counter-piracy response, there has been a contrasting tale of fortunes. It is fair to say that the organization deserves praise for the way in which it has made the dangers of piracy clear to its members. Its policy of having to implement BMP to even become a member of the union sets an improved standard of security, which can only serve the industry well. In addition to this, its promotion of safety measures such as Citadels and Q-Ships to its members have meant that shipping companies have been able to keep their craft secure with up to date technology. The expertise that is offered to its members in that regard is excellent. However, undoubtedly the most interesting part of SAMI's mandate has been its push for greater governmental accreditation and legislation on the use of armed guards on board ships. Within the House of Commons Foreign Affairs Committee Report on Piracy in Somalia, there can be seen to have been significant attempts on SAMI's part to improve standards. Within the document it is noted that, 'the Government does not currently recognise an accreditation process for PSCs operating in the maritime security sector. Shipping companies must, therefore, be extra vigilant in selecting an appropriate PSC to provide armed security onboard their ships' (Ottaway 2011:27). This issue shows that clearly a problem exists for shipping companies which SAMI has made a good effort to remedy. Clearly, improved standards across the industry can only help better secure vessels against the threat of piracy. The simplest way for improvements to be achieved is through accreditation and uniform standards. Considering their relatively short existence, SAMI has proven to be successful in laying the foundations for a greater standard of accreditation for the private security services in the maritime industry.

From a framing standpoint, many of the actions taken by the organization have understandably been with the PMSC's in mind and thus have taken on a security based frame. In satisfying the needs of the industry, they have created a strong position from which they could potentially increase their mandate. There has been some evidence of this occurring. For example it has been suggested that 'one of SAMI's first members, Triton, under the leadership of Director, Simon Jones has begun a new venture to establish coastguard protection for Somaliland. SAMI fully supports this work and will continue to back this type of constructive initiative' (Ottaway 2011:190). This suggests that there is potential for SAMI to look into being part of a political solution in Somalia. While this would not be something that would normally be expected of the organisation, the ability to be able to protect Somali infrastructure could be a valuable tool against piracy. Somalia has long suffered from political instability and mistreatment, and thus simply does not have the ability to formulate any kind of meaningful protection for the rule of law. Given SAMI's blatant desire for the PMSC's to have greater legal freedom to do their job, it is clear that a serious consideration of the legal realm has been made. There has often been a worry that many shipping companies are concerned that potential security contractors are not either effective or willing to act within the law. In turn, this created distrust and lack of enthusiasm for having armed guards on board their crafts. However, given the increasing threat of maritime piracy to maritime security, these measures are simply necessary. As Bahadur argued 'simple security measures – such as extra watches, barbed wire, travelling in convoys and lockdown areas in which the crew can barricade themselves – are extremely effective at deterring pirate attacks' (Bahadur 2011:252). He goes on to argue that the International Maritime Organisation should implement these measures as a bare minimum requirement. While this has yet to come to fruition, SAMI has forced members to adopt these measures through BMP and this is an important step forward.

While there is clearly a limit to how much progress SAMI can realistically make at this current point

in time, there is a possibility of facilitating real progress through its co-operative missions with other organizations. By attempting to give the security industry a voice in policy making, it has ensured that it is not being ignored. As noted earlier, they were invited to a policy meeting regarding OHQ Atalanta by EUNAVFOR, which is an important sign of progress in ensuring the security industry is represented. In addition, its initiative of championing BMP to its members brings it into line with other organizations such as the UKMTO, EUNAVFOR and NATO. In addition to this, the co-operative measure with the IMB to publish its live piracy map on the SAMI website shows the potential for co-operative work. However, given SAMI's obvious desire for the interests of PMSC's to be represented, there is a danger of conflict of interest with other organizations. This is particularly true of the governmental bodies that are concerned with countering piracy. In many ways PMSCs will always struggle to convince governmental bodies that they can be trusted. There is an issue with the potential for PMSCs to act in their interest rather than doing what is legal. In addition to this, there is a stigma attached to the distrust of PMSCs over the standard of the work and ethics. For this reason, there is still a lot of work to do for SAMI to provide the security industry with a genuine voice in policy decision making.

For the most part, SAMI is acting effectively as a union with the hope of promoting both the increase of uniform security standards and of the potential problems with maritime security, of which piracy is an example. While its voice is currently only significantly heard in the UK, SAMI are hopeful that their global clientele will enable them to have a larger voice on the world stage going forward. The message of improved standards can only serve to help the security industry, and thus SAMI should continue to lobby for this vision. However, there is a danger that the interests of the security industry and potential proliferation of PMSCs being involved in shipping leaves potential pitfalls. Corruption is always a potential problem in any money making business, the pursuit of improved standards needs to continue to be pushed over any monetary gains. In addition to this, all PMSCs need to act under the rule of the law; hence SAMI's mission for better legal protection is important. Simply turning the waters off Somalia into a Wild West shootout will not help counter piracy. Piracy is a wicked problem and as such the counter piracy organizations should remember that a realistic aim is to constrain piracy as eliminating it entirely is unrealistic. While political instability and lack of opportunities continue to exist in Somalia, people will always be tempted to make quicker and bigger money by engaging in illegal activities. Piracy is as much a political problem as it is a security problem. SAMI can continue to hold up their end in combating piracy, the rest however, lies in the hands of world governments.

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Maritime Piracy Humanitarian Response Programme

Jessica Williams

The piracy situation off the coast of Somalia has grown in recent years. The international response is tackling the problem in a variety ways and the pirates are adapting and evolving in reaction. Recently, this has included the pirates engaging in increasingly brutal treatment of hostages and violent hijacking tactics. The Maritime Piracy Humanitarian Response Programme (MPHRP), established on the 29 September 2011, aims to help seafarers and their families with the *"humanitarian aspects of a traumatic incident cause by piracy attack...or being taken hostage"*. The MPHRP intends to address all three phases of a piracy incident: pre-incident, during an attack and post incident, through their 'Good Practice Guidelines' (GPG), development of training modules, access to professional aftercare, seafarers rights telephone helpline and resources to increase access to information (MPHRP website).

The MPHRP defines piracy as a problem under the humanitarian paradigm as, according to the programme, piracy causes detrimental psychical and psychological suffering to seafarers and their families. In this essay, the MPHRP will be examined along with organisations with a similar role to determine the effectiveness of the program and highlight the main concerns of whether the programs actions are in fact consistent with this paradigm, or if it has economic rather than humanitarian motives at its core.

The Human Cost of Piracy

The economic cost of Somali piracy is well known, in contrast the 'human cost' receives less attention. Initially, there was a 'gentleman's agreement' with the pirates and hostages were treated relatively well as they were seen as commodities to be traded for ransom (Bahadur 2011). Recently, however, there appears

to be a 'new breed of gunslinger pirates' that employ more violent tactics to force shipping companies to pay a higher ransom and speed up negotiations. This escalation of brutality seems to have become the norm (Bahadur 2011 para.4). The period that seafarers are being held hostage has increased from 5 months to an average of 7 months and sometimes 2 years. Incidents of abuse, torture and fatalities are on the rise (Hurlburt 2011:10). Treatment is *"crossing the line from savagery into torture"* according to Peter Swift, MPHRP's chair (Help for Piracy Victims 2011 para.2) as hostages are being used as human shields, beaten, subjected to mock executions and forced to endure appalling conditions. According to the Human Cost of Somalia Piracy report (HCSPR), 23% of hostages report both abuse and being used as human shields by pirates (Hurleburt 2011:3). Initially there was strong resistance by officials to acknowledge hostages being tortured, but this changed in 2011 with BIMCO, the International Chamber of Shipping, INTERCARGO, INTERTANKO and the International Transport Workers' Federation all publically recognising and declaring that the pirate's treatment of crew members amounts to torture (Hurleburt 2011:29)

It is difficult to determine the extent that torture and abuse occurs in hostage situations in Somalia, as most officials and companies are not willing to share details and reports about the treatment hostage's experience. Shipping companies add to the problem by making their employees sign confidentiality agreements to prevent them talking about their experiences at sea to help lowering the fear of mutiny (The Hidden Cost of Piracy 2011). Most seafarers are not fully aware of the extent of the danger they are facing, as the relevant information is controlled by private agencies and flag states, which are under no obligation to disclose this information.

According to the HCSPR, released three months prior to the launch of the MPHRP, the potential for long-term physical and psychological trauma suffered by seafarers is considerable. Simply having to transit through pirate infested waters causes seafarers a considerable amount of stress and such risks would be considered unacceptable in any other industry. Family members also suffer, and in some cases have died due to anxiety at the thought of losing a loved one to pirates (Help for Piracy Victims 2011). The actual hostage experience itself is extremely distressing for piracy victims and there have been reports of hostages dying due to malnutrition and lack of medical care or committing suicide. As well as being subject to physical abuse, hostages may also be psychologically abused. Hostages report they had to live in a "state of terror" in cramped "unspeakable" conditions (Save Our Seafarers 2011). Recently, hostages are forced to collaborate with the pirates in further attacks, or used as human shields to deter naval attacks (Shapiro 2011).

The result of these direct threats to seafarer's life and safety creates the potential for long-term problems and post-traumatic stress disorder. Being under the pirate's complete control is particularly distressing and likely to produce long-term problems, which can include substance abuse and depression. Seafarers can be traumatised to the extent that it takes them years to recover and return to sea, and in rare cases seafarers do not recover and resort to suicide (Help for Piracy Victims 2011). The Seamen's Church Institute (SCI) indicates that seafarers, even those that have not experienced an attack, have increased anxiety about the potential for an attack, but still return to sea due to families or even entire villages relying on their income (SCI 2012).

Victim's families are being increasingly targeted to pressure shipping companies or to provide ransom payments. Pirates phone the families and threaten to kill them if the ransom is not paid quickly or beat the seafarer while the family listens over the phone (The Hidden Cost of Piracy 2011). Families are often kept uninformed and unsure as to who to turn to for information, often only receiving information from press releases (Hurlburt 2011:11). Many live in remote villages without internet access, or have to travel to different organisations looking for support and information (Help for Piracy Victims 2011). As a result, families can lose faith in the government and the shipping company, and are often in a state of constant fear and uncertainty, which can cause them long term problems. When hostages are released, the residual problems that they suffer can also directly affect their loved ones (Hurlburt 2011:3), such as aggression and substance abuse.

MPHRP Proposed Solutions to the Human Cost of Piracy

According to Dr. Gibson, a psychosocial to the MPHRP, the MPHRP intends to 'harden' sailors in a similar way that the Best Management Practises (BMP) (2011) prepares ships against attacks, through training and sharing information before sailing. This hardening would help sailors better handle the psychological reactions they may experience during attack and hostage situations, reducing the negative consequences of attacks. By giving seafarers and their families the knowledge that there is a plan in place to support them, fears of being 'forgotten' can be reduced. The MPHRP aims to build up sailors and their families 'resilience' to the stress caused by piracy incidents through training and informed preparation prior to attacks and as a result it envisions that only a small number of victims will need professional assessment and planned treatment on integration (Help for Piracy Victims 2011).

The Good Practice Guide

The MPHRP proposes a range of actions to minimise suffering and facilitate the recovery of seafarers who have fallen victim to pirates. A 'Good Practice Guide' (GPG) provides guidance to shipping companies and manning agents on how to implement practices that will reduce the stress of both the crew and their families. The GPG is split into three phases: pre-crisis, during an attack and post- crisis. It maintains that if companies adequately train and prepare their crew for an attack and hostage situation then the crew cope better. The GPG deals with sailor's potential anxiety and fears regarding sailing in piracy infested water, placing emphasis on leadership and team cohesion of the crew during an attack, hostage situation and in aiding recovery. The GPG also addresses potential pirate tactics and what seafarers can expect if they are taken hostage, and how companies can help recovery immediately after the crew is released and through follow up medical and psychological care.

The GPG advocates helping seafarer's families through the use of a Family Liaison Representative(s) who is in constant contact with a family member that the seafarer has nominated. Poor communication between shipping companies and the hostage families has been highlighted as one of the main causes of concern and stress for family members. These representatives will bridge this gap and provide information about pirate attacks to the family before the media, as well as addressing families' questions and concerns. The representative can also help the family prepare for when the hostage is released, and any psychological reactions the seafarer may experience.

Although the GPG addresses some of the key concerns regarding seafarer welfare but, in a similar fashion to the BMP, it is still up to the shipping companies and manning agencies to introduce these measures and procedures. Unless this occurs then the GPG is of little use. It is also difficult to determine how successful these measures are, as the GPG has only recently being introduced. Additionally the GPG fails to address several important issues, including fully disclosing the risks involved with tactics such as using citadels and the pirates use of torture.

Citadels

The GPG advocates the use of citadels (strongholds) to limit seafarer's feelings of vulnerability by providing a "safe area". However, seafarers need to be aware of the limitations of such citadels. The crew may have to wait in the citadel for hours or even days waiting for reinforcements to come to their defence, if naval forces come at all (EU NAVFOR 2011). The pirates also employ various tactics to break into citadels including trying to smoke the crew out, threatening to kill hostages from another ship and even successfully breaking into a citadel using welding equipment (Gloystein & Saul 2011). These tactics substantially increase the stress suffered by the crew trapped inside, and highlight that the crew should not harbour the false expectation that they are completely safe within a citadel.

Torture

According Roy Paul (Chair of MPHRP), abuse and torture *"appear to be isolated occasions"* (Help for

Piracy Victims 2011). However, the incidents of torture and abuse are increasing as stated by the HCSPR (Hurleburt 2011:10-17), which found that in 2010 the crew's of up to 21 vessels out of the 53 taken hostage suffered abuse or torture when captured by pirates in increasingly violent attacks. Officially statements have also referred to there being *"regular manifestations of systematic torture"* (Operation Commander of EU NAVFOR, Major General Howes cited in Freeman 2011). Therefore, it seems clear that pirates are violating a fundamental human right of the seafarers on more than 'isolated occasions'. This should not be trivialised or underplayed by the MPHRP. Furthermore, the extent to which seafarers can be made 'resilient' (Gibson cited in Help for Piracy 2011) to the psychological and physical trauma of torture is questionable and it could be argued that the MPHRP have failed to recognise the full extent of the harm suffered by piracy victims and the impact this will subsequently have on them.

Potentially, this downplaying of the extent torture occurs could be due to the MPHRP mainly dealing with cases where hostage negotiations are relatively trouble free. These are negotiations that involve professional negotiators who are able to make the crew's welfare a condition for ransom payment, and shipping or insurance companies with the ability to pay the ransom. This is in contrast to problematic situations, such as where negotiations stall. These include situations where the shipping company is unable or unwilling to pay a professional negotiator or ransom, or if the crew increasingly refuse to comply with the pirates demands. Such events can lead to torture being employed to speed up the negotiation processes and to increase the ransom (Bueger 2012). One hostage recounts how four months of failed negotiations resulted in *"physical and mental torture"* and the crew started to lose hope and *"dreamt of death"* (Help for Piracy Victims 2011). Such discrepancies create an 'A and B class' of hostages. 'A' class hostages are from the west or seafarers that crew large, well insured and privately protected vessels; whereas class 'B' hostages are seafarers from poorer countries, such as Burma, Yemen, the Philippines and India and from companies that lack appropriate insurance or cannot pay ransom costs (McConnell 2012).

When companies or countries are unable or unwilling to comply with ransom demands the hostages are in an extremely vulnerable position and it falls on their families to raise the funds to pay the ransom. This obviously places an extreme amount of stress and anxiety on families, who are all too aware that whilst their loved one is in the pirate's custody they will be subjected to abuse and torture. These families are often economically reliant on the hostage seafarer and come from poor communities, and therefore have to raise funds through public campaigns (Simmons 2012, Bueger 2012). A side effect of families paying ransoms is that the incentive for piracy is not removed.

The GPG referring to torture cases as isolated, and stating that if seafarers comply with the pirates they are "generally treated better", induces a false sense of security in the crew that torture will not occur if they comply. This also risks placing blame on the hostages if they are tortured, as they may be seen as having been uncompliant. In a hostage situation, the seafarer's health and welfare are often treated as commodities to be negotiated and bought with the ransom. Seafarers are effectively treated as objects, which creates feelings of helplessness and vulnerability. This is compounded by the GPG and MPHRP rhetoric of "hardening" seafarers which effectively objectifies the seafarers, decreasing their sense of importance and individual worth.

This use of language to downplay the severity and danger of pirate attacks appears to be a trend in official guides, such as the BMP and the EU NAVFOR's guide (Surviving Piracy). The NAVFOR's guide even goes as far as to imply that seafarers may be to blame for any mistreatment by pirates, as it tells seafarers to "accept" they will be held in captivity for an extended period of time. Any mistreatment could be seen as the seafarers not properly 'accepting' that they would be held. The MPHRP has attempted to address this through its GPG but it still doesn't fully cater to seafarer's information needs and risks, and continues to treat them as objects.

Workshops

The MPHRP has also partnered with other organisations, particularly in giving workshops and courses.

These include the NATO Shipping Centre's (NSC) counter piracy workshops (2011) where the MPHRP played a role in emphasising the need for participants to be aware of the need to employ the BMP, and of adequately preparing the crew to better help them cope and recover. The MPHRP has also trialled its Pre-Departure Piracy Awareness Training (2011) course with support from the MPHRP's industry partners. This course encourages the BMP to educate participants about the ships vulnerabilities while the GPG is utilised to demonstrate the crew's vulnerability in cases where there is the danger of a pirate attack. The course also illustrates the best ways to cope during a crisis and in dealing with a hostage situation. The measures taken by the manning agency in the pre/during/post attack periods are also covered to help provide reassurance. The workshops and courses have been positively received both by the participants and representatives of shipping companies and manning agencies. One of the main advantages is that the workshops have occurred in a number of countries with dominant maritime industries, enabling the MPHRP to reach a greater audience and hopefully encouraging more companies to implement the GPG. However, these workshops still only reach a very small number of seafarers, their workshop in the Ukraine (2012), for example, was attended by just over 120 people, mostly shipping companies, ship owners, ship management companies and security companies, showing the MPHRP's focus on the larger, wealthier side of shipping.

Criticisms of the MPHRP

There are, however, some serious flaws to the MPHRP. For a start, the MPHRP is based in London, while the majority of seafarers and their families affected by piracy are thousands of miles away. Only 6% of hostages come from developed countries with 7% of hostages coming from India and 42% coming from other countries that are not members of the Organisation for Economic Cooperation and Development (Hurleburt 2011:28). The seafarers nationality can affect the response of navies and countries, and with the majority of hostages coming from developing countries there is often little attention or public outcry for these hostages (Hurleburt 2011:28). To add to this, there are cultural, language and accessibility problems involved with seafarers from underdeveloped countries. The MPHRP psychologists cater for the main languages but they do not cover all languages and dialects of seamen and their families and so support is further denied (Manu 2011).

Furthermore, the hardships are not over when hostages are released from pirate captivity. The delivering of ransom and the release process is often a particularly dangerous time for hostages as pirates are stressed and agitated (Surviving Piracy) and so can be especially unpredictable. Class B hostages suffer especially badly on release as local authorities often lack the means to get the hostages home and in some cases hostages have been left stranded in remote regions (Bueger 2012). It is in these situations that seafarers need most support, and it is this group that is often overlooked and ignored. The MPHRP seems to be continuing this trend, as the GPG focuses on shipping companies and manning agencies that can afford to put the suggested methods in place and provide the psychological support seafarers need, and ignore the class B hostages.

The hostage crew and their relatives need information about negotiations and the families need to be kept up to date with the crew's condition. Families are, however, normally left in the dark (Mikhail 2010) and this can lead to added anxiety, particularly if they receive phone calls from the pirates. Negotiations take place in a closed circle between shipping companies, their lawyers, negotiators and the pirates (BBC 2009) for fear of negatively impacting the negotiation process. Generally, information released that is not directly related to negotiations (such as information about the crew's welfare) is controlled by the pirates and used to influence the ransom negotiations (Hurlburt 2011:20). Therefore, the MPHRP in its current form cannot offer adequate support to the hostage's families.

There also appears to be a tendency for lead actors to under-report and downplay the violence and number of attacks faced by seafarers, especially in regards to attacks on small vessels and fishing boats which are generally not reported. This is mainly due to sensitivities towards the victims, military restrictions, liability concerns and fear of retribution (Hurlburt 2011:23). It is difficult to see how the MPHRP can

address and overcome these issues, but it is clear that there is a need for effective reporting on the nature of these crimes in order to increase public support and apply pressure on governments to address the root of the problem (Hurlburt 2011:27).

The MPHRP does not appear to address the main need of the hostages and their families, and that is compensation. Many sailors are the economic provider for their families but are left traumatised by their ordeal and unable to return to sea (Manu 2011). Shipping companies shoulder the financial costs caused by piracy and often cannot afford to pay the crew their wages (Mikhail 2011). Since 2006, pirates have held over 4,500 seafarers hostage, many of whom may not have received their wages or been reimbursed for personal property stolen by the pirates (SCI 2010). The MPHRP has recognised this need in speeches given at its launch (Help for Piracy 2011), identifying sailors concerns over *"whether their wages would still be sent home"* (Paul) and their *"fear of lack of financial support to maintain their family's needs"* (Gibson) as well as mentioning the issue in the GPG. The MPHRP has, however, failed to fully address this issue as it only makes recommendations for shipping companies and manning agencies with no follow up actions. The MPHRP also does nothing to help seafarers from undeveloped countries whose companies cannot afford to pay them compensation or wages in the event of an attack. This causes seafarers added anxiety, court cases and in the most severe cases, suicide (Help for Piracy Victims 2011) as in many cases seafarer's families or villages are being supported by their wages (Garfinkle cited in Hurlburt 2011:19). Sailors need economic help and support after a piracy attack in order to recover, and the MPHRP should therefore adopt some measures such as setting up a compensation fund or providing legal aid.

Legally, there also needs to be a greater effort to enforce seafarer's rights (Hurlburt 2011:21) and help restore to them a sense of justice and closure. Piracy was criminalised under the United Nations Law of the Sea (1982) when it was not a problem so it was an abstract notion. It was therefore criminalised without there being an effective enforcement mechanism. As such the crime of piracy falls under universal jurisdiction so any State can prosecute pirates and Security Council resolutions have urged States to *"criminalise piracy under their domestic law"* and to *"favourably consider the prosecution of suspected and imprisonment of convicted pirates"* although it does go on to acknowledge the absence of sufficient laws, prosecution venues and incarceration facilities required to achieve this (Resolution on Piracy 1976 (2011)). This lack of effective enforcement means that 90% of pirates that are captured by international forces are released (UN Security Council 2011). This is mainly due to the high cost involved in trials and incarceration, resulting in only 1.47% of piracy cases being prosecuted internationally from 1998-2009 (Kontorovich & Art 2010), which is well below the global average of 33% for other crimes (Harrendorf et al 2010). Nationally, countries such as Kenya and the Seychelles are reluctant to prosecute pirates as their justice systems are already overloaded with convicted pirates. Many families are disappointed and disillusioned by this lack of prosecution and it has been described as one of the most *"abject, shameful aspects of the pirate scourge"* (Gibson cited by Redmond 2011).

Many international shipping companies are responding to the piracy threat by employing armed guards on their vessels in an attempt to deter pirate attacks and protect their crew. However, this can in fact place seafarers at greater risk. There is the misconception that pirates avoid attacking ships carrying armed guards. This is not the case, as highlighted when three British armed guards were forced to jump overboard when they failed to prevent pirates hijacking a vessel (The Independent 2008). Peter Swift (MPHRP chairman) (InterManager 2011b) has voiced concerns that arming commercial vessels will cause governments to stop providing naval support, especially when many of the States involved are subject to budget cuts and stretched resources. This could lead to a scenario where vessels are forced to protect themselves without international support in international waters which would further increase seafarer's feelings of vulnerability if they believe their government has abandoned them. Seafarer's risks are also increased as pirates are more frequently returning fire and engaging in shootouts with armed security, which is particularly dangerous if the ship happens to be carrying oil or other volatile cargo. This is subjecting seafarers to a situation only present in active war zones (Hurlburt 2011:14), and risks the possibility of greater abuse in retaliation if captured. This potential for escalating the violence of

piracy attacks, coupled with the risk of losing government support and protection, means seafarers could potentially be left in a more dangerous and higher risk situation. However, seafarers have voiced a desire for armed guards as they feel more secure with them on board (Simmons 2012), which is understandable given the perceived success armed guards are considered to have had. Armed guards are expensive for shipping companies to employ and there is no regulatory standard established. This could lead to companies taking the 'discount' option and hiring less experienced guards (Simmons 2012). The MPHRP could help prevent this by stressing the dangers of armed security on commercial vessels in its workshops and GPG in order to increase awareness of the risks involved and establish a protocol and regulatory standard of armed security if companies insist on their employment.

More cynical, are accusations that the MPHRP is a 'fraud' and does not provide what sailors need (Mikhail 2011). Instead it has been described by a seafarer as *"nothing more than a useless feel-good initiative"* to make money and promote its influence (Manu 2011). The apparent western orientation of the MPHRP causes many Asian seafarers to distrust it, with the accusation that *"London... has benefited tremendously from piracy and has milked the holy cow for years"*. Asian seafarers have been described as "cannon fodder" to piracy (Manu 2011 para.12, Mikhail 2011) highlighting the economic divide between seafarers from developed and underdeveloped countries. Western insurance and security companies actually benefit hugely economically from piracy. Hostages from developed countries are generally treated better thanks to professional negotiators and rich shipping companies and so developed countries are perceived to get all the economic benefit from piracy whilst suffering the least cost (One Earth Future 2010).

Partnerships and Similar Organisations

The Seamen's Christian Institute (SCI) plays a similar role to the MPHRP in protecting sailor's rights and is conducting its own study into the impact of piracy and producing its own set of guidelines. This study aims to help clinically assess sailors after a piracy incident, support families during hostage incidents and triage short and long term mental health treatment and will be greatly beneficially to the MPHRP in helping it re-evaluate and improve the services it offers to seafarers. So far, the study has found that one of the biggest challenges to supporting piracy victims is the stigma of mental health problems, which deters seafarers from taking advantage of therapy due to their fear of losing their jobs or not securing further employment. This needs to be effectively addressed or measures involving psychologists to help hostages recover from their ordeal are next to useless (SCI). This stigma could be compounded by the seafarer's culture or nationality, such as in Ukraine, where a bottle of vodka is seen to be better than going to the doctor due to the perceived shame attached to mental health issues (Dimitrevich 2011). The MPHRP does attempt to address this through advocating psychologists through its GPG, but it is debatable how much of an affect this will have in removing cultural barriers.

The SCI has set up a Center for Seafarers Rights (CSR) which provides professional legal services for seafarers. It runs the only free legal-aid service exclusively for the needs of merchant mariners and educates seafarers on their rights. This service is highly important as it enables seafarers who have been in a hostage situation to be able to legally pursue compensation and wages that may be withheld by the shipping company. The MPHRP could employ a similar service to help seafarers address their economic concerns and ensure seafarer's rights are legally upheld. The SCI's guidelines to help seafarers cope with pirate attacks begins with the anticipation of an attack and continues through to the release of hostages. Like the GPG, it highlights the need for anticipatory training and understanding of piracy tactics. It also suggests cultural sensitivity training so the crew can avoid offending and angering the pirate attackers. The guide stresses the importance of clear communication both with the seafarers and the company, and with the company and the seafarer's families. There is also recognition that follow up care may be required and recommends identifying suitable professionals in the seafarer's home community, who should be placed on standby. The guide makes an additional provision that medical examination and treatment should be kept private so as not to impede the seafarer's chances of future employment. There are also

additional requirements for training seafarers to recognise warning signs of post-traumatic symptoms on their return to sea, contacts should any of the symptoms occur, and a psychological assessment three months after release.

The SCI views the GPG as complementing their guide and believes it to be an important resource for *"planning assessing and caring for those who may be or have been affected by piracy"* and "commends" them for its production (SCI). Furthermore the SCI looks to collaborate with the MPHRP in the future which could help to produce a reviewed and updated guide presenting a unified response to treating the humanitarian side of piracy. A single guide would also aid clarity in helping shipping companies and manning agencies better protect seafarers.

The MPHRP has already begun proceedings to collaborate with the Italian organisation Centro Internazionale Radio Medico (CIRM) which provide a 24hr on call doctor to assist seafarers. The CIRM has received an increasing number of piracy related calls and is conducting a research programme into the psychological effects on seafarers and their families of piracy incidents (MPHRP at CIRM 2012). The MPHRP is also looking to work with countries to set up national MPHRP bases. So far, Ukraine has announced that it is currently working on a national MPHRP and the MPHRP have appointed a local executive secretary. Setting up national MPHRP bases may be a more effective and culturally sensitive way to address seafarer's needs in piracy situations as there is less of a geographical, language and cultural divide (Anti-Piracy Workshop 2012).

The NSC has been a partner on the steering committee for developing the MPHRP as NATO states that it recognises the need to support those who are most affected by piracy, that is seafarers and their families. NATO supports the MPHRP through the NSC's involvement in providing feedback and recommendations during the development of the GPG and by partnering with the MPHRP in giving and developing five joint- workshops (to date) (NSC works with the Humanitarian Aspect 2012). The NSC also supports and observes the MPHRP's GPG (NATO Attends the Launch of MPHRP 2011) this collaboration ensures that the BMP and the GPG complement each other and do not provide contradicting or detrimental advice.

Conclusion

The MPHRP continues to focus and concentrate its efforts on shipping companies and manning agencies, disregarding the needs of poor seafarers piloting small vessels and shipping boats at risk of pirate attacks. This oversight could be due to the difficulties in identifying and reaching these seafarers, particularly as attacks are often not reported. This is despite the funding for the MPHRP coming from the International Transport Workers' Federation (ITF) and the Seafarers' Trust Charity which aim to support and help seafarers worldwide, ensuring adequate regulation of the shipping industry and protecting their rights, *"regardless of their nationality or the flag of their ship"*(ITF).

As well as increasing brutality, piracy has grown and evolved in a variety of different ways, which increase the danger seafarer's face. This is primarily due to ransom payments continuing to rise and so there is a growing incentive for pirates (Hurleburt 2011:25). Pirates are increasing the range of their attacks by using captive crew to conduct attacks on their own hijacked vessels. There are increased incidents of 'revenge and retaliation' occurring as both the international community and the pirates have defaulted on the terms of the hostage/ransom agreements. This results in seafarers being less likely to be released and being subject to abuse based on their nationality, particularly if the seafarer is from a country such as India which has openly declared war on piracy. Additionally pirates have started to move hostages off the hijacked vessel or split the crew making it increasingly complicated for ship owners to negotiate their release. These changing tactics imply that piracy is going to continue to expand and adapt, despite international efforts, and so the only way to adequately protect seafarer's rights is to address the root of the problem. The MPHRP is attempting to bolster seafarers against the worst of the harm during attack and hostage period, but there effect is limited. Their efforts in this area are having some positive effect and providing a degree of help and support to some of the victims of piracy but there is still a significant

amount to be done in this area. The programs focus appears presently to be somewhat misplaced in concentrating on the areas that carry the most economic incentives, i.e., big shipping companies from the developed world. The MPHRP needs to extend its reach to protect seafarers from poor communities, provide legal and financial support to piracy victims and increase pressure on governments to actually address the cause of the piracy problem.

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