

# The Counter-Piracy Efforts of the UN Office on Drugs and Crime

Written by Emma Pryor

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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 respond to increasing numbers of attacks by Somali pirates. Since then, its mandate has widened considerably and now, it 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 inSomaliathrough 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 inSomalia, 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

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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. 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. 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

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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 further facilitates the process by organising seminars and workshops, and 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. Similarly 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. (Geiß & 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. (Geiß & Petrig, 2011: 176)

Issue seven of the UNODC’s Counter Piracy Programme, published in September 2011, also detail UNODC’s work

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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 which 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 led 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

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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, thanks 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.

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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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