

**THE IMPACT OF MARITIME PIRACY ON WORLD FOOD  
PROGRAMME(WFP) AID OPERATIONS IN SOMALIA,  
2007-2009**

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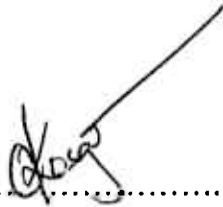
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## DECLARATION

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### Declaration by Supervisor

This thesis has been submitted for examination with my approval as University Supervisor.



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Dr. Ibrahim Farah, 

16/11/2011

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Date

## **DEDICATION**

To my lovely daughters, Glorious and Joyous Kochomay(s) for allowing me to go through the program at the Institute of Diplomacy and International Studies(IDIS),  
University of Nairobi.

## ACKNOWLEDGEMENTS

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## **ABSTRACT**

Maritime piracy in Somalia flourished due to political turmoil and the strategic location at the Horn of Africa. In early 1990s, ships sailing near Somalia have been attacked by pirates and thereafter, the intensity has increased. The dramatic increase in ship hijacking and armed robbery in the Indian Ocean near Somalia poses a serious security concern for all nations and organisations operating in the high seas. Every year, nearly one hundred and sixty five thousand ships pass through the Gulf of Aden, carrying valuable cargo, such as oil or food aid enroute to Africa, Europe and the America. This study sought to establish the impact of Somalia maritime piracy on WFP aid operations during the period 2007 and 2009 by looking at the historical background of the Somali people and the collapse of the Somali government in the early 1990s, examined the structure of Somali pirate network to understand how they are organised, and operate. The study explored two theories of international relations: realism and international regime theory and analysed how they will help nation states and international institutions to come up with policies that can end piracy. The major data collection instrument used was interviews. Interviews conducted provided divergent views on Somali piracy. The two key findings emerging from the study is the engagement of Somali youth in piracy and the dramatic growth of piracy due to lack of effective government to police Somali waters. Poverty, lack of employment, and a volatile security and political situation all contribute to the rise and continuance of piracy in Somalia. Somalia is a country where legitimate business is difficult, and instability and violence make death a very real prospect, the dangers of engaging in piracy must be weighed against the potentially massive returns. Based on the findings from this study, the information adds to the knowledge on the on going study on the impact of Somali maritime piracy on WFP aid operations in Somalia. From the study, the researcher gave out some recommendation on mechanisms and approaches for disrupting and addressing the maritime piracy off Somalia coast such as restoring peace in Somalia with the hope of ending piracy.

## **LIST OF ABBREVIATIONS**

<b>AMISOM</b>	-	African Union's Mission in Somalia
<b>CTF</b>	-	150 Combined Task Force 150
<b>IGAD</b>	-	Inter-Governmental Authority on Development
<b>IMB</b>	-	International Maritime Bureau
<b>IMF</b>	-	International Monetary Fund
<b>IRC</b>	-	International Red Cross
<b>NAVCO</b>	-	Naval Coordination Cell
<b>NAVFOR</b>	-	Naval Force
<b>SCR</b>	-	Security Council Resolution
<b>TFG</b>	-	Transitional Federal Government of Somalia
<b>UIC</b>	-	Union of Islamic Courts
<b>UNCLOS</b>	-	United Nations Convention on the Law of the Sea
<b>UNOSOM</b>	-	United Nations Operations in Somalia
<b>WFP</b>	-	World Food Program
<b>AU</b>	-	African Union
<b>CMF</b>	-	Combined Maritime Forces
<b>DfID</b>	-	Department for International Development
<b>EU</b>	-	European Union
<b>IMO</b>	-	International Maritime Organization
<b>NATO</b>	-	North Atlantic Treaty Organisation
<b>UN</b>	-	United Nations
<b>UNCLOS</b>	-	United Nations Convention on the Law of the Sea
<b>UNSCR</b>	-	United Nations Security Council Resolution
<b>BBC</b>	-	British Broadcasting Corporation

<b>CNN</b>	-	<b>Cable News Network</b>
<b>AP</b>	-	<b>Associated Press</b>
<b>KTN</b>	-	<b>Kenya Television Network</b>
<b>NTV</b>	-	<b>Nation Television</b>
<b>IRIN</b>	-	<b>Intergrated Regional Information Network</b>
<b>KM</b>	-	<b>Kilometer</b>
<b>HOA</b>	-	<b>Horn of Africa</b>



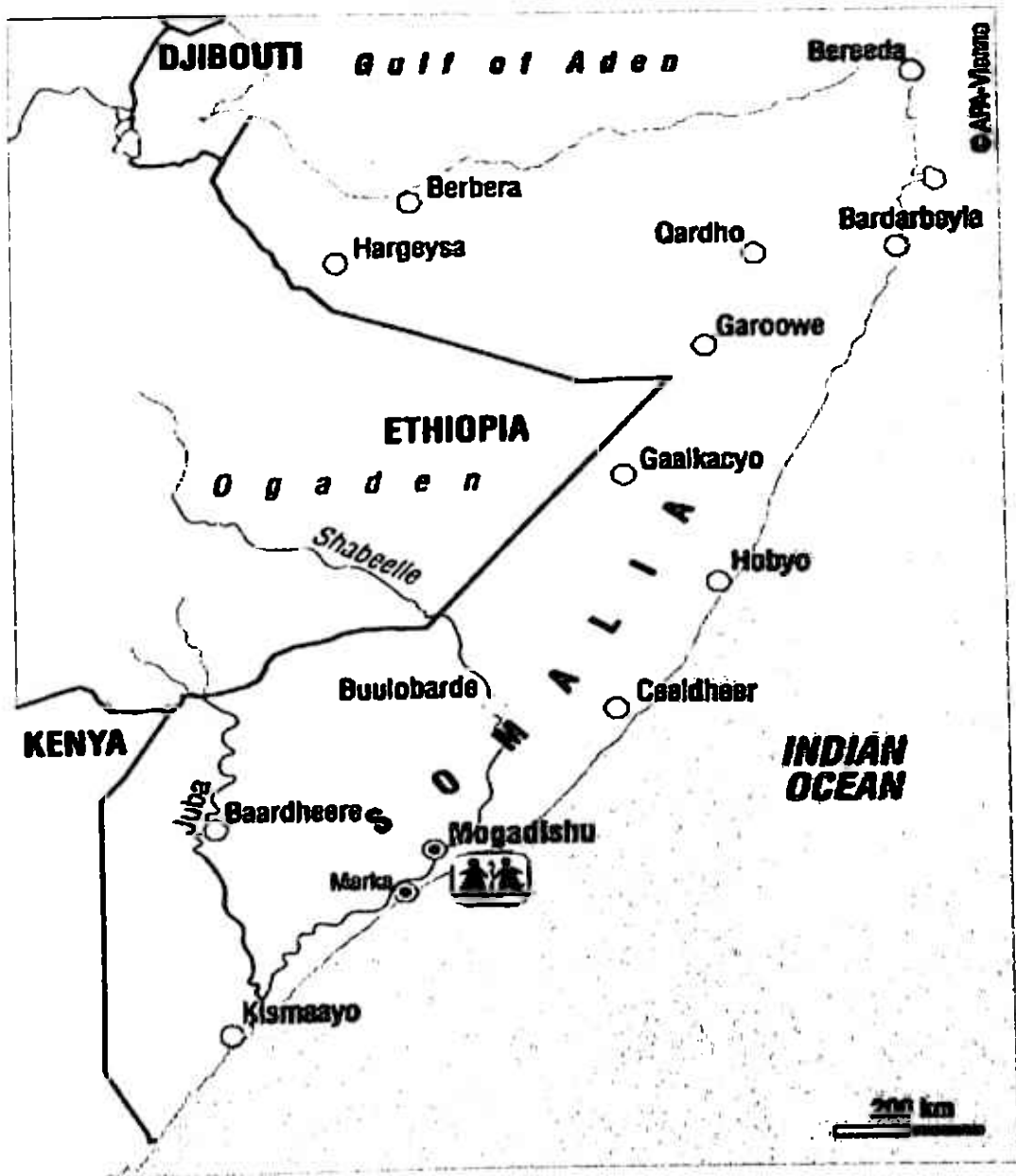
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**Map 1: Somalia showing pirates operating towns**



Source: United Nations,  
(Department of Field Support, Cartographic Sections, May, 2011)

Map 2: Pre- 1991 Somalia



Source: United Nations,  
 (Department of Field Support, Cartographic Sections, May, 2011)

## CHAPTER ONE

### INTRODUCTION TO THE STUDY

#### 1.0 Introduction

The Gulf of Aden and the water outside the Somali coast is one of the most heavily trafficked maritime areas in the world. Every year an estimated 16,000 vessels pass through the Red Sea and the Gulf of Aden, carrying goods.<sup>1</sup> A good deal of these goods are oil and petrol from Middle East destined for Europe and North America. These vessels also consist of food stuffs for World Food Programme(WFP) destined for displaced people in Somalia.<sup>2</sup>

In 2003, a new phenomenon occurred off the coast of Somalia and in the Gulf of Aden, ships and fishing vessels were being attacked by pirates. The frequency of this activity slowly increased<sup>3</sup>. Humanitarian aid agencies and Shipping companies also started to become concerned when the pirates began to target cargo. The past year has seen unprecedented high levels of pirate activity in the Gulf of Aden, with more than eighty recorded attacks on ships<sup>4</sup>.

In response, efforts have been made by the international community under the auspices of Inter-Governmental Authority and Development(IGAD) to establish effective government in Somalia with minimum success.<sup>5</sup> The historical analysis of Somalia's chaotic past suggests the establishment of a stable government is unlikely

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<sup>1</sup>N.Murphy, *Contemporary Piracy and Maritime terrorism-The threat to International Security*, (London, Adelphi Series, ISS 2007), pp. 36-7.

<sup>2</sup>R.Middleton, *Piracy in Somalia-Threatening Global Trade, Feeding local wars*, Chatham House. Briefing Paper, AFP BP008/02, 2008

<sup>3</sup>D.Sekulich, *Terror of the Seas: True Tales of Modern-Day Pirates*. (New York, Thomas Dunne Books, 2009), p.201 .

<sup>4</sup>R.Middleton, *Piracy in Somalia*, op.cit.

<sup>5</sup> Appgar, Bruce A., Jr. *Countering 21st Century Piracy in the Horn of Africa*. ( Carlisle Barracks, PA, Army War College, 2010 ), p.24

in the short term. Therefore lack of central government has made it possible for pirates to continue to exploit ills of Somalia.<sup>6</sup>

Maritime piracy off the coast has been providing funds that feed the vicious war in Somalia and could potentially become a weapon of international terrorism.<sup>7</sup> Somalia gunmen use piracy ransoms to fund insurgency. This thesis analyzed the maritime problem in Somalia focussing specifically on United Nations World Food Program aid operations in Somalia. The United Nations World Food Program (WFP) estimated Somalia will need 185,000 metric tons of food aid in 2008<sup>8</sup>. Transporting foodstuffs to Somalia by land is impractical and extremely dangerous due to the presence of extremist Islamist hence food is routinely delivered by sea.<sup>9</sup>

The study also explored historical background of the political unrest in Somalia between 1980 and early 1990 that led to the collapse of government. This collapse was studied and it was found out to be one of the root cause of the piracy.

The study also sought to find out the reasons why anti-piracy efforts are not effective in preventing and deterring somali pirates from interfering with WFP operations in the 'failed state'. A failed state is one which, though retaining legal capacity, has for all practical purposes lost the ability to exercise its sovereignty.<sup>10</sup> Apart from exploring WFP operations, the study examined the structure of Somali pirate network, how they are organized and operate. It suggested ways of disrupting this illegal network.

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<sup>6</sup> Martin, *Contemporary Piracy and Maritime Terrorism-The threat of International Security for strategic studies*, op.cit.

<sup>7</sup> Ibid.

<sup>8</sup> S.Robert, *Disrupting Somali Piracy Via Trust and Influence Operations*. ( Monterey, CA, Naval Postgraduate School, June 2009) ,p.63 .

<sup>9</sup> African Armed Forces Journal ,*Acts of Piracy Increase* , April 2010, pp. 12-13.

<sup>10</sup> C. John *Piracy Today: Fighting Villainy on the High Seas*. Dobbs Ferry, NY, Sheridan House, 2010) , p.262.

The dramatic increase in Somalia maritime pose a serious global concern. Martin Murphy notes, “piracy is a crime defined by geography that requires the presence of other factors such as a permissive political environment, cultural acceptability, and the opportunity for reward in order to flourish”.<sup>11</sup> The factors that contribute to the emergence and sustainment of piracy are not likely to be eliminated, but may potentially be suppressed if local and national leaders can find reasons and resources to do so. Decisive action must be taken to prevent or curtail attacks in Somalia and restore law to the high seas in the Indian Ocean.

This study explored Somalia as a failed state, and the impact the maritime piracy it is having on WFP relief aid operations. Although piracy is an international problem, it should be noted that the people of Somalia will lose the most from the illegal activity.<sup>12</sup> The pirates’ frequent attacks on WFP’s relief aid only add misery to humanitarian intervention in the country.

## **1.2: Background of the study**

According to the Christopher, Somalia is largely considered to be the world’s greatest current humanitarian disaster worse than Darfur and Northeast Congo.<sup>13</sup> The country has not had a functioning government since the overthrow of the socialist dictator Mohamed Siad Bare in 1991. The presence of various islamic extremist movements such as the al-Shabaab militia has interfered with WFP aid operations in the anarchic country.<sup>14</sup> The situation within the country is so dire that the UN does not have a

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<sup>11</sup> M. Murphy, *Suppression of Piracy and Maritime Terrorism*, (New York: NWCR.2007, p.7

<sup>12</sup> B. Wombwell, *The Long War Against Piracy: Historical Trends* ( Fort Leavenworth, KS. Combat Studies Institute Press, Army Command and General Staff College, 2010), p.154

<sup>13</sup> D. Christopher, *Piracy: A humanitarian dimension*. ( Monterey, published by, Naval Postgraduate School, September 2009.), p.39

<sup>14</sup> Central Intelligence Agency(CIA): *The world Fact book*. Somalia, 2011



Human Development Index.<sup>15</sup> In 2007, Somalia ranking are frightening poor in that it ranks in the percentile for political stability, government effectiveness and rule of law.

The problem of maritime piracy is directly affecting the country's humanitarian conditions. According to the UN Monitor Group on Somalia, there have been an increase in ship seizures between 2007 and 2009.<sup>16</sup> As a result, ship owners are increasingly unwilling to venture in Somali waters due to the risk involved.<sup>17</sup> Somali pirates and the extreme Islamists have made it extremely difficult for WFP to deliver food aid through these waters.<sup>18</sup>

According to WFP, Somalia required 185,000 metric tons of food aid in 2008 to stave off a devastating famine.<sup>19</sup> The danger of Somali waters in late 2007 forced the WFP to suspend food deliveries by sea because of increase in pirate attack. This was temporarily solved by the naval escorts. For instance, in 2007, France took an initiative by providing naval escort to protect the WFP ships to Somalia. Without these escorts, WFP aid operations could be seriously threatened.<sup>20</sup>

In a country without a functioning central government that is suffering from drought and war, and with over a million internally displaced people, imported food aid is essential.<sup>21</sup> The uncertainty surrounding WFP operations needs to end so that dangerous gaps in food delivery can be avoided. If the international community does

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<sup>15</sup> Human Development Report, UNDP Somalia, 2009, p.23

<sup>16</sup> See United Nations and Somalia 2007-2009, p.77

<sup>17</sup> K. Mary, *Maritime Piracy: Examining the U.S. Response to a Global Threat*. ( Carlisle Barracks, PA, Army War College, 2010), p. 36

<sup>18</sup> M.Plaut, "Pirates 'working with Islamists,'" BBC News, November 19, 2000.

<sup>19</sup> Ibid.

<sup>20</sup> K. Mary, *Maritime Piracy*: op.cit.

<sup>21</sup> J.Ryan, *Decreasing Variance in Response Time to Singular Incidents of Piracy in the Horn of Africa Area of Operation*.(Monterey, CA, Naval Postgraduate School, June 2010), p.111

only one thing-eradicate maritime piracy, then ensuring the safe delivery of food aid should be the priority. Eradicating piracy will not only enable WFP deliver humanitarian aid to starving Somalis, but it may reduce the money available for arms purchases that perhaps fuel the vicious war in the region.

If there is no permanent solution to the challenges WFP is facing with ,severe problems in the region are likely to worsen and many Somalis will starve. Due to these, the international community should not ignore Somalia piracy since its negative impacts are unbearable. Piracy leads to increase in the shipping costs which in turn leads to high cost of living. Vessels carrying goods will avoid the Gulf of Aden hence travelling long distance. This will increase transport costs and subsequently increased costs will be passed on to consumers during this time of economic uncertainty. Another negative impact is the potential environmental pollution from a botched attack. This will lead to loss of animal and plant diversities.

Whatever the international community decides to do, it must not be at the expense of international efforts to secure a political solution inside Somalia. What needs to be done is to ensure there is peace and stability in Somalia, coupled with an effective and reliable police force and judiciary. Ignoring Somalia and its problems can be the real base of international pirates.<sup>22</sup>

### **1.3: Statement of the research problem**

The roots of maritime piracy in Somalia burrow deeply into the political history of the war-torn and poverty stricken country. Somalia has been rated as one of the most dangerous and violent places in the world.<sup>23</sup> With the presence of extreme islamists

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<sup>22</sup> J.Ryan, *Decreasing Variance in Response Time to Singular Incidents of Piracy in the Horn of Africa Area of Operation*.op.cit.

<sup>23</sup> 'Somalia Gunmen use piracy ransoms to fund insurgency', Reuters, 25 August 2008.

and maritime pirates, arms are freely available throughout the country and there are almost daily reports of explosions, murders, skirmishes, battles and kidnappings.<sup>24</sup> While pirates themselves keep the majority of the funds they generate, a significant amount is passed on to the ongoing war.

Due to this diversity of the political landscape in Somali, and its complex past, order will not be restored in country any time soon. The absence of an authority figure of oversight allow for the exploitation of Somali water resources and promotes dysfunctional social system on land. This combinations drives somalis to commit crimes on the high seas in form of piracy.<sup>25</sup>

Piracy in Somalia has continued to flourish despite the multi-national military effort to curtail it. The defensive strategy as adopted by current anti-piracy campaign has failed to address the root causes of the problem.<sup>26</sup> This study emphasized that Somalia piracy needs to be dealt with swiftly and decisively both at the land and at the sea as it is becoming a perennial problem. It has affected the crucial trade routes disrupting shipping activities leading to high insurance premium rates which in turn lead to high cost of business. It has also affected the Somalia humanitarian condition as ship owners are increasingly unwilling to venture into Somali waters without naval escort.<sup>27</sup>

This is extremely pressing matter as Somalia is dependent on food aid. But to what extent has maritime piracy negatively impacted on humanitarian aid operations

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<sup>24</sup> Ibid., p. 77.

<sup>25</sup> J. Ryan, *Decreasing Variance in Response Time to Singular Incidents of Piracy in the Horn of Africa Area of Operation*. op.cit.

<sup>26</sup> Ibid. p. 17

<sup>27</sup> J Burnett. *Dangerous Waters: Modern piracy and Terror on the High Seas*. (New York: Dutton, 2002), p. 346.

in Somalia? This study specifically sought to establish the impact of piracy on the WFP aid operations in Somalia by examining the existing maritime policy. The study also sought to examine the factors that led to the increased piracy activities during the study period, the available areas of cooperation among states and WFP to curb piracy and finally the consequences of piracy on humanitarian assistance in Somalia.

#### **1.4: Objectives of the study**

The overall objective of this study is to examine the impact of piracy on the WFP aid operations during the study period. More specifically, the study aims to:

1. Investigate the root causes that led to the increase of the Somalia Maritime Piracy during the study period
2. Analyze how the Somali pirate network was organized during the study period and how the organization might be disrupted.
3. Explore the effects of maritime piracy on WFP humanitarian assistance resource mobilization and distribution during the study period.

#### **1.5: Literature review**

The relevant literature to this study is classified into four sections: piracy in Somalia, factors driving piracy, humanitarian situation in Somalia and the WFP relief operations in Somalia. Piracy in Somalia started due to lack of central government and extreme poverty. As a result, piracy is rampant throughout the country. Some Somalis have engaged in this activity for basic survival. The purpose of this review is to gain theoretical knowledge that will guide in the case study.

### 1.5.1 Piracy in Somalia

Piracy in Somalia is deeply rooted in a number of socio-economic factors, predominantly poverty, hunger and civil insecurity of the coastal population. Puntland is currently the epicenter of piracy. This is because in Puntland vessels can be identified and targeted much more easily as they travel through the Gulf of Aden.<sup>28</sup>

Carafano urges that prior to 1990, piracy was not a major issue off the coast of Somalia.<sup>29</sup> A more structured form of piracy began in the mid 1990's when some armed groups, claiming they were authorised 'coast guards' charged with protecting Somalia's fishing resources, attacked vessels they claimed were fishing illegally in their territorial waters and held them for ransom. This slowly expanded after 2000 to any vessel that sailed within or close to Somalia territorial waters.<sup>30</sup>

Davis urges that in 2005, piracy off the coast of Somalia has more than increased; so far over 10 ships were attacked.<sup>31</sup> By 2006 some of the pirate attacks were extending as far as 350 nm off the coast of Somalia.<sup>32</sup> On the other hand, Murphy examines that during 2006, piracy escalated as more attempts were made to hijack ships not only in the Indian Ocean but also in the Gulf of Aden and the mouth of the Red Sea.<sup>33</sup> The phenomenon grew through 2007 from the major pirate bases of Eyl, Hobyo and Haradheere concentrated along the East coast of Somalia.<sup>34</sup>

By 2008 this reached outlandish proportions with ships being attacked seemingly at random and whenever the pirates decide. Consequently, marine travel

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<sup>28</sup> M. Murphy, *Contemporary piracy and maritime terrorism: The Threat to International Security*. (London: International Institute for Strategic Studies, 2007), pp. 36-77

<sup>29</sup> M. Carafano, *Maritime Security: Fighting Piracy in the Gulf of Aden and Beyond*. (Washington, Heritage Foundation, 2009), p. 29

<sup>30</sup> Ibid.

<sup>31</sup> M. Davis, *Analysis of the Strategy to Combat Maritime Piracy*. (Fort Leavenworth, KS, Army Command and General Staff College, December 2009), p. 95

<sup>32</sup> Ibid, p. 24

<sup>33</sup> M. Murphy, *Small Boats, Weak States, Dirty Money: The Challenge of Piracy*. (New York, Columbia University Press, 2009), p. 539.

<sup>34</sup> Ibid, p. 54

off the northern coast of Somalia, known as Puntland, has become the most dangerous region in the world for pirate attacks. Pirates have been regularly demanding and receiving million-dollar ransom payments and are becoming more aggressive and assertive.<sup>35</sup>

Somalia maritime piracy has been different from maritime piracy in other parts of the world. Somalia does not have the natural coastal terrain so required by pirates, namely numerous forested inlets and islands, where ships can be hidden from aerial and maritime surveillance. Murphy observes that Somalia pirates do not need this type of terrain because their piratical aims are very singular and straight forward: ransom for hostages only.<sup>36</sup> Furthermore, he says that pirates are not interested in stealing the cargo and/or reusing the ship for other purposes, where there is a need to have a secure location hidden from view where a ship can be concealed while it is renamed and repainted.<sup>37</sup>

Payne urges that when a ship is taken by Somali pirates and the crew are held for ransom, it is in effect a hostage situation. The ship is sailed to one of the bases where the pirates can be supplied with food, water, weapons and ammunition and other resources while the negotiations take place. This is all done very openly with the ship visibly anchored off the Somali coast. The pirates are fully aware that they are relatively secure from any rescue mission being launched directly against them while on the ship.<sup>38</sup>

Justin posits that the only alternative remaining to guarantee a secure and safe conclusion to the hostage situation is the payment of the requested ransom.<sup>39</sup> One

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<sup>35</sup> Ibid.

<sup>36</sup> M. Murphy, *Small Boats, Weak States, Dirty Money: The Challenge of Piracy*, op.cit.

<sup>37</sup> Ibid.

<sup>38</sup> H. Payne, *Piracy Today: Fighting Villainy on the High Seas*. (Dobbs Ferry, NY, Sheridan House, 2010), p. 262

<sup>39</sup> Justin Stares, *Owners to Shun Gulf of Aden Over Ransom Ban*, LLOYD'S LIST, Mar. 4, 2010

striking aspect of piracy along the Somali coast is that despite differences of location and clan, the methodology used for the targeting, attack and capture of ships, the detention of crews, the progress of negotiation, the amounts of ransom demands, the methods of receiving payments and ultimately release of ship and hostages are all identical.<sup>40</sup>

Phillips observes that these identical procedures come from a coordination of the pirates activities in Puntland or in Central Region.<sup>41</sup> In Puntland, there is a fundamental operational directive, or base code of practice, among the pirates that once a ship has been ransomed and is released that it cannot be further targeted by any other group of pirates.<sup>42</sup>

### **1.5.2 Factors driving piracy**

There are many factors that drive piracy in Somalia. One should not be surprised that piracy has taken root in Somalia given the social upheavals, human hardship, environmental degradation and the entrepreneurial spirit of the Somali.<sup>43</sup> Piracy is flourishing in Somalia as it is a quick way for all involved to earn a large amount of money way beyond any other means of income generation. While the action of piracy involves some risk, the benefits far outweigh that risk, a fact indicated by the few arrests made and less deaths and injury suffered by pirates to date.

Sekulich examines that poverty, lack of employment, environmental hardship, pitifully low incomes, reduction of pastoralist and maritime resources due to drought and illegal fishing and a volatile security and political situation all contribute to the

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<sup>40</sup> Justin Stares, *Owners to Shun Gulf of Aden Over Ransom Ban*, op.cit.

<sup>41</sup> A. Phillips, *A Captain's Duty: Somali Pirates, Navy SEALs, and Dangerous Days at Sea*. (New York, Hyperion, 2010),p.286.

<sup>42</sup> Ibid.

<sup>43</sup> B.Schiemsky, "Piracy's rising tide-Somali Piracy develops and diversifies".Jane Intelligence Review, 20 January 2009.

rise and continuance of piracy in Somalia.<sup>44</sup> This situation will remain so until there is an effective and simultaneous action taken against the pirate trade and an alternative means of income support mechanism implemented to replace it; otherwise criminal activity, in some shape or form, will continue to take priority as a means of generating income among the armed militias of Somalia.<sup>45</sup>

Bair urges that pirates firmly believe that they have every right and entitlement to attack illegal fishing vessels operating in their territorial waters as their fishing resources are being pillaged daily by international shipping vessels from Asia and Europe.<sup>46</sup> The international community is fully aware that this illegal activity has been going on for nearly seventeen years but has taken no action against it.<sup>47</sup>

The pirates believe they are the only option to curtailing this injustice. Equally the pirates did admit that the initial idea of protecting their coast line has been hijacked to the current situation where any vulnerable vessel is a target. Targeting other ships is supposed to highlight the illegal shipping but has now become such a huge international problem that the origins for the initial actions have been forgotten. However, Apgar urges that pirates do admit that humanitarian aid and other supporting commercial vessels should not be targeted for piratical gain.<sup>48</sup>

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<sup>44</sup> N.Sekulich, *Terror of the Seas: True Tales of Modern-Day Pirates*.(New York, Thomas Dunne Books, 2009),p.308

<sup>45</sup> S.Sekulich, *Terror of the Seas: True Tales of Modern-Day Pirates*,op.cit.

<sup>46</sup> A.Bair, *Disrupting Somali Piracy Via Trust and Influence Operations*.(Monterey, CA, Naval Postgraduate School, June 2009),p.63.

<sup>47</sup> Ibid.

<sup>48</sup> P.Apgar, *Countering 21st Century Piracy in the Horn of Africa*. (Carlisle Barracks, PA, Army War College, February 2010),p.24



### 1.5.3 Somalia as a failed state

Somalia is one of the poorest countries in the world, and has been a failed state since the collapse of the Siad Barre government in 1991.<sup>49</sup> In a country with a severely dysfunctional and limited government, a strong clan-based society, and widespread poverty, it is no wonder that piracy has become a method of gaining income for some of the poorest residents of the African Continent.<sup>50</sup>

Payne posits that after Somalia gained its independence in 1960, the country embraced a centralized democratic government that sought to unify all ethnic Somalis and clan fiefdoms.<sup>51</sup> However, the populace failed to achieve the ethnic solidarity needed for a successful democracy. This led to a military coup under which General Siad Barre was overthrown in 1991. This was the beginning of an era of perpetual volatility that has been characterized by violent clashes between warlord clan leaders.

On the other hand, Hilburn examines that since 1991, the country fell into a state of anarchy leaving millions dead or starving.<sup>52</sup> There has been no central government, “no ministries; no systematic maintenance of infrastructure; and Somalia cannot ratify international conventions since technically it does not exist.”<sup>53</sup> The long decline in the domestic security situation in Somalia is reaching its most alarming level with the growth of maritime piracy.

The rebellion against the Siad Barre regime in 1991, which propelled Somalia into civil war, may best be characterised by intense large-scale fighting putting

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<sup>49</sup> K. Menkhaus, “*Governance Without Government in Somalia*,” *International Security*, Vol. 31, No.2 (Winter, 2007), pp. 74-106.

<sup>50</sup> A. Mwangura, “*African Sea Pirates* .European Community on Protection (ECOP)-Marine, 2008

<sup>51</sup> H. Payne, *Piracy Today: Fighting Villainy on the High Seas*, op.cit

<sup>52</sup> I. Hilburn, *Piracy on the Rise* .(New York, Thomas Dunne Books, 2009),p.308

<sup>53</sup> B. Wombwell, *The Long War Against Piracy: Historical Trends*. (Fort Leavenworth: Combat Studies Institute Press, Army Command and General Staff College, May 2010.), p. 209.

different clan groupings, mostly the Darod and the Hawiye, against each other.<sup>54</sup> Several negotiation attempts were made, and two UN missions, United Nations Operations in Somalia I and II (UNOSOM), managed to partly contain the conflict, but ultimately failed in creating stability and peace. Mwagiru states that "the traditional understanding of what constitute conflict to states are not wholly applicable in the African setting where conflicts are conditioned by its different operating environment."<sup>55</sup>

Wombwell explores that at the end of 1995, both the International Red Cross (IRC) and the UN had completely withdrawn from Somalia because of the conflict.<sup>56</sup> Between 1995 and 2005, the fighting continued, but was now more regional and contained to different factions within the clan communities.<sup>57</sup> Hallerberg urges that there are several factors, foreign as well as domestic, which contribute to the current situation in Somalia, but the recent developments might be said to contain elements of foreign involvement as well as domestic grievances; the emergence of the Union of Islamic Courts (UIC) and the Ethiopian intervention.<sup>58</sup>

Salih explores that after two years of peace talks in Kenya, the so-called Transitional Federal Government of Somalia (TFG) was established in October 2004.<sup>59</sup> The negotiations were led by the Inter-Governmental Authority on Development (IGAD) and aimed at reconciling the Ethiopian-backed Somali Restoration and Reconciliation Council (SRRC) with the sitting TNG. The strong

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<sup>54</sup> K. Menkhaus, "The crisis in Somalia," op.cit.

<sup>55</sup> M. Mwagiru, *Africa Regional Security in the Age Globalization*. (Heinrich Boll Foundatin, 2004)

<sup>56</sup> H. Wombwell, *The Long War Against Piracy: Historical Trend*, op.cit

<sup>57</sup> Ibid.

<sup>58</sup> L. Hallerberg, *Maritime Piracy: Examining the U.S. Response to a Global Threat*..( Carlisle Barracks, PA, Army War College, 2010),p.36

<sup>59</sup> M. Salih, *Crisis Management & Politics of Reconstruction in Somalia*, (Printed in Sweden: Reprocentralen HC, Uppsala 1994), pp. 12-15

Ethiopian influence effectively excluded all Islamist groups from the formation of the TFG.<sup>60</sup> In June 2006, the UIC quickly took power in Mogadishu.

The UIC managed to consolidate its power in and around Mogadishu, but, in December 2006, the UIC were overthrown by a rapid military advance by Ethiopian and TFG allied forces. In 2007, a splinter group consisting of moderate Muslims from the UIC formed the Alliance for the Re-Liberation of Somalia (ARS). Although the remainder of the UIC has been considerably weakened by the Ethiopian and TFG advances.<sup>61</sup>

#### 1.5.4 Humanitarian situation

The current humanitarian disaster in Somalia is one of the worst in the world today, with 3.2 million people, or forty two percent of the entire population, in need of emergency livelihood and life-saving assistance. Somalia has suffered recurring humanitarian emergencies over the last nineteen years; rates of acute malnutrition and chronic food insecurity above emergency levels.<sup>62</sup>

The humanitarian crisis in Somalia has been gravely deteriorated hence there is need for international donors to urgently appeal for more funds for relief operations. Since 1991, Somalia has been plagued by fighting and humanitarian suffering for decades.<sup>63</sup> Continuing instability coupled with drought and high food prices have worsened the dire humanitarian situation.<sup>64</sup>

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<sup>60</sup> R. DeRoven, *Major Conflicts Since World War II*, (California: Printed by ABC-CLIO, Inc 2004), p.27

<sup>61</sup> D. Murphy, *Somalia Conflicts*, (Pennsylvania: Printed by University of Pennsylvania press, 1996), p.200

<sup>62</sup> S. Chesterman, *Just war or Peace: Humanitarian Situation in Somalia*, (New York: Oxford University Press; 2002), p.227

<sup>63</sup> See more in K. Menkhaus, "Stabilisation and Humanitarian Access in a Collapsed State: the Somali Case."

*Disasters*, 2011.

<sup>64</sup> L. Rutherford, *Humanitarian Aid Under Fire*, (West Hartford: published by Kumarian Press, 2008), p.45

World Food Program, has been deeply concerned about the rising hunger and suffering caused by prolonged years of drought and escalating conflict. Mounting maritime piracy attack on humanitarian workers have been also making it virtually impossible for the WFP to continue feeding hungry people in Somalia. Piracy have brought about rise in shipping costs and hampered the delivery of food aid shipments by WFP, which have required a military escort in the recent years. Increasing attacks against WFP's humanitarian operation in southern Somalia have forced the agency to shut down some of its food distribution.<sup>65</sup>

The United Nations World Food Programme has condemned an attempted pirate attack off the coast of Somalia, the latest incident in an already tense and insecure environment which witnessed the detention of one of the agency's officials last in 2007.<sup>66</sup> Some eighty per cent of WFP food assistance for Somalia moves by sea, and pirate attacks threaten to cut the main supply route, jeopardized rations for the 1.2 million people WFP fed end of 2007 as drought, floods and factional fighting take their toll.<sup>67</sup>

The current humanitarian crisis, however, is unique in that, for the first time, a significant number of people in crisis are urban poor, who are struggling to cope with sustained hyperinflation in food prices. The urban food crisis is widespread, affecting twenty five percent of the total urban population, or seven hundred and five thousand people, of which five hundred and sixty five thousand are identified as in Acute Food and Livelihood Crisis (AFLC) and 140,000 in Humanitarian Emergency.<sup>68</sup> In

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<sup>65</sup> M. Cutts, *The State of the World Refugees*, (New York:Oxford University Press;2000), p.158

<sup>66</sup> N. Serafin, *Peacekeeping and related stability operations*,(New York:Nova Science Publishers Inc., 2005),

p.221

<sup>67</sup> Ibid.

<sup>68</sup> T. Weiss,*Humanitarian Intervention*, (Great Britain:Printed by Servis Film Setting Ltd, 2006), p.76

addition, according to UNHCR, another one million people have been internally displaced.

Weiss observes that food prices in Somalia, both local and imported, are at record levels. Cereal prices increased by between hundred percent and one hundred and sixty in 2007 and one hundred and thirty to one hundred and ninety in 2008.<sup>69</sup> Although prices have since declined slightly, they are all still very high above the long-term trend. Other imported food commodities, including basic items like vegetable oil and sugar, have also increased significantly in price.

Adan urges that the current levels of food price hyperinflation in Somalia are only partly attributed to rising global food prices. Somalia imports roughly sixty percent of its food requirements, mostly rice and wheat flour.<sup>70</sup> The food price crisis is magnified in Somalia due to a number of compounding macro-economic shocks, primarily driven by increased conflict and civil insecurity, the worst the country has seen since the collapse of the state in the early 1990s.<sup>71</sup>

The most devastating macro-economic shock is the dramatic devaluation in the Somali Shilling. Mubarak posits that following uncontrolled and excessive printing of the local currency, notes began to flood the markets in 2007, rapidly increasing the local money supply and sending the value of the currency into freefall.<sup>72</sup> The Somali Shilling depreciated by one hundred and forty five percent against the US dollar in

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<sup>69</sup> N.Serafin,*Peacekeeping and related stability operations*,op .cit.

<sup>70</sup> H.Adan,*From Tyranny to Anarchy: The Somalia experience*, Red Sea press, 2008, p.120

<sup>71</sup> Ibid.

<sup>72</sup> J.mubarak,*From bad policy to chaos in Somalia:How an Economy Fell Apart*,(UK:Greenwood publishing group,1991),p.70

2007 and one hundred and fifty percent in 2008.<sup>73</sup> This has made imports more expensive, and the increased costs have been passed on to consumers in higher prices.

In addition, the freight transport costs associated with importing commodities increased significantly in 2008, due to increased piracy in the waters off Somalia.<sup>74</sup> Ploch urges that since early 2008, there have been over a hundred pirate attacks, with forty successful hijackings of cargo ships and freighters destined either for Somalia or passing through international waters nearby.<sup>75</sup>

Freight costs have increased significantly as a result of the greater financial risk and the costs of protective escorts. Although the recent spate of audacious hijackings has attracted international attention and prompted several countries, including France and India, to deploy military escorts and patrols, piracy off Somalia's coast continues.<sup>76</sup> Within Somalia, increased civil insecurity and conflict, especially in southern and central regions, resulted in an increase in the number of road blocks and 'check points', with high levels of extortion and taxation. This has resulted in higher transportation costs involved in moving commodities from one location to another, leading to further inflationary effects.

There are other inflationary pressures on food prices in Somalia. The sustained increase in the price of imported rice, the main staple food for most people living in northern and central Somalia, has forced many to switch to cheaper locally produced cereals, especially sorghum. The cost of one kilo of rice more than tripled from fourteen thousand two hundred SoSh to forty three SoSh in the six months from

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<sup>73</sup> P.Eichstaedt, *Humanitarian State: Somalia's Food Prices*, (US:Chicago Review Press,2010), p.29

<sup>74</sup> L.Ploch: *Piracy off the Horn of Africa*, (Great Britain:Oxford University Press,2009), p.56

<sup>75</sup> Ibid.

<sup>76</sup> Ibid

January to June 2008.<sup>77</sup> Locally produced cereal supplies, however, are significantly below normal, due to successive seasons of rain failure and drought, combined with inefficient and deteriorating irrigation infrastructure. Somalia's annual cereal production in 2007 and 2008 was fifty five percent and fifty seven percent of the post-war average.<sup>78</sup>

Increased demand for locally produced cereals has caused an unusual outflow from the southern parts of the country to areas in the central and northern regions. Low local cereal supplies, combined with increased demand, are thus causing additional inflation in cereal prices, such that sorghum prices increased by one hundred and thirty percent in 2008, and are now four hundred and thirty above normal levels.<sup>79</sup>

Moreover, according to Somalia's 2008 Annual Cereal Balance Sheet, it is estimated that there is an overall cereal supply deficit of between seventy five thousand and one hundred and thirty thousand metric tonnes, due to below-normal domestic cereal supply and reduced commercial imports.<sup>80</sup> Overall, Little observes that there are no reported cereal supply shortages in the country, and cereal remained available in markets throughout Somalia, albeit at significantly increased prices.<sup>81</sup> Furthermore he says that food aid, estimated at two hundred and ninety nine thousand metric tonnes in 2008, has played an important role in filling the overall gap in cereal supplies, and cereal flow analysis indicates unusual marketed cereal flows, including cereal food aid.<sup>82</sup>

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<sup>77</sup> S.Samatar, *Nation in search of a State*, (UK:Westview press;1987),p.105

<sup>78</sup> J.mubarak,*From bad policy to chaos in Somalia:How an economy fell apart,o.p cit*

<sup>79</sup> S.Chesterman,*Just war or Peace:Humanitarian situation in Somalia*, op.cit

<sup>80</sup> See more informations on *Somalia Annual Cereal Balance Sheet*,2008, p.12.

<sup>81</sup> D. Little, *Humanitarian situation in Somalia*. (UK:Bluemark Publishing Company,2008),p.56

<sup>82</sup> P.Little,*Somalia Economy without State*,(Great Britain:Oxford University printing press, 2007), p.64

Although food prices declined slightly between October and December 2008, they remain at record levels. The weakened Somali Shilling, increased importation and shipping costs due to piracy, below-normal domestic cereal supplies and an overall cereal supply deficit are keeping food prices high and widening the differential between food prices in Somalia and global food prices.<sup>83</sup>

### **1.5.5 World Food Programme operations**

Almost two decades after the overthrow of President Siad Barre, Somalia remains a failed state with little prospect of a meaningful peace on the horizon. Sporadic outbursts of violence have caused hundreds of thousands of people to leave their homes and seek shelter in other parts of the country or flee to neighboring or nearby states, including Ethiopia, Kenya, Tanzania and Uganda. In recent years tens of thousands have risked their lives by making the dangerous Gulf of Aden crossing from northern Somalia to Yemen. Hundreds die each year during the voyage.<sup>84</sup>

United Nations World Food Programme which has been working in partnership with the people of Somalia for more than 40 years, has found it virtually impossible to work in the south-central part of the country, including the capital, Mogadishu, because of the lawlessness and anarchy.<sup>85</sup> Since 1991, more than half-a-million people have fled overseas, putting enormous pressure on neighbouring countries, especially Kenya, Ethiopia and Yemen.<sup>86</sup>

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<sup>83</sup> Ibid.

<sup>84</sup> J. mubarak, *From bad policy to chaos in Somalia: How an Economy Fell Apart*. op.cit.

<sup>84</sup> P. Eichstaedt, *Humanitarian State: Somalia's Food Prices*, (US: Chicago Review Press, 2010), p.29

<sup>85</sup> K. Penul, *Encyclopedia of Disaster Relief*, (Great Britain :Published by Sage, 2011), p.312

<sup>86</sup> Ibid., p.54



Menkhaus, a professor of political science and an expert on Somalia describes the situation in 2008 and 2009: “[An] explosion of a massive humanitarian crisis [occurred] in April 2007, the result of the displacement of a total of some seven hundred thousand Mogadishu residents to the countryside. Other factors – disruption of commercial movement of food due to armed conflict and a rise in militia roadblocks, a spike in global food and fuel prices, an epidemic of counterfeiting of Somali shillings, and drought – added to the humanitarian crisis. By 2008, 3.5 million Somalis, or close to one-half of the total population of south-central Somalia, are in need of emergency food relief, making Somalia the worst humanitarian crisis in the world.”<sup>87</sup>

Half of the population living in Somalia is in urgent need of humanitarian assistance, one in every five children is acutely malnourished and less than a hundred thousand of the country's internally displaced children attend primary school.<sup>88</sup> The general insecurity, including regular outbreaks of fighting and the murder and abduction of humanitarian workers, has made it more and more difficult for WFP to carry out its operations. WFP's humanitarian operations in southern Somalia have been under escalating attacks from armed groups and piracy, leading to this partial suspension of humanitarian food distributions in much of southern Somalia.<sup>89</sup> WFP is deeply concerned about rising hunger and suffering among the most vulnerable due to these unprecedented and inhumane attacks on purely humanitarian operations.

WFP is continuing to provide life saving food distributions in the rest of the country, including the capital, Mogadishu, reaching more than two-thirds of the

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<sup>87</sup> N.Nachmias, *The political of International Humanitarian Aid Operations*. (Great Britain :Greenwood publishing group, 1997), p.84

<sup>88</sup> N.Nachmias, *The political of International Humanitarian Aid Operations*, op.cit.

<sup>89</sup> Ibid.

hungry it has been targeting - or 1.8 million people.<sup>90</sup> In addition, resources and relief workers are being re-deployed from southern areas in the event that people start moving away from areas where food distributions have been suspended.

Burnett urges that, even in good years, Somalia is only able to meet forty per cent of the food needs of its population through internal production.<sup>91</sup> In the last five years, local production has averaged only about thirty percent of food needs in Somalia.<sup>92</sup> WFP has been working closely with its partners to pre-position supplies and prepare to provide assistance to any population movements either within Somalia, or across the country's borders into neighbouring countries.

In 2009, WFP's offices in Wajid, Buale, Garbahare, Afmadow, Jilib and Belet Weyne in southern Somalia are temporarily closed, and food supplies and equipment have been moved, along with staff, to safer areas in order to ensure that food assistance continues to reach as many vulnerable people as possible.

The recent attacks, threats, harassment and demands for payments by maritime pirates and armed groups have decimated the humanitarian food lifeline, making it virtually impossible to reach up to up to one million woman and children and other highly vulnerable people.

#### **1.6: Justification of the study**

The purpose of the study is to investigate the impact of piracy on WFP aid operations in Somaia during the study period. To investigate this, the researcher carried out interviews to find out the perspectives on Somali piracy. The high level of Somali

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<sup>90</sup> K. James, and B. Wilson. "*Humanitarian Situation in Somalia* ." World Policy Journal, 2008/09.

<sup>91</sup> J. Burnett, . *Dangerous Waters: Modern Piracy and Terror on the High Seas*.(New York:Plume, 2002) . p.76.

<sup>92</sup> K. James ,and B. Wilson, '*Humanitarian Situation in Somalis*. Op.cit.

piracy is making aid deliveries to drought-stricken Somalia ever more difficult and costly. The World Food Programme has already been forced to temporarily suspend food deliveries. However, many scholars who have written on Somalia maritime piracy have not given attention or critical look at the impact of this piracy on humanitarian assistance. Indeed, more information about this research will lead not only to practical application but also theoretical importance. Moreover, the study will extend existing knowledge and provide useful information to humanitarian agencies, governments/states, and intergovernmental agencies. These stakeholders can use the findings of this study to develop humanitarian assistance policies, laws and procedures for management of humanitarian assistance in maritime piracy situation.

### **1.7: Conceptual framework**

Piracy is defined by the United Nations Convention of the Law of the Sea (UNCLOS) as any illegal act of violence or detention committed for private ends by crew or passengers of a private ship or private aircraft, and directed either on the high seas, against another ship or aircraft, or against persons or property on board such as ship or aircraft.

However, maritime piracy is invariably linked to political instability. In a lawless and poverty-stricken Somalia, this is strikingly clear. To explore, the researcher will analyse the topic under study through the lens of two key theories of international relations: Realism and international regime theory.

#### **i Realism Theory**

Realism is one of the fundamental theories of international relations. Realism urges that international politics is driven by anarchy.<sup>93</sup> Realists posit that states are rational

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<sup>93</sup> F. Jones, *International Relations theory*, (New York: Greenwood Publishing Company, 1998), p.49

unitary actors whose sole purpose is to ensure their national interest in the anarchic world. Two of the foremost proponents of this theory is Kenneth Waltz and John Mearsheimer. They both urge that the anarchic structure of the international system puts states in a struggle for survival.<sup>94</sup>

Waltz argues that, unlike domestic ones, international systems are 'decentralised and anarchic' and believes that international politics is 'politics in the absence of government.'<sup>95</sup> According to Mearsheimer, 'great powers recognize that the best way to ensure their security is to achieve hegemony.' In other words, an anarchic world necessitates a state to pursue power maximization Vis-a'-Vis other states.<sup>96</sup>

Albeit more subtly, Waltz echoes this opinion: A state constantly worries that it will become dependent on another through cooperative endeavours. Waltz believes that international organizations like the United Nations are controlled by nation states that have their own political agendas. This means that UN and other international organizations efforts are therefore constrained.<sup>97</sup> They are largely ineffective because they cannot act independently on Somali piracy.

Realists believe that in an anarchic world, nation states need to protect their interests. This argument can be applied to rising incidences of Somalia maritime piracy, since in high seas, there is no one in complete control of outside nations'

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<sup>94</sup> K. Waltz, *Theory of International Politics* (Reading MA-Addison-Wesley Publishing Company; 1979)

<sup>95</sup> M. Mearsheimer, *The tragedy of Great powers Politics* (New York, NY: W.W Norton & Company Inc., 2001), p. 370

<sup>96</sup> *Ibid.*, p. 45

<sup>97</sup> Waltz, *Theory of International Politics*, *op.cit*

coastal jurisdictions, thus creating a condition of true anarchy. This is one of the factors that have attributed to the Somali maritime piracy.<sup>98</sup>

Realists would advocate for nations states that pursue their interest in these regions to act independently and set-up their maritime security operations to protect their interest. This could take a form of sending warships to escort ships carrying food for displaced people. These actions would most likely be taken by states with the greatest shipping industries.

## ii International regime theory

Unlike realism theory, international regime theory uses institutional causal framework to analyze international relations. It considers international institutions like the UN and EU as the "major sites of global governance. Krasner offers a widely accepted definitions of this regime "principles, norms, rules and decision making procedures" around which actor expectations converge in a give issue-area.<sup>99</sup> Volker goes a step further by saying that these principles, norms and rules are agreed upon by governments and takes the form of institutions.<sup>100</sup>

Like realisms, international regime theory acknowledges the existence of anarchy and they believe that regimes can reduce it by fostering interstate collaboration and coordination in the following ways.<sup>101</sup> First, regimes's rules and procedures provide predictability in state behaviour. Second, it discourages free riding because no single state will be expected to provide a solution to a collective problem

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<sup>98</sup> E. Bronwyn, "Somalia: A New Approach." (New York: Center for maritime piracy, Council on Foreign Relations, 2010) ,p.45

<sup>99</sup> S. Krasner, ed., *International Regimes.* (Ithaca: Cornell University Press, 1983), p. 43

<sup>100</sup> P. Volker, *Regime Theory and International Relations* (New York: Oxford University Press Inc., 1993), p. 200

<sup>101</sup> *Ibid.*, 145

such as that of Somali piracy. For instance, the US has been trying to offer a solution to the Somali piracy but it has not succeeded. Third, it provides a standardized road map for dealing with a specific issues such as piracy.

The biggest challenge for the success of regimes is the nebulosity of international law. Andrew Hurrell argues that regime theorists and international lawyers are closely linked.<sup>102</sup> What he means is that a regime must provide its nation states a particular sets of rules. This assurance will provide the framework for collaboration and coordination among states. The problem of Somalia piracy has persisted since creating an international legal framework is incredibly complex because it is hard for nations to agree on an international convection.<sup>103</sup> That is why the role of an institution like the UN is important.

Regime theorists would argue that a regime's success is infact dependent on the interdependency between an institution and a state. In other words, it is states, with the addition of laws, which create and maintain successful institutions.<sup>104</sup> According to these theorists, if Somalis tackle themselves their problem, then they are able to foster inter-state cooperation. However the behaviour of states in solving global dilemmas is marked different. Arthur A. Stein explains that states are "self-interested actors that rationally forgo independent decision making and construct regimes."

Krasner further explains that regime creation occurs at times of fundamental discontinuity in the international systems.<sup>105</sup> Therefore, any disruption in the international system that has been caused by Somalia maritime piracy has made supranational organization such as European Union to provide a legal and operational

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<sup>102</sup> A.Hurrell, *International law and politics*, (New York: Royal Publishing Company, 2007), p.233.

<sup>103</sup> *Ibid.*

<sup>104</sup> *Ibid.*, 256

<sup>105</sup> *Ibid.*,

framework for engaging and eliminating the rising problem of piracy attacks in the Gulf of Aden and Indian Ocean.

### **1.8 Hypothesis**

The study will test the following hypothesis:

1. Lack of effective government and poor security in Somalia led to piracy.
2. Somali pirates operate in a network that has a significant impact on aid operations
3. Paying no ransoms will help end piracy off the coast of Somalia.

### **1.9 Research Methodology**

This chapter presents the methodology to be employed in collecting and analyzing research data. The study is qualitative in approach employing interviews. Because of the nature of the data required, the study will employ purposive sampling. This is because respondents who are knowledgeable and have had contact with the Somalia humanitarian agencies and issues are required to provide insight into the situation under study.

By focussing on Somali maritime piracy, the study used qualitative data gathering instrument. Interviews were conducted with officials at the United Nations World Food Programme Somali office, British and United States of America embassy here in Nairobi. In addition, the researcher also interviewed Mohammed Ali, KTN's senior investigative journalist who had met face to face with Somali pirates. Secondary data was collected through library research from such sources as academic journals, books, print and electronic media and also from unpublished works. Reports

from conferences organized by various stakeholders and other publications was utilized.

Due to lack of funds, lack of security and insufficient time, the researcher didn't travelled to Somalia to collect data.

### **1.10 Chapter Outline**

The study is structured into five chapters.

Chapter one is about the background of the study, statement of the problem, objectives of the study, literature review, justification of the study, conceptual framework, hypotheses and methodology employed in the study. In chapter two, the study looked at the theoretical overview of Somalia piracy.

Chapter three is about a case study of Somalia. It explored the approaches that have been used to combat maritime piracy whilst chapter four critically analyses issues that have emerged from the case study. Observations arising from the study are also indicated in the chapter. Finally, chapter five gives a summary of first four chapters of the study, key findings and the recommendations to the international community while bibliography consists of the sources where the researcher obtained information for the study. These sources were from books, journals, treaties or charter. The sources are arranged in alphabetical order.



## CHAPTER TWO

### 2.0: INTRODUCTION

The previous chapter established the foundation of the study by giving an introduction to the study. It examined the background of the study, the statement of the research problem, objectives, literature review of Somali piracy, justification, conceptual framework, hypotheses, research methodology and the chapter outline. This chapter provided the overall benchmark of the study.

However, chapter two seeks to explore the overview of piracy off the Somalia coast and show what are the root causes of piracy.<sup>106</sup> It also seeks to find out more on pirate methodology and how ransom money is obtained. The increase in piracy in recent years can be attributed to three main reasons: first, the development of a more sophisticated method of operation has allowed pirates to successfully attack bolder targets and thus reap greater rewards; second, the growth of the region's maritime industry has increased the number of potential targets; and third, the worsening state of affairs in Somalia has made illegal activities an increasingly attractive and viable business.<sup>107</sup>

### 2.1: Piracy around the World

Piracy has long been one of the main activities of "people of the sea" against merchant nations, perhaps most famously in the Mediterranean Sea where, at the beginning of the 19th century, it triggered the "Barbary Coast wars".<sup>108</sup> The struggle against piracy was a constant concern of merchant countries which very early led to the adoption, against pirates, of the first example in history of an extraterritorial law

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<sup>106</sup> Ibid., p. 277

<sup>107</sup> P. Apgar, *Countering 21st Century Piracy in the Horn of Africa*. op.cit.

<sup>108</sup> J. Carafano, *Maritime Security: Fighting piracy in the Gulf of Aden and Beyond*. op.cit.

and an universal crime. This stern approach made piracy almost disappear until 1990.<sup>109</sup>

In early 1990's piracy staged a comeback. It reached a peak between 1999 and 2003, because of the activity of pirates in South China Sea and in the Malacca Strait. Thanks to the efforts of the coastal states, piracy almost disappeared in the Straits of Malacca and Singapore and decreased in the South China Sea.<sup>110</sup> In its annual report, IMO stated that two hundred and six attacks were allegedly committed and seventy six attempted in 2007.<sup>111</sup>

According to IMO "the areas most affected in 2007 were the Far East, in particular the South China Sea and the Malacca Strait, West Africa, South America and the Caribbean, the Indian Ocean and East Africa."<sup>112</sup> During 2007 to 2009, the number of acts reported to have occurred or to have been attempted increased in East Africa and West Africa. Most of the attacks worldwide were reported to have occurred or to have been attempted in the coastal States' concerned territorial waters while the ships were at anchor or berthed."<sup>113</sup>

IMO report adds: "during 2007, twenty crew members were killed, over one hundred and fifty-three crew members were reportedly injured/assaulted. About one hundred and ninety four crew members were reportedly taken hostage/kidnapped. A vessel and crew and another three crew members were reportedly still unaccounted for, and sixteen ships were reportedly hijacked."<sup>114</sup>

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<sup>109</sup> J. Carafano, *Maritime Security: Fighting Piracy in the Gulf of Aden and Beyond*: (Washington, heritage foundation, 2009), p.29

<sup>110</sup> P. Lehr, *Violence at Sea: Piracy in the Age of Global Terrorism*, (UK: published by Routledge, 2006), p. 12

<sup>111</sup> See IMO Annual Report MSC.4/Circ.115 dated 10 April 2008

<sup>112</sup> Ibid.

<sup>113</sup> Ibid., p. 28

<sup>114</sup> IMO Report 2009

According to the Commercial Crime Services of the International Chamber of Commerce, 2008 seems to be the year of a new surge of piracy.<sup>115</sup> A total of one hundred and ninety nine worldwide incidents were reported to the Piracy Reporting Centre (PRC) of the International Maritime Bureau in the first nine months of 2008.<sup>116</sup> The third quarter of 2008 saw reported incidents spike to eighty three, compared to the fifty three reported in the first quarter and the sixty three reported in the second quarter.<sup>117</sup>

Few such efforts were made on the African side of the Indian Ocean and, in 2007, more than half of the total piracy incidents occurred off the African coasts and in the Indian Ocean. According to the IMO report, twenty seven attacks were successfully carried out and thirty three attempted off East Africa during this period.<sup>118</sup> During the first nine months of 2008, much of the increase in piracy can be directly attributed to the Gulf of Aden and east coast of Somalia. This region appears as the most dangerous zone with the 63 incidents reported there by IMB Piracy Reporting Centre, almost a third of the overall reported attacks. When presenting these figures, Captain Mukundan, the head of the Piracy Reporting Centre, added:

“The number of piracy attacks off the coast of Somalia is unprecedented. Pirates in the Gulf of Aden are growing increasingly brazen, attacking vessels, including tanker and large bulk carriers, with impunity. This major international seaway requires immediate increased protection and naval intervention.”<sup>119</sup>

Wombwell posits that for many years, various government, international organizations, inter-governmental organizations and non-governmental organizations have provided advice, guidance and warnings regarding piracy off Somalia. These

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<sup>115</sup> See Commercial Crime Services , International Chamber of Commerce Report, 2008

<sup>116</sup> A. Wombwell, *The long war against piracy: Historical Trends*. (Fort Leaveworth: Combat studies Institute press ,2010), p. 209

<sup>117</sup> Ibid.

<sup>118</sup> See IMO Report, 2008

<sup>119</sup> M. Mukunda's speech on pirates attack, November 2008

include the International Maritime Organization, Maritime Port Authority of Singapore, U.S. Maritime Administration, the U.S. Navy's Office of Naval Intelligence (ONI) in Washington, Maritime Liaison Office in Bahrain (MARLO Bahrian), the UK Maritime Trade Organisation Dubai (UKMTO), the ReCAAP Information Sharing Centre Singapore, the International Maritime Bureau's Piracy Reporting Centre Kuala Lumpur, and BIMCO.<sup>120</sup>

## **2.2: Understanding piracy in Somalia**

### **2.2.1 Origin of Piracy**

The history of Somalia piracy is not a new phenomenon. Prior to 1990, piracy was not a major issue off the coast of Somalia, but like most coastal nations, there were irregular incidences of armed robbery against small fishing or leisure craft that fell prey to an armed group, or ships that foundered off the coast. A more structured form of piracy began in the mid 1990's when some armed groups, claiming they were authorised coast guards charged with protecting Somalia's fishing resources, attacked vessels they claimed were fishing illegally in their territorial waters and held them for ransom.<sup>121</sup>

Burnnet observes that this slowly expanded after 2000 to any vessel that sailed within or close to, Somali territorial waters.<sup>122</sup> Both vessels and crews would be held hostage and ransom demanded.<sup>123</sup> During 2005 an increase was noted in the number of attacks being attempted against vessels sailing in the Indian Ocean off the coast of Somalia. By 2006 some of the pirate attacks were extending as far as 350 nm off the

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<sup>120</sup> B.Wombwell, *The Long War Against Piracy: Historical Trends*, op.cit.

<sup>121</sup> P.Kantai, "The Hunt for pirate treasure" (The Africa Report, No.26 December 2010 January 2011), p.127)

<sup>122</sup> S.Burnnet, *Dangerous waters: Modern piracy & Terror on the High seas*. (New York: Dutton publishers, 2002), p.34

<sup>123</sup> S.Burnnet, *Dangerous waters: Modern piracy & Terror on the High seas*. op.cit.

coast of Somalia.<sup>124</sup> During 2006 piracy escalated as more attempts were made to hijack ships not only in the Indian Ocean but also in the Gulf of Aden and the mouth of the Red Sea. The phenomenon grew through 2007 from the major pirate bases of Eyl, Hobyo and Haradheere concentrated along the east coast of Somalia.<sup>125</sup>

By 2008 this reached outlandish proportions with ships being attacked seemingly at random and whenever the pirates decide. Consequently marine travel off the northern coast of

Somalia, known as Puntland, has become the most dangerous region in the world for pirate

attacks. However, until the much-publicised attacks off the coast of Somalia in recent months, few were aware that maritime piracy has continued into current times, with an estimated nine merchant ships attacked for every thousand voyages.<sup>126</sup> In 2008, there was, on average, one reported pirate attack roughly every thirty one hour: in 2009 this increased to roughly one attack every twenty nine hours.<sup>127</sup>

The numerous cases of reported and unreported Somalia maritime piracy have led to considerable international concern. Since there is no law and order of any kind in Somalia due to the lack of central government, maritime piracy is rampant. Somalis are engaging in this criminal behavior for basic survival.<sup>128</sup>

Since 1991, Somali piracy has been a major problem. However, the incidence of such piracy has grown significantly. The period 2007/2009 has seen unprecedented high levels of pirate activity in the off Somalia coast, with more than eighty recorded attacks on ships. The London-based IMB released a report detailing the upsurge in

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<sup>124</sup> Ibid., p.59.

<sup>125</sup> B. Allen: Somali piracy, Vol 3, Issue 1, Feb 2007

<sup>126</sup> N. Brown, *Taking the fight to the pirates*, *Jane's Navy International*, 1 May 2006.

<sup>127</sup> D. Nincic, *Maritime piracy: implications for maritime energy security*, *Journal of Energy Security*, February 2009.

<sup>128</sup> Ibid

piracy in 2008.<sup>129</sup> Worldwide, the number of pirates attacks increased by eleven percent an unprecedented rise in maritime hijackings. The IBM attributed almost exclusively to an explosion of attacks in the Gulf of Eden, the stretch of the Arab Sea separating war-torn Somalia from Yemen. Of the two hundred and ninety three piratical incidents, the IBM recorded for the year, one hundred and eleven attacks occurred on the high seas surrounding Somalia's territorial waters. This represents a staggering annual increase of nearly two hundred percent in the critical trade corridor linking the Suez canal and the India Ocean.

The incidents of piracy in the first quarter of 2009 had already surpassed all the attacks in the previous year, including one hundred and fourteen attempted hijackings and twenty nine successful hijackings.<sup>130</sup> These increase in the extent of piracy seems to be related to the development of more effective methods and the use of more sophisticated equipment. According to Stuart, pirates are now using fishing trawlers as base ships that can operate much further a way for the coastline.<sup>131</sup>

Langewiesche posits that pirates are using 'mother ships' (generally captured fishing trawlers) to increase their range out to sea.<sup>132</sup> In addition, pirates use a system that combines AIS interception and satellite positioning to identify and track their intended target, as well as "spotters" who are working in ports around the region and providing advanced knowledge on the routes.<sup>133</sup> This problem of piracy has not always been taken seriously by the international community. The above recent events

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<sup>129</sup> See IMB Report, 2008

<sup>130</sup> W. Lawrence, *The Evolving Maritime balance of power in the Asia-Pacific Maritime Doctrines*, (UK: Joint Services publishing company, 2009), p. 78

<sup>131</sup> R. Stuart, *In search of Pirates*, (Edinburgh: Mainstream publishing, 2002), p. 22

<sup>132</sup> W. Langewiesche, *The Outlaw Sea: A world of Freedom, Chaos and Crime*. (New York: orth Point Press, 2004), p. 125

<sup>133</sup> W. Langewiesche, *The Outlaw Sea: A world of Freedom, Chaos and Crime. op.cit.*

have shown that unless piracy is contested, it will spiral out of control and threaten the sea lanes that transport almost a half of the world's cargo.

### **2.2.2 Pirate Networks**

Pirate networks operate in organized crime.<sup>134</sup> According to Freeman, an organized crime is any group having some manner of formalized structure and whose primary objective is to obtain money through illegal activities.<sup>135</sup> Such groups maintain their position through use of threatened violence and generally have a significant impact on humanitarian aid operations.

Carafano observes that Somali Pirates operate in the same manner as traditional organized crime networks in that they : (1) are financially motivated; (2) receive support from local government officials; (3) utilize violence or the threat of violence to further their objectives ; (4) have a significant impact on aid operations. The actual organization of the groups, including their social hubs, and however, their communication proves much more difficult to assess. A Danish Institute of International Studies report notes that there is actually very little known about the specific motives of pirates, and even less known about the social structure of pirates networks.<sup>136</sup>

Assessing the social structures of pirate networks is difficult due to the lack of intelligence and information available regarding to the internal affairs of the area in which pirates operate. Stig Hansen, an expert on Somalia describes it as a "black hole

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<sup>134</sup> M.Lewis, *Understanding Somali piracy:Methodology*.op.cit.

<sup>135</sup> B.Freeman, *The Straits of Malacca:Gateway or Gauntlet?*(Montreal:Mc.Gill-Queens University Press,2003),p.49

<sup>136</sup> C.Moller, *Somalia Pirates*,2009

when it comes to information''This lack of of knowledge proves extremely problematic in attempting to identify the network size and leadership.<sup>137</sup>

### 2.2.3 Pirate Methodology

The most active and renowned pirate bases are scattered along the Indian Ocean coast of Central Somalia and Puntland, Eyl, Hobyo and Haradheere.<sup>138</sup> These bases are well equipped and strongly armed. It is currently beyond the capacity of the local authorities to carry out raids on these bases.

The methodology of the pirate attacks, from transport preparation, weapons preparation, target identification and subsequent hostage negotiation has improved with practice and reinvestment of funds from ransom payments. According to Ploch, initially pirate attacks were launched from beach heads in open twenty long skiffs five, with high free boards and powered by seventy five to eighty five horse power outboard motors whose range and safety was dictated by the state of the sea, amount of fuel on board and engine power.<sup>139</sup>

The most highly regarded outboard motor along the east coast is the Yamaha eighty five horsepower outboard motor. This allows a skiff to attain speed of 30 knots in relatively calm seas with four people aboard.<sup>140</sup> Recently, these skiffs are now being powered by as much as two one hundred and fifty hp motors. These skiffs move about looking for slow moving vulnerable commercial or fishing vessels ideally

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<sup>137</sup> Menkhaus, "Dangerous Waters", p. 22.

<sup>138</sup> J.Carafano, *Maritime Security: Fighting Piracy in the Gulf of Aden and Beyond*,( US:Washington Heritage Foundation,2009), p. 29.

<sup>139</sup> L.Ploch,*Piracy Off the Horn of Africa*.(Congress Research Services,2009),p.56

<sup>140</sup> P.Eichstaedt,*Pirate State: Inside Somalia's Terrorism at Sea*.(US,Chicago Review Press,2010),p.101



travelling under 15 knots with a low freeboard.<sup>141</sup> Once the vessel is targeted the skiffs form a two or three pronged attack depending upon the number of skiffs in the attack group.

Attacking from a number of directions simultaneously usually allows one of the skiffs to approach a vessel unnoticed and enable a number of armed pirates to board the vessel. Once this is accomplished the crew are easily captured and the remaining pirates came on board. The pirated vessel is then brought to one of the main bases of operation, Eyl, Hobyo or Haradheere, depending upon the origin of the pirate's sub-clan, and negotiations begun for the release of the vessel.<sup>142</sup>

In the late 1990's and early 2000, the number of hijacked vessels was very few, and consisted of an equal representation of fishing vessels, commercial traders or private yachts. When these relatively rare incidences occurred, they were viewed somewhat sensationally and often involved the local support capability of the clan elders to assist in opening negotiations with the correct representatives of the identified pirates. In these early cases the priority was the release of the crew as the vessels and their contents were looted by the pirates as part of their *modus operandi*.<sup>143</sup>

In mid 2000 a new breed of piracy was noted, one that started targeting and holding bigger commercial vessels for longer periods and demanding higher ransoms.<sup>144</sup> With little to fear from local or international law, the trade mushroomed incrementally to the state it is today. The step to this stage was founded on an interim period of targeting fishing vessels accused of fishing illegally in Somali territorial

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<sup>141</sup> M. Lewis, *Understanding Somalia Piracy: Methodology*. (Colombia: Colombia University Press, 2008), p. 127

<sup>142</sup> J. Gettleman, *Somalia Pirates Tell their side. They want Money*, (New York: New York Times, 2009)

<sup>143</sup> P. Apgar, *Countering 21st Century Piracy in the Horn of Africa*. Op.cit.

<sup>144</sup> *Ibid.*, p. 227

waters. These pirates called themselves ‘Somali coastguards’ with such names as the Kismayo Volunteer Coastguards and the Somalia Marines for Hobyo and Harardheere and sanctioned their actions by stating they were protecting Somali fishing resources.<sup>145</sup>

When the rewards of these actions began to bear financial returns, attacks quickly ranged well beyond Somali territorial waters into the Indian Ocean looking for targets. The pirates use ‘mother ships’, larger ships or dhows already pirated to move inconspicuously into the ocean carrying pirates weapons and skiffs.<sup>146</sup> When a targeted ship was spotted the skiffs were released close by and raced towards the targeted ship with pirates armed with automatic weapons.<sup>147</sup> These were used to threaten the crew into submission either by waving their weapons or by firing volleys against the bridge or in some cases firing into the vessel. The pirated vessel was then taken to one of the land bases, and held off-shore during the negotiations.<sup>148</sup>

In late 2007, the pirates realized that the rewards of captured vessels would increase for less danger and trouble if they targeted vessels exiting the Red Sea out of the Suez Canal.<sup>149</sup> This resulted in many more vessels being attacked and hijacked vessels. This situation exists today even with the existence warships and the arrival of a number of NATO and EU warships and warships from other countries.<sup>150</sup>

While the pirates still use the ‘mother ship’ system, Phillips observes that some of the pirate groups use satellite positioning systems to identify and track their intended target. Others also believe that the pirates are receiving information from “spotters” who are working in ports around the region and providing advanced

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<sup>145</sup> J. Abdalla, *Chaos in Somalia: Threat of Piracy*, (UK, Greenwood publishing Company, 2010.), p.98

<sup>146</sup> Ibid.

<sup>147</sup> M. Adan, *From Tyranny to Anarchy in Somalia*. (UK: Westview Press, 2010), p.33

<sup>148</sup> Ibid., p. 319.

<sup>149</sup> H. Joshua, *Shifting of Maritime Power and Implication for Maritime Security in East Africa*. (Singapore: Institute of Defense and Strategic Studies, 2010), p.61

<sup>150</sup> L. Ploch, *Piracy Off the Horn of Africa*. op.cit.

knowledge on the routes and physical details of potential targeted vessels.<sup>151</sup> Regardless of what system the pirates are using, they are still able to hijack ships within the tight operational confines of the Gulf of Aden and amidst the increasing number of foreign warships.

#### 2.2.4 Ransoms

According to Oxford dictionary, 2010, ransom is the amounts demanded for the release of individuals or goods that have been held hostage.<sup>152</sup> Over the recent years, Somalia pirate groups have been hijacking ships and taking the crew hostage. Unlike pirate attack in Straits of Malasca, where ships are boarded either to take the vessels or its contents, pirates off the Horn of Africa, particularly the Somalia pirates, routinely take the target vessel's crew hostage in return of ransom payment.<sup>153</sup>

This approach has been possible for these pirates because they have a sanctuary on land and in their territorial waters from which they can launch pirate attacks and conduct ransom negotiations.<sup>154</sup> Pirates in other parts of the world are less likely to have sanctions and often pirate attack may involve violence. Unlike these pirates, Somali pirate group have not shown willingness to harm captives taken in the course of their raid as their goal is to extract ransom payment.<sup>155</sup>

Over the past few years, ransom have risen from the tens of thousands of US\$ to hundreds of thousands. In 2008 the average ransom was between US\$500, 000 to US\$ 2 million.<sup>156</sup> Eichstaedt explores that US and international officials, suspect that Somalia businessman and international support networks provide pirate groups with

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<sup>151</sup> A. Phillips, *A captain's Duty: Somali Pirates, Navy Seals & Dangerous Days at Sea*. (New York, Hperion) p.28

<sup>152</sup> See Oxford Dictionary, 2008.

<sup>153</sup> H. Joshua, *Shifting of Maritime Power and Implication for Maritime Security in East Africa*. op.cit.

<sup>154</sup> Ibid.

<sup>155</sup> L. Ploch, *Piracy Off the Horn of Africa*, (Montreal: Diane publishing company, 2010) p.58

<sup>156</sup> L. Ploch, *Piracy Off the Horn of Africa*, op.cit

financing supplies, and intelligence on the movement of ships in regional ports in return of shares of ransom payments.<sup>157</sup>

Ransom demands are now negotiated directly between the pirates on the seized vessel and the ship owners or companies, using the ship's communication equipment. In most instances ransoms are paid in cash and are delivered to the pirates aboard the seized ship.<sup>158</sup> The cash is usually transported by a representative of the ship owners. Upon receipt of the money, the pirates wait until the money courier has departed before leaving the ship. To reduce the chance of identification, capture and loss of the ransom, they will leave individually, travel separately and divide the money amongst members of the group.<sup>159</sup>

Reports of other payment methods indicate that ransoms are paid to a trusted third representative at a regional location outside of Somalia. Upon receipt of the money, a call is placed to the pirates and the ship and hostages released. Most navies have avoided rescue operations that could endanger the lives of the hostages, preferring instead in hostage negotiations or wait for shipping companies to negotiate ransom.

Eichstaedt urges that ransom payments are considered to be problematic because they encourage pirates to continue their attacks.<sup>160</sup> Furthermore, he says that Somalia warlords and businessmen are using piracy to finance their enterprise and generate money to recruit more fighters into their private armies. In return, the pirates receive protection. Ransoms can be quite high. Recently, in June 2007, pirates

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<sup>157</sup> Peter Eichstaedt, *Piracy State: Inside Somalias Terrorism at Sea*. (US: Chicago Review Press, 2010)

<sup>158</sup> Ibid.

<sup>159</sup> Ibid., p. 299

<sup>160</sup> P. Eichstaedt, *Pirate State: Inside Somali*. op.cit

hijacked the Danish Ship, *Danica White*. In August, its release was negotiated through an intermediary security firm for \$ 1.5 million ransom.<sup>161</sup>

Payment of a ransom has two major implications. First, any time a ransom is paid to kidnapper, it produces a short-term benefit but much larger, hidden, long-term costs. The obvious benefit is the release of the hostages(s), but the hidden cost is that it encourages all organisations that specialise in hostage taking. Secondly, it provides pirates with finance to procure sophisticated weapons and high-tech gadgetry. This has contributed to the frequency of their onslaught and the success of their forays. This further emboldens the pirates and even worsens the situation.<sup>162</sup>

### **2.2.5 Root causes**

The Somali piracy evolved into a serious threat due to several interrelated factors. According to the final Report of the experts group convened in November 2008 by U.N special representative to Somalia, Ahmedou Ould-Abdallah, "poverty, lack of employment, environmental hardship, pitifully low incomes, reduction of pastoral and maritime resources due to drought and illegal fishing and volatile security and political situations all contribute to the rise and continuance of piracy in Somalia."<sup>163</sup>

"Piracy is just a symptom overshadowing the real disease: the collapse of the state and lawlessness and anarchy in the country..."<sup>164</sup>

#### **I. Volatile security and political situation**

According to Ould-Abdallah, the continuous absence of a reliable and functioning government in Mogadishu meant that Somalia was incapable of taking action against

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<sup>161</sup> M. Gaouette, *Cruising for trouble: Cruise ships as soft targets for pirates*, (UK: ABC Publishing Company, 2010) p. 85

<sup>162</sup> J. Wombwell, *The long war against piracy: Historical trends*, (Fort Leavenworth, KS, Combat Studies Institute Press, Army Command and General Staff College, 2010), p. 100

<sup>163</sup> See UN Report, 2007

<sup>164</sup> The Guardian Report, 2010)

piracy at sea.<sup>165</sup> The country's internal unrest and the power of the local warlords and clan leaders created favourable situation for the organized crime. The collapse of state authorities opened the coast of Somalia to uncontrolled foreign exploitation. Large commercial fishing vessels from distant nations such as gained access to Somalia water and destroyed by degree the livelihood of coastal communities.

Experts unanimously agree that the scale and incidence of maritime criminality in this region is, at root, an extension of the land-based violence, and lawlessness that has plagued Somalia since the fall of the Said Barre dictatorship in 1991.<sup>166</sup> Middleton observes: "Piracy has been a problem in Somali waters for at least ten years. However, the number of attempted and successful attacks has risen over the last years. With little functioning government, long, isolated sandy beaches and a population that is both desperate and used to war, Somalia is a perfect environment for piracy to thrive."<sup>167</sup>

The fact that Somali-sourced attacks briefly declined under the rule of the Islamic Courts Union (ICU) between 2006 and 2007 further demonstrates the critical influence that central and local institutions can play in managing piracy.<sup>168</sup> Nincic directly takes up this point in her detailed assessment of piracy in Somalia coast: During their brief tenure in power, the ICU took a firm stand against maritime piracy.<sup>169</sup> They were also able to extend their military control over the known "pirate bases" of Haradheere and Hoby. The capture of Haradheere was particularly significant: the Somali Marines pirate group operating there had the most

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<sup>165</sup> See UN report, 2008

<sup>166</sup> Thomson John, *Mercenaries. Pirates and Sovereigns*. (US: Princeton Publishing, 1994)

<sup>167</sup> A. Wright, *Organised Crime*, (UK: William Publishing, USA, 2006), p.21

<sup>168</sup> M. William, *Analysis of the Strategy to Combat Maritime Piracy*. (Fort Leavenworth, KS, Army Command and General Staff College, 2009) P.32

<sup>169</sup> Ninic Donna, Somali piracy:

sophisticated capabilities of any of the pirate groups operating in the country. With the ability to operate the furthest offshore, they were believed to be responsible for most of the attacks on larger vessels, including hijacking for ransom. As the ICU exerted its control, they declared piracy a crime and imposed strict penalties such as cutting off both hands. As a result, piracy dropped to only ten attacks in 2006.<sup>170</sup>

## II. Poverty and illegal activities.

Poverty also contributes to the problem. In a country where the average person earns less than \$2 a day, the potential rewards from hijackings ships have become increasingly difficult to resist.<sup>171</sup> This is true even for fishermen, many of whom complain that it has become increasingly difficult and expensive to make a living due to the depletion of off-shore protein stocks from illegal fishing and dumping of toxic waste.<sup>172</sup>

Somalia natural resources are being exploited by nations seeking a profit in Somalia's recognized economic exclusive zone. The recognized areas of exploitation are :illegal fishing and dumping. Initially, pirates acted on a marine defense force seeking to drive a way foreign vessels. Stuhldreher posits, "the problem of piracy in Somalia originated about a decade ago because of disgruntled fishermen."<sup>173</sup> The headless state has no authority to patrol its rich coastal waters. As a result of this, foreign commercial vessels swooped in to cast their nets. The Somalis saw these vessels as illegal as they were operating at the expense of the local impoverished

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<sup>170</sup> H. Roazen, *The Enemy of all: Piracy and the law of Nations* (Cambridge, Mass: Distributed by the MIT Press, 2009) p.75

<sup>171</sup> A. Jonah, *Terror on the High Sea: From piracy to Strategic Challenge*. (Santa Barbara, CA: Greenwood publishing company, 2007), p. 118

<sup>172</sup> H. Roazen, *The Enemy of all: Piracy*. (Cambridge. Published and Distributed by the MIT press, 2009), p. 121

<sup>173</sup> K. Stuenkel, *Somali Piracy*. (US: George Washington University Press, 2007) , p. 24

populace. This prompted local fishermen to attack these vessels and demand compensation.<sup>174</sup>

Somalia has been used as a dumping ground for hazardous since 1990s. Asian and European companies have been signing contracts with non-recognized government entities enabling them to dump toxic chemicals into the waters. The United Nations Environmental Programme (UNEP) reported a storm had washed up rusting barrels containing toxic radioactive chemical onto the shore of Somalia.<sup>175</sup>

From the above illegal activities, it is evident that, Somali fishermen want to secure the waters from foreign fishing and ensure their continued prosperity in the fishing industry. In the mid-1990s, many Somali fishermen abandoned their nets in favour of AK-47S to defend their waters from any criminal activity.<sup>176</sup> They eventually teamed up with militiamen and local businessmen interested in huge profit paid by the shipping companies.

Poverty and illegal activities carried out off the Somalia waters have made pirates to legitimize their attacks. The Department For International Development (DFID) estimated that Somalia lost nearly \$100 million dollars from 2003/2004 due to illegal fishing in the country's economic exclusive zone.<sup>177</sup>

Stuhldreher says, "the problem of piracy in state had no authority to patrol its coastal waters and foreign commercial vessels swooped in to cast their nets. The Somalis saw these vessels as illegal and raking in profits at the expense of the local impoverished population. That prompted local fisherman to attacks foreign vessels

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<sup>174</sup> K. Stuhldreher, *Somali Piracy*. op.cit.

<sup>175</sup> See *UNEP Report*

<sup>176</sup> M. William, *Analysis of the Strategy to Combat Maritime Piracy* op.cit

<sup>176</sup> H. Roazen, *The Enemy of all : Piracy and the law of Nations*. op.cit

<sup>177</sup> Ploch et al; 2009



and demand compensation".<sup>178</sup> The fisherman's initial aims were to secure the waters from local competition and ensure their continued prosperity in the fishing industry.

However, "the success of these early raids in the mid-1990s persuaded many young men to hang up their nets in favor of AK-47s".<sup>179</sup> The fisherman eventually teamed up with militiamen and local businessmen interested in profiting from the handsome bounties paid by the shipping companies. The illegal fishing problem is a source of disappointment and anger for many Somali people and the pirates capitalize on the local population's disdain for foreign fishing in their waters and use it to legitimize their attacks. The Department for International Development (DFID) estimated that Somalia lost nearly \$100 million dollars from 2003-2004 due to illegal fishing in the country's economic exclusive zone.<sup>180</sup>

Furthermore, it is suggested that Asian and European companies have exploited Somali's political instability by signing contracts with non-recognized government entities enabling them to dump toxic chemicals into the waters in the region. Muammar Ghadadafi, the outgoing Libyan leader argued that piracy is a response to greedy western nations who invade and exploit Somalia's water resources illegally.<sup>181</sup> According to him, this is not a piracy but a self defense.

Civil war, combined with a series of devastating droughts, has created a dire humanitarian crisis in Somalia.<sup>182</sup> Humanitarian crises, under certain conditions can be a breeding ground for maritime piracy, and maritime piracy itself can exacerbate already dire humanitarian conditions.<sup>183</sup> Somalia maritime piracy frequently has its

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<sup>178</sup> <sup>178</sup> B. Michael, *Attaining optimal Deterrence at the Sea: A legal and Strategic Theory for Anti-piracy operations*, *Vanderbilt Journal of Transnational Law* 40, 2007), p.45

<sup>179</sup> M. Stuhldreher, *Somalia pirates: Causes of Pirates*. (Washington : Washington University Press, 2008) p.42

<sup>180</sup> L. Ploch, *Piracy Off the Horn of Africa*, op.cit

<sup>181</sup> Ibid. p.24

<sup>182</sup> C Purefoy, *African pirates: Humanitarian dimension*, CNN, 8 April 2009,

<sup>183</sup> Horn of Africa crisis, World Food Programme regional alert, 3 February 2009,

roots in its weak or fragile state, where humanitarian conditions are dire and economic opportunities are limited.

An estimated three million Somalis are already dependent on regular and unimpeded supplies of humanitarian food aid by sea. WFP transports by sea between thirty and forty thousand metric tons of food aid into Somalia every month.<sup>184</sup> The very real risk of a pirate attack has led to additional high insurance premiums for ship owners. It has become impossible for WFP to secure vessels delivering food aid to Somalia ports without securing naval escort. Bruton observes that the cost of maintaining enough warships in the area to provide escort cover for as many ten humanitarian aid shipments each month is enormous and arguably not sustainable in the long term.<sup>185</sup> There are more than one million displaced persons in Somalia, with conflict pushing more than twenty thousand people from their homes per month.<sup>186</sup>

The cost imposed by Somalia maritime piracy are significant. These costs stems from stolen goods and cargo, and also from delays in port and increases in insurance rates. At the heights of its relief efforts, the UN's World Food Programme(WFP) has been carrying out metric tons of food each month into the country. In 2008 alone, more than six million people in Somalia were dependent on food aid.<sup>187</sup> This number now stands at twenty five million people. A quarter of children die before they reach the age of five. One in six children under the age of five is acutely malnourished.<sup>188</sup>

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<sup>184</sup> See WFP website, 2008.

<sup>185</sup> B. Bruton, *Somalia a new approach. Council special report No. 52*, (New York city: Council on Foreign Relations, Centre for Preventive Action), p.35

<sup>186</sup> Relief agencies: Somalia too dangerous for us to work, CNN, 25 March 2008, <http://www.CNN.com> (accessed 20 June 2009).

<sup>187</sup> D Osler, Somalia food aid shipments :at risk, 13 June 2008, <http://Lloydslist.com> (accessed 20 May 2011).

<sup>188</sup> Pirates constant menace to food lifeline, World Food Programme, <http://www.wfp.org/stories/pirates> (accessed 29 May 2011)

Combined with record high food prices, hyperinflations and continued drought, the humanitarian situation in Somalia is now believed to be worse than than in Darfur.<sup>189</sup>

Between 80% and 90% of food aid to Somalia arrives by sea, as land based alternatives are problematic.<sup>190</sup> For example, it can take three weeks for a truck load of food to arrive in Mogadishu from Mombasa and drivers and their escorts are often attacked. The WFP is one of the major food suppliers to the country after the International Committee of the Red Cross, CARE International, Catholic Relief Services, Oxfam and other NGOs who are also active in producing much needed humanitarian assistance.

In 2005, pirates began targeting WFP chartered ships, carrying relief supplies, forcing the UN agency to suspend all deliveries of food assistance by sea to Somalia for weeks and further exacerbating humanitarian crisis in the country. In 2007, the WFP reported that the number of ships willing to carry food aid to the country has been cut by half.<sup>191</sup> In March the same year, the WFP had over 2400 tons of food supplies waiting on a dock in Tanzania ready for delivery and was having difficulty finding ships to hire. Relief agencies began to warn of an impending humanitarian 'catastrophe' and the Secretary General of IMO and the executive director of the WFP warned that piracy off the coast of Somalia could seriously threaten the supplyline for food assistance to the country.<sup>192</sup> In March 2008, some

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<sup>189</sup> Ibid., p. 54

<sup>190</sup> Ibid.

<sup>191</sup> M. Gunther, *A Cooperative Strategy of 21st Century Seapower: 200 Years of Repressing Piracy and still still*

*Missing the Boat*. Joint Military cooperation paper, 2008

<sup>192</sup> N. Brown, *Taking the fight to the pirates*, *Jane's Navy International*, op.cit

fourty relief agencies including World Vision and Oxfam said they were unable to help millions of Somalis due to pirate attacks and other impediments to their work.<sup>193</sup>

Due to the high publicised attacks on relief vessels, and the deteriorating conditions within the country, the international community agreed to provide military escort to vessels carrying WFP aid. Between November 2007 and June 2008, the French,Danish frigates escorted enough WFP food assistance to Somalia to feed nearly one million people for six months.<sup>194</sup> In June 2007,WFP asked for additional security assistance, and the military escorts for humanitarian relief vessels were taken over by the Canadian Navy in August 2008.

In October 2008, the UN Security Council and Secreary General Ban Ki-Moon called for the deployment of more international forces in the region to ensure that the WFP aid reaches the more that three million people threatened with starvation in Somalia.<sup>195</sup>

### **2.3.2 Trade and insurance companies**

Somalis have been traders throughout history – not least along the African coast and across the waters to the Arabian peninsular.Prior to the onset of civil war that started in 1990, Somalia was a major exporter of agricultural produce e.g livestock, molasses, fruit and sea foods.<sup>196</sup> It was also an importer of manufactured goods and petroleum products. Its traders were also active in transit trades of goods and foodstuffs to Ethiopia and northern Kenya.<sup>197</sup>

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<sup>193</sup> T.Mansfield,“*Modern Piracy: The Impact on Maritime Security.*”(Colombia: Marine Corps University, 2008)p.56

<sup>194</sup> M.Gunther, A Cooperative Strategy of 21st Century Seapower: 200 Years of Repressing Piracy and still still

Missing the Boat.op.cit

<sup>195</sup> See WFP report 2009

<sup>196</sup> Pirates constant menace to food lifeline, World Food programme.op.cit.

<sup>197</sup> Ibid.

The civil war has destroyed much of Somali's physical infrastructure, brought an end to the production of fruit and molasses for export and significantly reduced other economic activities as well. Nevertheless, Somalia's trade, its economy, customs revenue for local and federal government and access to resources necessary for the eventual reconstruction of its economy all remain significantly dependant on unimpeded access to the sea and to international shipping and trade. All of these are threatened by the existence of rampant piracy along Somali coast.

In particular, piracy imposes additional or 'friction' costs on business. It causes massive increases in the costs of ship insurance, which can run to hundreds of thousand of US\$ dollars per voyage or more. It also leads to higher shipping freight costs necessary to persuade international ship owners to deploy ships to the country's ports. Somali piracy has also made Somalia a 'no-go' area for international shipping which in turn, discourages potential overseas business partners / investors; reduces port revenues and funds available for investment in port and related transport infrastructure; reduces incomes of communities dependent on port revenues. It also contributes to currency inflation as a result large inflows of US \$ earned by pirates through ransoms paid by ship owners to release hijacked ships.<sup>198</sup>

#### **2.4: Reported incidents of piracy on vessels**

On June 2005, the MV *Semlow* was chartered by the WFP and carried eight hundred metric tons of rice, and food aid for victims of the Indian Ocean tsunami in Somalia. After taking control of the ship, the pirates stole US\$ eight thousand five hundred from the ship's safe, ransacked the crew's cabins, and demanded US\$ five hundred thousand in ransom for the return of the vessel. Diplomats from Kenya, Sri Lanka, Tanzania and the UN negotiated with the transitional government and clan elders and

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<sup>198</sup> Jones, Steven, "Tipping Point," *Maritime Security Review*, May 12, 2011

warned that food aid could be halted unless the *Semlow's* crew was released.<sup>199</sup> The ship and crew were eventually released in September, 2005. The WFP denied paying any ransom, but the shipping agency responsible for the vessel admitted they had paid US\$135 000 to pirates.<sup>200</sup>

In October, 2005, the MV *Miltzow* was carrying over eight hundred metric tons of food aid for the Lower Juba Valley, which had been repeatedly affected by droughts, floods and civil conflict.<sup>201</sup> It had offloaded about half of its cargo of seven hundred and three metric tons of maize, one hundred and eight metric tons of beans and thirty tons of vegetable oil in the port of Merca when it was stormed by pirates and forced to leave port. Less than two days later, the vessel and its ten crew members were released after negotiations with a Somali businessman. No ransom was reported paid.<sup>202</sup>

In February 2008, the MV *Rozen*, a vessel chartered by the World Food Programme to deliver UN food aid to Somalia, and its twelve-member crew were hijacked by armed pirates off the Somali coast. The Somali authorities were notified and intercepted the ship, but despite a heavy exchange of gunfire, the authorities were not able to board the vessel and the pirates escaped.<sup>203</sup> After intervention by tribal elders in Puntland and subsequent mediation efforts, the *Rozen* was subsequently released in early April, with its crew unharmed.

In May 2008, the MV *Victoria* was attacked sixty nautical miles from the port of Merca. It issued a distress call, resulting in two boats dispatched by the ship

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<sup>199</sup> Ibid., p.34

<sup>200</sup> See more information on WFP Report, 2008

<sup>201</sup> Jones, Steven, "Tipping Point," *Maritime Security Review*, op.cit.

<sup>202</sup> Ibid

<sup>203</sup> W. Lngewiesche, *The Outlaw Sea: A world of Freedom, Chaos and crime*. op.cit.

contractor. While these boats were able to intercept the pirates before they could board the *Victoria*, one guard was wounded in a gunfire exchange and later died.

In October 2007, two UN World Food Programme boats were stolen from the southern Somali port town of Merca. Police said they had arrested five suspects and found one of the boats crashed in Jazeera (pirates sometimes steal boats to use in their operations). In April 2009, the cargo ship MV *Victoria* was attacked again; this time it was hijacked off Mogadishu.<sup>204</sup> The vessel was carrying a cargo of sugar from India donated by Denmark and was bound for Somalia.

Pirates attempt to hijack the Comoran-flagged MV *Jaikur II* some sixty miles off the coast of the port of Brava, south of Mogadishu in Somalia. The cargo ship, which had just offloaded over seven thousand metric tons of food aid from the UN World Food Programme, was able to evade the pirates and return to Mombasa.<sup>205</sup>

The US-flagged and -crewed MV *Maersk Alabama* was carrying food aid for Somalia, Kenya and Uganda where the WFP is attempting to feed almost eight million people in 2009 because of drought and high food prices. The ship was attacked on its way to Mombasa, Kenya, a port critical for WFP programmes throughout the Horn of Africa since it serves as a point of entry for food aid for Somalia, Kenya, Uganda, southern Sudan and the eastern Democratic Republic of Congo. In 2008, more than five hundred thousand metric tons of WFP food assistance was delivered onboard more than two hundred ships through the port.<sup>206</sup> This was the first time a Mombasa-bound ship was attacked, raising concerns about security for relief supplies distributed through Kenya.

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<sup>204</sup> L.Ploch, *piracy off the Horn of Africa*, (Congress Research Services, 2009), p.78

<sup>205</sup> See WFP Report, November 2008

<sup>206</sup> *Ibid.*

The Togo-flagged vessel *MV Sea Horse* was attacked seven kilometres from Mogadishu on its way to pick up seven thousand metric tons of maize for the WFP from Mumbai, India. The US-flagged *MV Liberty Sun* was carrying twenty seven thousand metric tons of food for the WFP for relief efforts in Somalia, Southern Sudan and Kenya, and three thousand metric tons of food for World Vision and for NGOs in Uganda (Eagle). It was attacked by pirates after it had made a food delivery at Port Sudan. While damaged by rocket propelled grenade fire, it was not boarded and it headed to Mombasa under US.

In response, seven NATO warships were deployed off the Somali coast as part of 'Operation Allied Provider' to help combat piracy, and specifically to protect UN World Food Programme ships transporting humanitarian relief supplies to the country.<sup>207</sup> While military escorts have provided some level of security for relief vessels bringing humanitarian assistance to Somalia, it is clear they are not a solution to the complex problem of maritime piracy.<sup>208</sup> Maritime piracy in Somalia imposes much-publicised costs on the shipping community, it also extracts a deep toll from the population itself. Food aid stolen by pirates, or left rotting because it is being held for weeks or months on hijacked vessels, does not reach those who need it most.<sup>209</sup>

## 2.5: Conclusions

Maritime piracy imposes direct costs on the immediate humanitarian operations. Nowhere is this more true than in Africa. In Somalia, maritime piracy impedes the delivery of relief aid necessary to sustain and nourish a substantial part of the population. There is no coastal guard to patrol the waters off the coast and lack of

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<sup>207</sup> Chalk, Peter.. *The maritime dimension of international security: terrorism, piracy, and challenges for the United States*. (Santa Monica, CA: RAND Corporation, 2008 ),p.467

<sup>208</sup> M. Pottengal. 2009. "Somali piracy--the challenge continues." PowerPoint Presentation, Brussels, 21 January 2009.

<sup>209</sup> Ibid



police force capable of enforcing law on land.<sup>210</sup> At the same time, while piracy in Piracy itself has its roots in Somalia fragile economy. Maritime piracy cannot adequately be addressed and eradicated unless it is seen as both a *cause* of social and economic hardships and an *effect* of social, political and economic destitution as well.

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<sup>210</sup> B. Schiemy, '*Piracy's Rising Tide - Somali Piracy Develops and Diversifies*' *Jane's Intelligence Review*, May 2011.), p.43.

## CHAPTER THREE

### THE IMPACT OF PIRACY ON WFP OPERATIONS IN SOMALIA, 2007-2009

#### 3.0: Introduction

Chapter two briefly addresses the historical background of piracy off the coast of Somalia and then examines why it spread throughout the region to become a focal point for international problem. As part of fighting piracy, some international actors have come up with practical ways to eliminate piracy. Among these are the the naval forces and the International Maritime Organisation.<sup>211</sup>

Chapter three as a case study examines WFP operations in Somalia. It looks at the challenges that WFP faces as well as the impact of Somali piracy on its operations. Moreover, it explores some of the existing laws that would help fight piracy off the Somalia coast. The chapter also utilize both primary and secondary data. Various perspectives on Somali piracy are also discussed here. Fighting a gainst piracy needs to be grounded in the law.<sup>212</sup> States active in fighting against Somalia piracy need to rely on domestic and international laws in order to justify their anti-piracy operations. The legal framework for combating piracy and related criminal acts at sea involves several international treaties and the necessary implementing legislation

#### 3.1: WORLD FOOD PROGRAMME OPERATIONS IN SOMALIA

##### 3.1.1 Challenges

The humanitarian dimension of the ongoing conflict in Somalia is substantial and widespread. Pirate attacks have hindered humanitarian aid deliveries during one of the worst droughts ever to hit East Africa and have seized a number of WFP food

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<sup>211</sup> M. Murphy, *Suppression Of Piracy and Maritime Terrorism*: op.cit

<sup>212</sup> A, Mohammed ("The pirate kings of Puntland" Al Jazera 17 June 2009

shipment. By April 2007, almost two million Somalis were on the brinks of famine and WFP had to re-route much of its relief overland at far greater cost.<sup>213</sup>

According to a WFP estimate, three hundred thousand to four hundred thousand people fled Mogadishu between February and May 2007.<sup>214</sup> Recent statistics suggest that seventy percent of the population is undernourished while the UN have warned that as many as 3.5 million people needed food relief by the end of 2008.<sup>215</sup> In June 2008, more than ninety one thousand people were displaced, mainly because of insecurity.<sup>216</sup> Despite the security situation, WFP managed to distribute twenty four thousand metric tons of food to nearly 1.4 million beneficiaries.<sup>217</sup>

Rising incidences of insecurity on land has also worsen the situation. In 2009, incidents of carjacking targeting World Food Programme increased along the Afgooye-Mogadishu road, hindering aid operations for more than three hundred thousand internally displaced persons (IDPs) in the area.

Following years of conflict in Somalia, essential infrastructure for the movement of WFP humanitarian goods has been eroded to such an extent that it hinders the delivery of much needed emergency relief aid.<sup>218</sup> Key infrastructure affected includes the primary entry ports of Mogadishu and Kismayo and main supply routes in Middle Juba, Lower Juba, Bay, and Bakool regions.<sup>219</sup> On 2nd June 2008, the Food Aid Cluster reported that a convoy of thirty trucks loaded with WFP food

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<sup>213</sup> Islamic Focus, *Somalis Food Aid stopped*, CiPS, University of Pretoria, issue 13 November, 2007

<sup>214</sup> N. Berlatsky, *Piracy on the High Seas*: (UK:Greenhaven press, 2010), p. 78.

<sup>215</sup> S. Burnett, *Dangerous water: Modern Piracy & Terror on the High Seas*, (New York: Dutton publishers, 2003), p. 344.

<sup>216</sup> R. Middleton, *Piracy in Somalia: Threatening Global Trade, Feeding Local wars*, UK: Chatham House, 2008.

<sup>217</sup> S. Burnett, *Dangerous water: Modern Piracy & Terror on the High Seas*. op.cit

<sup>218</sup> Ibid.

<sup>219</sup> H. Stig Jarle and A. Mesoy. "The Pirates of the Horn – Humanitarian Aid and the Maritime Threat." *Strategic Insights*, 2006 3 (1)

aid commodities got stuck close to Jowhar, Middle Shabelle, due to bad road condition resulting from late heavy rains, leading to a delay in food delivery.<sup>220</sup>

On 16 June 2008, WFP, CARE and ICRC held a joint donor briefing aimed at presenting how food aid partners are involved in addressing humanitarian emergencies in Somalia. The donor briefing also highlighted factors behind the deterioration of the food security situation in Somalia including insurgence of piracy and lack of resources to provide the urgent life-saving food aid required. From June 2008 to December 2008, the projected food aid need for Somalia was over three hundred thousand metric tons for about 3 million beneficiaries.<sup>221</sup>

WFP increased the number of IDPs it is assisting with relief food in and around Afgooye from two hundred thousand in May 2008 to over three hundred thousand in June the same year. In the month of June 2008, five thousand metric tons was dispatched by WFP for distribution to the IDPs.<sup>222</sup> The number of WFP wet feeding programme beneficiaries in Mogadishu also increased from fifty thousand to eighty thousand during the same year.<sup>223</sup>

Another challenge that the WFP faces is the use of chartered small, old, very slow ships.<sup>224</sup> These ships require the Atalanta to deploy large numbers of personnel and ships for long periods to steward them. If the WFP could be financially assisted to use larger, more modern and faster ships, that would require far fewer troops and ships to patrol, then there shall be very few cases of vessels being hijacked by pirates. Protecting World Food Programme vessels delivering vital supplies to Somalia is an essential part of Atalanta's mandate. However, the WFP's use of small, slow ships

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<sup>220</sup> E. James, *The Freedom movement: Free Food, Free Drugs, and World Peace*. (U.S.A: iUniverse publishing

company, 2011), p.121

<sup>221</sup> UN Monthly Cluster Report: *Humanitarian Response in Somalia*, June, 2008

<sup>222</sup> E. James, *The Freedom movement: Free Food, Free Drugs, and World Peace*, op.cit

<sup>223</sup> UN Monthly Cluster Report: *Humanitarian Response in Somalia*, op.cit.

<sup>224</sup> Møller, Bjørn (2009) "Piracy off the Coast of Somalia" *DIIS brief*

requires greater military protection resources. The Government and the EU should strongly encourage the WFP to charter faster, larger and more modern vessels.

Despite the challenges hampering its operations in Somalia, in 2008, WFP extended its assistance to over five hundred thousand beneficiaries in the central regions facing humanitarian emergency.<sup>225</sup> WFP's total food requirement in June 2008 was thirty one thousand metric tons but due to increase in piracy, a total of seventeen thousand three hundred and fourty three mt was dispatched for distribution through various WFP programmes across Somalia reaching over nine hundred thousand beneficiaries.<sup>226</sup> Approximately ninety eight percent of food aid dispatched went to South Central regions of Somalia..

### 3.1.3 Impacts

Due to a lack of a central government, lawlessness became the order of the day in Somalia as can be seen from the increasing cases of piracy committed by Somalis in the Indian Ocean.<sup>227</sup> One of the impact of piracy is that it caused Mogadishu port to be closed. In 2006, Mogadishu deep-water port remained closed until it was officially reopened by the Islamic Courts Union(ICU). Its dilapidated state prevented the utilization of its full capacity.This made the WFP to suspend much of its operations.

When WFP suspended its operation, there were cases of rising hunger and suffering among the most vulnerable.<sup>228</sup> Majority of internally displaced people end up in conflict as they compete for food aid.This worsened the situation in the anarchic country.Apart from the WFP suspending its operation, pirates have been fueling internal wars in Somalia by providing money obtained from ransoms to buy

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<sup>225</sup> United Nations,Secretary-General Report on WFP operations in Somalia,November 13,2009, para.6

<sup>226</sup> African Security Review, April 2010, Volume 18

<sup>227</sup> P.Kerstin "*Weak states, Offshore piracy in modern times*" *East African Human Security Forum Discussion Paper* March , 2008

<sup>228</sup> See WFP Report, July 2009.

guns.<sup>229</sup> This created insecurity hence blocking WFP staff from reaching most affected areas. For more information on the cases of WFP vessels attacked in Somalia, 2007-2009, see appendix II

### **3.2: Legal framework and the existing laws**

Piracy is a form of barratry in which the link between its international and domestic contexts needs to be studied since they have shortcomings.<sup>230</sup> The problem in prosecuting pirates arises because of the disconnect between international and domestic laws.

#### **3.2.1 Treaties**

According to the Vienna convention on the law of the treaties, 1969, a treaty is defined as an international agreement concluded between states in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designed.<sup>231</sup>

The international legal regime applicable to piracy is set out primarily in the United Nations Convention on the Law of the Sea, which codifies customary international law. In accordance with article 100 of the Convention, the primary obligation for all States is to cooperate to the fullest possible extent in the repression.<sup>232</sup>

The traditional international law proscribing piracy is contained in the 1982 Law of the Sea Convention and its predecessor the 1958 Geneva Convention on the High Seas. The law of the sea defines "piracy" as any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the

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<sup>229</sup> S. Eric Pardo, "Piracy off Somalia and its challenges to maritime security: problems and solutions" *UNISCI Discussion Papers*, N° 19 (January 2009)

<sup>230</sup> See *United Nations Convention on the Law Of the Sea (UNCLOS)*, opened for signature 10 December 1982, 1833 UNTS 3 (entered into force 14 November 1994)

<sup>231</sup> See Vienna Convention, 1969

<sup>232</sup> *Ibid.*

passengers of a private ship or a private aircraft, and directed:(i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;(ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any state. Also, this law defines piracy as any act of voluntary participation in the operation of a ship or of an aircraft with the knowledge of facts making it a pirate ship or aircraft.<sup>233</sup>

However, Jeffrey has criticized these definitions of piracy under Article 101 of *UNCLOS* and argue that piracy has puts two further restrictions on the crime of piracy, one of which is that it can only be committed by private vessels or private planes.<sup>234</sup> In view of this, acts of piracy cannot be committed by ships or aircrafts owned by other nations. One can imagine, however, that this restriction must be waived in a situation where a state-owned ship or aircraft has been taken over and employed for piratical purposes.

The other restriction imposed by Article 101 provides that the maritime offence committed can only amount to piracy if committed for private ends. This excludes crimes motivated by political considerations, or those committed by insurgents, even those not recognized as belligerent.<sup>235</sup> Furthermore, the requirement that the acts be motivated for private ends restricts the definition offered to attacks committed with intention to rob, and also limits the ability of States to claim universal jurisdiction over politically motivated attacks which have commercial aspects.<sup>236</sup>

In light of the above and in the case of Somali piracy, the offenders could claim, as they in fact do, that they are protecting Somali fishing zones from

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<sup>233</sup> See United Nation convention on the Law of the Sea (UNCLOS)

<sup>234</sup> G. Jeffrey. "Somalia's pirates flourish in a lawless nation." *New York Times*, 31 October 2008

<sup>235</sup> See UNCLOS, Art. 101

<sup>236</sup> United Nations Convention for the Suppression of unlawful acts against the safety of Maritime navigation (March 10, 1988), p. 223

unauthorized intruders.<sup>237</sup> Such argument would not stand up to scrutiny, as it appears that the funds are being used for private enrichment in Somali communities. Pirates have become the drivers of socio-economic activity in tiny Somali coastal towns which have sprung up as a result of the piracy activity.<sup>238</sup>

Chalk, a scholar international studies argue that the UNCLOS definition of piracy disqualifies acts committed for political and ideological reasons from being considered piracy.<sup>239</sup> Also the above piracy definition requires that the violent act be committed on the high seas. The reasons for this limitation are logical: under traditional international law, anything that happens within the territorial sovereignty of a given state is a matter for that state alone to address and rectify.

### **3.2.2 United Nations Security Council**

UN Security Council Resolution extends to the territorial sea of Somalia the law of piracy and the law relating to armed robbery at sea.<sup>240</sup> The Security Council has established an additional framework for States cooperating with the Transitional Federal Government (TFG) to combat piracy and armed robbery at sea. In resolution 1816 (2008), the Security Council called on all States to “cooperate in determining jurisdiction, and in the investigation and prosecution of persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia”, consistent with applicable international law.

In resolution 1846 (2008), the Security Council also noted that state parties should create criminal offences, establish jurisdiction and accept delivery of persons responsible for, or suspected of, seizing or exercising control over a ship by force or

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<sup>237</sup>International Maritime Bureau , *Piracy and Armed Robbery Against Ships: Annual Report 2006* (Barking: ICC Publishing, 2006)

<sup>238</sup>P. Thean, *The Maritime Security Quandary in the Horn of Africa Region: Causes, consequences and Responses.* (Munich, Germany: The Hanns Seidel Foundation, 2008), p. 142

<sup>239</sup> P. Chalk. *The maritime dimension of international security: terrorism, piracy, and challenges for the United States.* Santa Monica, CA: RAND Corporation, 2008

<sup>240</sup> See United Nations Security Council Resolution 1816 (2008)



threat thereof or any other form of intimidation.<sup>241</sup> State parties were urged to fully implement their obligations under this Convention, and to cooperate with the Secretary-General and IMO to build judicial capacity for the successful prosecution of persons suspected of piracy at sea off the coast of Somalia.

In resolution 1851 (2008) of 16 December 2008, the Security Council decided that for States and regional organizations cooperating in the fight against piracy and armed robbery at sea off the coast of Somalia, for which prior notification had been provided by the Transitional Federal Government to the Secretary-General, could “undertake all necessary measures that are appropriate in Somalia, for the purposes of suppressing acts of piracy and armed robbery at sea” in accordance with “applicable international humanitarian and human rights law”.<sup>242</sup>

Further, Security Council resolution 1897 (2009) called on States to assist Somalia, at the request of the Transitional Federal Government and with notification to the Secretary-General, to strengthen capacity in Somalia, including regional authorities, to bring to justice those who are using Somali territory to plan, facilitate or undertake criminal acts of piracy and armed robbery at sea, consistent with applicable international human rights law.<sup>243</sup>

States cooperating with the Transitional Federal Government in the fight against piracy and armed robbery at sea off the coast of Somalia, for which advance notification has been provided by the Transitional Federal Government to the Secretary-General, may “[e]nter the territorial waters of Somalia for the purpose of repressing acts of piracy.”<sup>244</sup> However, that authority is limited to those States

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<sup>241</sup> See United Nations Security Council Resolution 1846

<sup>242</sup> United Nations Security Council 1897(2009) Resolution

<sup>243</sup> Ibid.

<sup>244</sup> Ibid.

cooperating with the TFG that the TFG has notified to the UN. So far the TFG has notified the following States: Canada, Denmark, France, Russian Federation, Spain, and the United States of America.<sup>245</sup> The TFG has also notified the UN that the NATO Standing Naval Maritime Group and the European Union Member States naval vessels have been permitted to enter the territorial waters of Somalia for the purpose of their mandated anti-piracy functions.

### 3.2.3 Domestic law

#### a) United States

The United States has a long history of punishing acts of piracy, but in some respects it has failed to modernize its piracy law.<sup>246</sup> The U.S. Constitution defines piracy as an act that occurs on the high seas. Article 1, Section 8 of the Constitution grants Congress the power “to define and punish piracies and felonies committed on the high seas, and offences against the Law of Nations.”<sup>247</sup> Congress, pursuant to such direct constitutional authority, enacted U.S.C. § 1651, which provides that whoever, on the high seas, commits the crime of piracy as defined by the law of nations, and is afterwards brought into or found in the United States, shall be imprisoned for life.”<sup>248</sup>

The U.S. Constitution has further expounded the definition of piracy, specifying that an act can come within the scope of piracy even though the actors did not intend to plunder, or did not engage in plunder.<sup>249</sup> According to this Constitution, if someone “sinks or destroys an innocent merchant ship, without any other object than to gratify his lawless appetite for mischief,” the act may qualify as piracy. In the

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<sup>245</sup> V. Mark, *The Politics of anti-piracy responses*. (Singapore: ISEAS Publishing Company, 2006), p. 654

<sup>246</sup> N. Donna. *Sea lane security an U.S. maritime trade: chokepoints as scarce resources*. In *Globalization and maritime power*. (Washington, DC: Institute for National Strategic Studies, National Defense University, 2001), p. 243.

<sup>247</sup> US Constitution 1651, Art. 1, Section 8.

<sup>248</sup> See US Constitution § 1651

<sup>249</sup> Ibid.

United States, however, maritime law fails to address modern-day issues of piracy, such as when acts are committed for a political end or in support of terrorism.<sup>250</sup>

### 3.2.4 Kenya

Kenya became a primary destination for the prosecution of pirates captured off the coast of Somalia from late 2008 to late 2009.<sup>251</sup> None of the pirates being tried in Kenya were captured by Kenyan armed forces but, rather, by non-Kenyan forces whose countries had signed agreements with Kenya for it to conduct such trials. In Resolution 1851 of December 16, 2008, the United Nations Security Council had urged states and regional organizations to enter into such agreements.<sup>252</sup> Kenya accordingly concluded agreements on prosecuting suspected pirates with the United Kingdom, and the United States.

Kenya adapted its law from British common law and has already tried some of the captured Somali pirates. According to the Kenyan law, a pirate is defined as “any person who, in territorial waters or upon the high seas, commits any act of piracy *jure gentium*.”<sup>253</sup> The Kenya government have come up with strong anti-piracy laws. Under the current law, any person who is guilty of the offense of piracy is liable to imprisonment for life. In addition to that, the High Court of Kenya has the jurisdiction to try any Kenyan or non-Kenyan for piracy offenses.

The ongoing piracy trials demonstrate that Kenyan courts are readier today than previously to resort to international law derived from custom and from ratified, but undomesticated treaties as sources of law for domestic application. To that extent,

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<sup>250</sup> O. John, “Case Study Methods in International Politics and Terrorisms,” *International Study perspectives* 2 (2001):163

<sup>251</sup> K. Abdulkadir, “Kenya on Somali Piracy” *The Somaliland Times* (15th November, 2008)

<sup>252</sup> *Ibid.*

<sup>253</sup> See more on Kenya Law on Piracy, High Court of Kenya, 2010

dualism's hold on Kenyan courts now appears attenuated. Until recently, Kenyan courts did not regard international law as part of Kenyan law unless it was specifically incorporated into Kenyan law by Parliament. This was the case with the now-repealed statute that governs the current prosecutions, which expressly incorporated the offense of piracy *jure gentium*.<sup>254</sup> The High Court in the piracy context has definitively provided the most forceful argument in favor of considering norms of customary international law as part of Kenyan law.

### **3.3: Perspectives on Somali piracy.**

Somali piracy is like any other piracy of its kind. The only difference is that the Somalis have not been intentionally targeting to kill the crews, rob the cargo or de-register the ships. Their mission is to get ransoms to improve their living conditions. In Somalia, the pirates are Somalis.<sup>255</sup> Hassan argued that the conflict between Somali fishermen and foreign illegal fishing vessels started in 1991, immediately the fall of the Somali government. But commercial shipping piracy started in 2006. This Hassan attributed this to lack of effective government to police the Somali waters off the Indian Ocean.

However, the distinction is drawn between Somali piracy and maritime piracy in other parts of the world. Hassan in his interview attributes this to poverty and lack of employment. Poverty is seen as a direct result of the protracted civil war which has engulfed the country for about two decades. That civil war is directly responsible for the total collapse of the economy as well as the entire infrastructure of the country and its institutions. He laments that piracy has emerged as a natural consequence of the desperation and the relative ease with which ships may be targeted while passing

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<sup>254</sup> Ibid.

<sup>255</sup> Interview with Mohammed Hassan on *Somalia piracy*, Eastleigh Section three, Nairobi, Kenya at 2.00pm on 30th June, 2011.

through one of the most important maritime trade routes in the world. In addition to the foregoing, although Somali piracy had humble beginnings with a crude foundation, the attraction of huge lucrative gains has turned it into a sophisticated organised crime.

A key point he made is that Somali piracy will only come to an end if the Somalis themselves restore peace in their country. No other state or actor will solve the Somali problem.

My second question was to establish the root causes of Somali piracy. Abdi Kadir, a resident at Eastleigh in Nairobi attributes the root cause of piracy as a resource based conflict as well as international injustice and endangering the life of the Somali population through the dumping of hazardous waste in the Somali seas. According to him, the Somali fishermen have been struggling against the foreign IUUS (illegal, unregulated and unreported) fishing, but they have been overpowered. These desperate fishermen have complained and appealed to the international community for assistance but were ignored. The Somali fishermen realized that most of the IUUS vessels and the commercial ships going through the Somali shores were owned by the same nations. They then decided to attack the commercial ships to draw attention to the issue. But instead of considering the fishermen's complaints, the international community waged war against the fishermen who, in turn, invited all kinds of armed Somali militias to support them.<sup>256</sup>

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<sup>256</sup> Interview with Abdi Kadir on the *causes of Somalia piracy*, Eastleigh Section three, Nairobi, Kenya at 2.20pm on 30th June, 2011.

In understanding the causes of Somali piracy, Kadir is of the opinion that there is need for Somalis to establish their own coast guards to monitor and protect their resources from exploitation or toxic waste.

Hobyu, a resident in South C posits that pirates belong to different groups but have different umbrella groups. There are two main groups—one in Puntland and the other in South and Central Somalia, which was his group.<sup>257</sup> Hobyu further examines that sending naval forces will not stop any Somalia from going into piracy. He adds that international community can arrest pirates if they find them at sea. They have arrested his friends several times but they have never been deterred from this lucrative business. Hobyu concluded by saying that piracy can stop if the international community focuses on helping Somalis establish a strong and effective government.

Halima, a twenty five year old lady living with his cousin who was a former pirate posits that her cousin was on a boat seafaring more than a thousand miles off Somalia over a month and three days. His colleagues and he were unlucky to hijack vessels and decided to return to shores. But just before they reached the shore, her cousin and other pirates encountered one of the worst tragedies. They saw a cloud of dust whirling and scores of high-tweeting birds flying over the waters. All over the sudden, the waters became so rough and the boat was half sunk. Only one of his colleagues, on the lower part of the boat, remained onboard and rescued the rest. Later, they discovered that the dust was caused by a toxic waste dumped by a ship that immediately fled the area.<sup>258</sup>

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<sup>257</sup> Interview with Ali Hobyu on *Somalia piracy*, South C, Nairobi, Kenya at 5.10pm on 30th June, 2011.

<sup>258</sup> Interview with Halima Hassan on the *causes of Somalia piracy*, Eastleigh Section three, Nairobi, Kenya at 2.50pm on 30th June, 2011.

Ali, a senior investigative journalist with the Standard Media Group posits that he has met face with face with the Somali pirates and he reports that the treated group believes that they hold the key to ending piracy off the Somali coast. Somali waters have never got any respite from illegal and regulated fishing by foreign vessels mostly from China, Japan, Greece, Taiwan, South Korea and India. This has brought the country's fisheries sector to its knees; factories have been shut. Ali further said that in an attempt to deal with illegal foreign fishing and dumping, the local fishermen organized themselves as 'the Somali Coast Guards.'<sup>259</sup>

Kassim, a senior radio producer in North Eastern and also as a correspondent with the Radio Netherlands posits pirates operates in base camps and they are organized. He further adds that they are very secretive and afraid of journalists. When pirate attack a vessel, it is done in an organized manner.<sup>260</sup>

### **3.4: Practical responses to eliminate piracy**

The practice of the concerned governments to send their naval forces to confront this complex transnational challenge has made the Horn of Africa a picture of a melee of warships operating individually or as Task Groups or both. Their task—to prevent attacks by pirates and to assure the safe passage of ships—is an onerous one for various reasons.

Since the first UN Resolution declared that piracy in the Gulf of Aden became a threat for the world peace, several actors deployed NAVAL operations in that area to combat piracy. In formal, these actors can be divided as follows:<sup>261</sup>

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<sup>259</sup> <sup>259</sup> Interview with Mohammed Ali, senior investigative journalist, KTN, *Somalia piracy*, Standard Media Center, Nairobi, Kenya at 2.50pm on 30th June, 2011

<sup>260</sup> Interview with Ahmed Kassim, on *how pirates are organised*, Uhuru Park, Nairobi, Kenya on 23th June, 2011

<sup>261</sup> See UN Resolution 1816, June 2008

### 3.4.1 European Union Naval Force

In 2008, piracy off the Horn of Africa became a major global concern. While it has been a local problem in Somalia territorial waters for at least ten years, the number of pirate attacks doubles from 2007 to 2008 and switched from the shoreline into the seas off the Somalia and Gulf of Aden.<sup>262</sup> The upsurge in piracy posed a rising threat to commercial shipping and necessitated the protection of humanitarian aid designated for Somali population.

Since 8 December 2008, the EU has been conducting a military operation to help deter, prevent and repress acts of piracy off the coast of Somalia. This military operation, named EU NAVFOR Somalia - Operation ATALANTA, was launched in support of Resolutions 1814, 1816, 1838 and 1846 which were adopted in 2008 by the United Nations Security Council. Its aim is to contribute to: (1) The protection of vessels of the World Food Programme (WFP) delivering food aid to displaced persons in Somalia; (2) The protection of vulnerable vessels sailing in the Gulf of Aden and off the Somali coast and the deterrence, prevention and repression of acts of piracy off the Somali coast.<sup>263</sup> Initially, this operation which was scheduled for a period of twelve months but later was extended. During the initial period, more than twenty vessels and aircraft took part in EU.<sup>264</sup>

NAVFOR has more than one thousand five hundred military personnel and currently, there are five EU member states making a permanent operational contribution to the operation: Greece, France, Spain, Germany and Italy.<sup>265</sup> They have been joined by Sweden, Belgium and the Netherlands.<sup>266</sup> Between 2008-2009,

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<sup>262</sup> G. Raymond, *Counting the cost of Somali piracy*, United States Institute of Peace Working papers, 2009.

<sup>263</sup> Information gathered from interviews held in the UNWFP Somalia office.

<sup>264</sup> Information obtained from EU library, Nairobi office.

<sup>265</sup> E. Peter, *The Pirate Wars*. (London: Thomas Dunne, 2003), p. 23

<sup>266</sup> Ibid.



the joint funding of the operation amounts to EUR 8.3 million. This budget, which is shared between the EU member states and is established on the basis of their GDP, mainly covers the running costs of the operation. The common costs for supplying the force are shared by the contributing countries and established according to their involvement in the operation, with each country continuing to bear the cost of the resources it implements.

The military personnel involved in the operation can arrest, detain and transfer persons who are suspected of having committed or who have committed acts of piracy or armed robbery in the areas where they are present.<sup>267</sup> They can seize the vessels of the pirates or the vessels captured following an act of piracy or an armed robbery and which are in the hands of the pirates, as well as the goods on board. The suspects can be prosecuted, as appropriate, by an EU member state or by Kenya under the agreement signed with the EU on 6 March 2009 giving the Kenyan authorities the right to prosecute.

The European naval force operates in a zone comprising the south of the Red Sea, the Gulf of Aden and part of the Indian Ocean, which represents an area comparable to that of the Mediterranean. Several naval forces are present in this zone and provide permanent or temporary backup to the action conducted by the European naval force.<sup>268</sup>

This operation is conducted in the framework of the European Security and Defence Policy (ESDP).<sup>269</sup> Each merchant vessel wishing to transit off the Somalia is requested to register in advance on the website of the maritime security Center-Horn of Africa ([www.mshoa.eu](http://www.mshoa.eu)) which was set at the beginning of the operation to

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<sup>267</sup> Ibid.

<sup>268</sup> Information gathered from interview held in the UNWFP Somalia office on 15th June 2011

<sup>269</sup> K. Sorenson, "State Failure on the High Seas – Reviewing Somali Piracy," Swedish Defence Academy OFI Report No.2610-SE (2008).

facilitate the coordination of maritime traffic. These registration services are provided by the UK Maritime Trade Operations office in Dubai and the US Navy's Maritime Liason office in Bahrain.<sup>270</sup>

The UK Maritime Trade Organisation in Dubai has been designated to receive anti-piracy distress calls for commercial vessels transiting the Gulf of Aden.<sup>271</sup> This initiative was welcomed by the whole community of shipowners and merchant navies. Similar voluntary tracking material and reporting services are provided by the UK Maritime Trade Operations office in Dubai and the US Navy's Maritime Liason office in Bahrain.<sup>272</sup>

EU NAVFOR Somalia-Operation ATALANTA is one of the practical approach used to eliminate piracy and it operates in a zone comprising the south of the Red Sea, the Gulf of Aden, the Somali basin and part of the Indian Ocean, including the Seychelles. This is a vast area, comparable to that of the Mediterranean Sea. About three to five maritime patrol aircraft are also employed by this group for surveillance. The primary mission of the task force is to protect ships delivering humanitarian food aid to Somalia under the of United Nations World Food Programme. For mor information on the number of vessels escorted by EU NAVFOR, see appendix III

The main strength of Operation Atalanta is the clarity of its mandate, namely, offering support to WFP in its efforts to transport humanitarian aid to Somalia, to protect the shipping of the African Union (AU) mission providing supplies to the TFG of Somalia, to protect vulnerable shipping and to liaise with shipping companies as to

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<sup>270</sup> European Union Council Secretariat, "Fact sheet: EU naval force operations against piracy (EU NAVFOR-Somalia-operation ATALANTA):EU NAVFOR/04, March 2009.

<sup>271</sup> P. Lehr, *Violence at Sea: Piracy in the Age of Global Terrorism*, (UK:published by Routledge, 2006), p.34

<sup>272</sup> European Union Council Secretariat, "Fact sheet: EU naval force operations against piracy (EU NAVFOR-Somalia-operation ATALANTA):EU NAVFOR/04, March 2009.

how to avoid high-risk zones, and to cause deterrence, disruption and breakup of private gangs.<sup>273</sup>

Although Operation Atalanta has been generally praised, its successes have been more apparent in protecting WFP and AU shipping more than in deterring and disrupting piracy.<sup>274</sup> Moreover, the presence of military forces and cooperation by some ship operators seem to have thwarted to a great extent the number of attempted pirate attacks.

There have been, however, some collateral constraints which have reduced by far the efficacy of Operation Atalanta. To begin with, it has to be remembered that Atalanta has been designed to work hand in hand with transiting ships and in cooperation with the Maritime Security Centre Horn of Africa (MSHOA). This liaison, however, has thus far proved to be an impediment in the face of naval protection. This is due to the fact that a significant proportion of transiting ships have not been co-operating.<sup>275</sup>

Another reason which militates against successful naval protection is the sheer vastness of the waters to be patrolled, namely, south of the Red Sea, the Gulf of Aden, the Somali Basin and part of the Indian Ocean.<sup>276</sup> In addition to the above, the pirates are continuously expanding their sphere of operation further and further away from Somali and Yemeni coasts, well over one thousand nautical miles into the Indian Ocean and Kenyan waters.

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<sup>273</sup> J. Kraka, "Maritime piracy in East Africa," *Journal of International Affairs*, Vol 62 No.2 , pp. 55-68

<sup>274</sup> G. Raymond, *Counting the cost of Somali piracy*, op.cit.

<sup>275</sup> Ibid

<sup>276</sup> M. Saltmarsh, "Pirates wide range off Somalia, straining Naval Patrols," *New York Times*, Nov 19, 2009

### **3.4.2 United States (U.S.)**

The US National Maritime Security Strategy issued in 2005, stated that the safety and economic security of the U.S. depends upon the secure use of world's oceans. In 2007, the Bush Administration adopted a policy for the Repression of piracy and other criminal acts of violence at sea that stated that it is the policy of the U.S. to "continue to lead and support international efforts to repress piracy and other acts of violence against maritime navigation and urge other states to take decisive actions both individually and through international efforts."<sup>277</sup>

Based on Resolution 1851, the Bush Administration led the formation of a multilateral Contact Group on Piracy off the Coast of Somalia (CGPCS) made up of twenty four member governments and five regional and international organizations. The Contact Group held its first meeting in January 2009 and identified six tasks for itself: 1) improving operational and information support to counter-piracy operations, 2) establishing a counter-piracy coordination mechanism, 3) strengthening judicial frameworks for arrest, prosecution and detention of pirates, 4) strengthening commercial shipping self-awareness and other capabilities, 5) pursuing improved diplomatic and public information efforts, and 6) tracking financial flows related to piracy.

In support of these goals, four working groups make recommendations at periodic meetings of the Contact Group secretariat on relevant military/operational, judicial, diplomatic, and public information aspects of regional and international anti-piracy efforts.<sup>278</sup> The goals of these efforts are to improve operational coordination, information sharing, and the effectiveness of legal enforcement activities among all international actors combating piracy in the region.

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<sup>277</sup> See U.S policy on the *Repression of Piracy and other criminal acts of Violence at sea*, 2007

<sup>278</sup> S. Bruno, "Piracy's rising tide-Somali piracy develops and diversifies," James intelligence Review, 5 January, 2008

The membership of the CGPCS has grown to approximately sixty member governments and seven regional organizations. Various CGPCS meetings have been held have made a number of suggestions and appeals, including calling for further donations to counter-piracy trust funds that support regional capacity building; requesting additional maritime patrol aircraft, oil tankers, helicopter-capable ships and military Vessel Protection Detachments and boarding teams; and identifying the need for more robust global efforts to track and freeze proceeds and support funds associated with piracy.<sup>279</sup>

These requests called on the U.S. government to improve interagency coordination and program monitoring to improve performance in these areas.<sup>280</sup> Some of the international community's efforts to address CGPCS suggestions are discussed in this report. Earlier that month, the United States convened an ad hoc meeting to develop a strategy and action plan to address the financial aspects of piracy.

### **3.4.3 International Maritime Organization (IMO)**

There has been a much-welcomed reduction in piracy and armed robbery off the Somalia due to a large extent to the support provided by the naval assets in the regional as a consequences of the well-established liaison by IMO and WFP with relevant naval operations centers. However, IMO has lately taken a number of steps, including intensifying its existing coordination mechanism with WFP and navies operating in the Indian Ocean region, with the view to ensuring that the tracking of and, where necessary the provision of assistance to merchant shipping is maintained and further strengthened.<sup>281</sup>

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<sup>279</sup> Ibid., 35

<sup>280</sup> See GAO Report, September 2010

<sup>281</sup> See IMO Report, October 2009

The IMO, whose main focus has been to “develop and maintain a comprehensive regulatory framework for shipping and its remit today that includes safety, environmental concerns, legal matters, technical co-operation, maritime security and the efficiency of shipping,” has issued several documents relevant to ship owners and nations tackling piracy in the Horn of Africa. These include the International Ship and Port Facility Security Code (ISPS), IMO resolution and the promulgation of best practices to deter piracy supported by the shipping industry in MSC.1/Circ. 1322.<sup>282</sup>

The ISPS code was designed to address the security requirements for governments, ports and shipping companies. Its purpose has been to provide a “standardized, consistent framework for evaluating risk, enabling governments to offset changes in threat with changes in vulnerability for ships at port facilities. For ships’ captains, this has provided guidance on how to implement ship security plans and identified requirements to have onboard equipment able to provide a credible deterrent to hijackers.

In 2007, the IMO assembly adopted IMO resolution, which called for action by member states, the Somali TFG and regional nations to address piracy off the coast of east Africa.<sup>283</sup> It also called for the TFG to advise the United Nations Security Council that it consented to a military presence in its territorial waters, laying the groundwork for future resolutions by the UN that provide for intervention.

Later, in February 2009, the IMO issued MSC.1/Circ. 1322, which endorsed a comprehensive plan that addressed best management practices for the shipping industry. Its purpose was to provide guidance on security to shipmasters prior to transiting inside and outside the Gulf of Aden. As a result, the shipping industry as a

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<sup>282</sup> See IMO Resolution A 1002, MSC1/Circ. 322, May 2008

<sup>283</sup> See IMO Resolution 1002(25), April 2009

whole has been better able to deter pirate attacks by providing their own security and has been a factor in reducing the number of successful pirates.

#### **3.4.4 The Djibouti code of conduct**

On January 31, 2009, seventeen regional governments attended the IMO sponsored Djibouti Code of Conduct that included Djibouti, Ethiopia, Kenya, Madagascar, the Maldives, the Seychelles, Somalia, Yemen and Tanzania. The conference aimed to find solutions to the Somali piracy crisis. The gathering of nations resulted in the adoption of a code of conduct for states to abide by to help address the problems of piracy and armed robbery.

By signing the agreement, participating nations agreed to cooperate fully through the implementation of several cooperative mechanisms. This includes the sharing and reporting of information through national focal points and information centers, interdicting ships suspected of piracy, ensuring those suspected of piracy are apprehended and the treatment and care for those who have been subjected to violence.<sup>284</sup> To support the information-sharing component, three regional facilities were proposed that include the Maritime Rescue Coordination Center in Mombasa, Kenya, the Sub-Regional Coordination Center in Dar es Salaam, Tanzania, and a regional maritime information center in Sana'a Yemen.<sup>285</sup>

Efforts so far by regional governments to cooperate on matters of piracy and robbery at sea as outlined in the Djibouti Code of Conduct are promising but insufficient to combat piracy. Many of the nations that signed the agreement have political and economic problems that limit their abilities to address some of the most basic causal factors of piracy. In addition, the Code of Conduct encourages but does

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<sup>284</sup> International Maritime Organization, "*High-level Meeting in Djibouti Adopts a Code of Conduct to Repress Acts of Piracy and Armed Robbery against Ships.*"

[http://www.imo.org/newsroom/mainframe.asp?topic\\_id=1773&doc\\_id=10933](http://www.imo.org/newsroom/mainframe.asp?topic_id=1773&doc_id=10933) (accessed July 18, 2011).

<sup>285</sup> B.Blancard and O'Rourke, *Piracy off the Horn of Africa*, op.cit

not require governments to act, which provides little incentive to cooperate once piracy fades from the headlines.<sup>286</sup> Continued emphasis needs to be placed on the importance of regional approaches to combating piracy.

### **3.5 The role of the media in fighting piracy**

Media has played a critical role in the fight against Somali piracy. Many journalists have been killed hence making it extremely difficult for other journalists to travel to this most dangerous place on earth-Somalia. International media such as CNN and BBC obtained much of their information and video from the Garoweonline which is in Somalia.

The fight against this menace cannot be underestimated. Between 2007-2009, the number of attacks and hijacking by pirates more than quadrupled.<sup>287</sup> Even though the number is growing, the Nation newspaper emphasizes that it will take a global concerted effort to fight it.

International media such as British Broadcasting Corporation (BBC) and Cable News Network (CNN) have been at the fore front commending on the efforts undertaken so far by the United Nations to combat piracy off the Somalia coast. Among the efforts is to help bring the perpetrators of such crime to justice. BBC has been very keen in following the UN Secretary-General Ban Ki-moon's options of prosecuting and imprisoning persons responsible for the acts of piracy. Furthermore, BBC has been highlighting the Security Council plan to approve a resolution seeking to establish a new system of courts and prisons aimed at combating piracy.<sup>288</sup>

Various international media have interviewed pirates and frequently link their piracy activities to trends such as illegal fishing and dumping in Somalia waters that

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<sup>286</sup> Ibid.

<sup>287</sup> Daily Nation Newspaper, 24th June 2008

<sup>288</sup> For more information, see BBC website: [www.bbc.com](http://www.bbc.com)



have emerged as the country has lost its ability to patrol its waters over time. As a result, foreigners were able to fish the waters off the coast of Somalia without restrictions. In January, 2009, CNN interviewed a “local pirate leader,” by the name Boyah and here is his views:

Boyah said that the piracy began because traditional coastal fishing became difficult after foreign fishing trawlers depleted local fish stocks. Traditional fishermen started attacking trawlers until the trawler crews fought back with heavy weapons. The fishermen then turned to softer targets. We went into deep ocean and hijacked the unarmed cargo ships,” Boyah said. “For the past three years, we have not operated near the Somalia coast. We have operated at least 80 miles [out], in international waters.<sup>289</sup>

The Associated Press (*AP*) has quoted Somalia’s Prime Minister’s speech stating that many pirates are fishermen “responding to the loss and disappearance of their livelihoods.”<sup>290</sup> This coupled with the lack of any reasonable economy in Somalia has ensured an ample supply of unemployed men to work in the growing piracy industry. This workforce includes ex-fishermen, with a knowledge of the sea, ex-militiamen, with combat skills, technical experts, with knowledge to operate navigation and military equipment, and a network of intelligence gatherers to obtain information on ship movement.

Piracy in Somalia is a byproduct of the bad economy.<sup>291</sup> “The most profitable year ever for the pirates was 2008, with Kenya’s foreign minister stating that more than \$150 million was paid in ransoms. Piracy is an industry that awards handsome profits and is an increasingly attractive option in a country with dwindling economic opportunities.” Despite the role play by international media, piracy problem has persisted. The level of violence employed by the pirates is increasing and their areas of activities are expanding. The only answer to these is to come up with measures aimed at combating pirates activities on land and calls for the protection of Somali natural

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<sup>289</sup> Cable News Network (CNN), [www.cnn.com/Somali\\_pirates](http://www.cnn.com/Somali_pirates), July 2008

<sup>290</sup> Somalia’s Prime Ministers’ speech on Somali pirates, OCTOBER, 2009

<sup>291</sup> New York Times, 26 April 2009

resources and waters, and on alleged fishing and illegal dumping, including of toxic substances, off the coast of Somalia. UN Secretary –General Ban Ki- moon said that piracy is not a water- borne disease but a symptom of condition on the ground. In 2009, Ali, a senior investigative journalist at Kenya Television Network (KTN) went to Somalia to report on piracy. He visited pirates in prison near Berbera and this where he learnt of the government complicity in piracy:

“Believe me, a lot of our money has gone straight into the governments pockets,” said Farah Ismail Eid, a pirate who was captured in Berbera and sentenced to 15 years in jail. His pirate team, he said, typically divided up the loot this way: “20 percent for their bosses, 20 percent for future missions (to cover essentials like guns, fuel and cigarettes), 30 percent for the gunmen on the ship and 30 percent for government officials.”<sup>292</sup>

Various media have been reporting that piracy has brought tremendous wealth and status to the perpetrators and is transforming villages into boomtowns with lavish restaurants, hotels and shops springing up to provide for the new wealth.<sup>293</sup> In the coastal towns of Harardhere, Eyl and Bossaso, luxury cars, lavish houses and restaurants are appearing at a rapid rate as the pirate economy skyrockets. Even catering that prepares western-style food for the hostages have been employed.<sup>294</sup>

### 3.6 Conclusions

Acts of piracy pose a transnational security threat that emanates from an area plagued by conflict, weak governance, and economic insecurity. The establishment of a naval presence has been marginally successful at deterring pirate attacks. While it has almost certainly made target selection more difficult for pirates, and statistically has reduced the number of attacks by twenty two percent from August to October

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<sup>292</sup> Kenya Television News, 7PM Kiswahili News, January 12, 2008)

<sup>293</sup> BBC Radio, Focus on Africa, May, 2011 at 5.30 GMT

<sup>294</sup> H. Mohamed Olad. “*Somali pirates transform villages into boomtowns.*” Associated Press. 19 November 2008. [[http://news.yahoo.com/s/ap/20081119/ap\\_on\\_re\\_af/af\\_pirate\\_boomtown\\_1](http://news.yahoo.com/s/ap/20081119/ap_on_re_af/af_pirate_boomtown_1)]

2008.<sup>295</sup> This is attributed to decrease in attacks to rough seas and bad weather rather than the increased naval presence

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<sup>295</sup> R. Shani, and J. Ben-David, "Somali Piracy on Escalating Security Dilemma" *Harvard Africa Policy Journal* 5, (2008-2009), pp, 55-70

## CHAPTER FOUR

### THE IMPACT OF PIRACY ON WFP OPERATIONS IN SOMALIA:

#### A CRITICAL ANALYSIS

##### 4.0: Introduction

The previous chapter discussed the challenges faced by WFP in its aid operations in Somalia. One of the major challenges is that pirates in the Indian Ocean attack vessels carrying relief aid hence disrupting relief distribution. The chapter also highlighted why some international responses to fight piracy has been ineffective. It also explored the legal framework and other existing laws that have been used to eliminate piracy off the Somalia coast. Finally, the chapter concludes by giving the perspectives of Somalis on piracy. Data was collected from the various interviews. In addition, chapter three examines the role played by the media in eliminating piracy.

Chapter four critically analyse key issues that have emerged from the study such the root causes of piracy verses the consequences, debate on ransoms, effectiveness of the international naval forces,international law and piracy and other issues such as youth and unemployment.

##### 4.1:The debate on the root causes versus vs. consequences

Piracy off the coast of Somalia has been a developing problem for over a decade.<sup>296</sup> In the wake of Siad Barre's downfall and the irreconcilable conflict between warring parties that followed, Somalia's degeneration to a failed state has been a key reason for the rise in piracy off the its coast. The worsening state of affairs in Somalia has made illegal activities an increasingly attractive and viable business.<sup>297</sup>

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<sup>296</sup> S.Karl, "State Failure on the High Sea-Reviewing the Somali Piracy", "Somali paper Report 3

<sup>297</sup> Ibid.

The international community has ignored Somali hence the country has not even seen a semblance of a state for over two decades ago. Due to the collapse of the Somali central government in 1991, the coast was left unguarded against foreign intruders who engaged in illegal fishing and dumping of toxic waste. Fishing is the predominant occupation of the coastal natives of Somalia. In absence of centralized governance, the seas off Somalia became the poaching ground for all and sundry with more than \$ three hundred million worth of Tuna, shrimp and lobster being carried away every year by illegal trawlers.<sup>298</sup>

The situation reached a point where the local fishermen's catch dwindled almost to nothing and they were on the verge of starvation. Hussein, a fisherman in town of Marka, 100km south of Mogadishu, told World Food Programme staff: "If nothing is done, there soon won't be much fish left in our coastal waters and this will lead to more hunger."<sup>299</sup>

Critically analysing this root cause, it is imperative to say that these pirates are justified to protect their natural resources. It has been estimated by the United Nations that the country regularly lost out to USD \$100 million per year due to illegal fishing by countries such as Spain, South Korea and Egypt.<sup>300</sup>

The non existence of a central state authority has not only resulted in depletion of resources that was the lifeline of the coastal people, but also it has resulted in the abuse of the region by outsiders. All kind of waste materials, including radioactive

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<sup>298</sup> S. Jonathan, "Risks and opportunities in Somali piracy," *Survival* Vol.49 no .2(Summer 2007), p, 5-20

<sup>299</sup> Mohammed Hussein interview on Somali piracy, May 2011

<sup>300</sup> B. John. *Dangerous Waters: Modern Piracy and Terror on the High Seas.* (New York: Plume, 2002), p.27

toxic material were dumped near Somalian coast by western firms. It was alleged that the Italian Mafia was involved in this hugely profitable operations.<sup>301</sup>

It took the power of the nature's fury-the 2004 Tsunami that hit the Northern Somalia-to bring the conclusive proof out of the depths of the seas to the open shores, in the form of barrels and barvels of hazardous and toxic waste materials deposited in northern Somalia's beaches. United Nations Environmental Programme stated that , "these containers exposed a "frightening activity" that had been going on for more than a decade.<sup>302</sup> Somalia has been used as a dumping ground for hazardous waste starting in the early 1990s, and as continued through the civil war there," adding that "European Companies found it to be very cheap to get rid of the waste that is either Uranium radio active waste, lead and heavy metal like Cadium and Mercury.

The UNEP reported that the Tsunami had washed up rusting containers of toxic waste on the shore of Puntland and this was confirmed by Ahmedoo Ould-Abdallah, the UN envoy for Somalia, who said the world body has "reliable information" that European and Asian Companies had dumped toxic waste including nuclear waste, off the Somalia coastline.<sup>303</sup>

Without an effective government to administer national institutions and public services, foster economic growth, and enforce law and order, criminality and nefarious activities have continued to flourish. Piracy is a symptom of state failure in Somalia, which has now extended from the land to the sea. The absence of law enforcement and security has allowed foreign fishing vessels exploit Somali fishing

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<sup>301</sup> Ibid.

<sup>302</sup> Report of the Monitoring Group on Somalia Pursuant to Security Council Resolution 1811 "S/2008/769, 30

<sup>303</sup> Report of the Monitoring Group on Somalia Pursuant to Security Council Resolution 1811 "S/2008/ 769,79

resources and permitted nations to dump hazardous material in their waters.<sup>304</sup> Before Somalia became an anarchic state, its waters belonged to the Somali Navy, which consisted of small patrol boats maintained by the Soviet Union. Soon after the Soviet Union withdrew, the ships that remained soon fell into despair.<sup>305</sup>

Piracy has resulted to negative consequences such as funding the Somalia war. Western companies were bribing the Somali government ministers to secure licences and contracts or to dump their toxic waste.<sup>306</sup> Due to this, the situation in Somalia became unbearable. Some Somalian fishermen have vowed to fight for their own country and they call themselves Volunteer Coastguards. They have found support amongst the common Somalis who found piracy as a lucrative opportunity to the unemployed youth, poor people and fishermen who had lost their means of livelihood. Deep sense of injustice and victimization in Somalia has also made the majority of Somalis to accept piracy. They perceive a sense of satisfaction by viewing the hijacking as a kind of revenge and as a way of national defence. According to the independent Somalian news site, Wardheer News, 70% of the population strongly supported piracy as a form of national defence and they are regarded as heroes.

Subsequent efforts at establishing a maritime presence through private security companies have failed due to anarchy. For example, in November 2007, the U.S. Security firm TOPCAT signed a \$50-\$55 million contract with the TFG to target mother ships, but was unable to begin the operation because of arms embargo in the country.<sup>307</sup>

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<sup>304</sup> S. Karl, 'State failure on the High Sea-Reviewing the Somali Piracy.' FOI Somalia paper Report 3

<sup>305</sup> L. Lehman, 'Somalia-pirates 'New Paradise'' in the violence at sea; piracy in the age of global terrorism. UK: Norton Publishing Press, 2008). p.57.

<sup>306</sup> Ibid.

<sup>307</sup> R. Middle, *Piracy in Somalia: Threatening Global Trade, Feeding Local Wars*. op.cit.

Piracy in the region has evolved from small scale attacks to highly organized operations whereby pirates are using advanced technologies and expertise to maximize their effectiveness. For example, pirates groups often are comprised of several units, including security and attack teams, and offer assistance to one another during an operation.<sup>308</sup> The Somali pirates have been able to push their operations farther out to sea and target larger ships that offer substantially greater rewards. This has resulted to high level of piracy in the region compared to other regions in the world. For more information on the level of piracy in the Horn of Africa, see appendix IV.

Examining anarchy in Somalia from a realists point of view, I would argue that in a world of anarchy, and where states pursue their national interest, nobody is to blame if the international community does nothing. The closest resemblance of what may be called the international community is the UN. The UN is made up of member states and operates through consensus. Based on this system, the UN relies heavily on willing member states to provide naval forces to combat Somali piracy. This emphasizes the need of developing the UN to perform the functions of the overarching international authority that is lacking in the international scene and also giving it a standing navies that may be employed off the Somalia coast.<sup>309</sup>

This study has also shown that due to anarchy in Somalia, western powers has shown reluctance to undertake anti-piracy measures off the Somalia coast. This is also attributed to the fact that with the end of the Cold War, Africa, and in particular Somalia, lost its geo-strategic powers in a uni-polar world. The Horn of Africa

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<sup>308</sup> Schiemsy, Bruno. "Piracy's rising tide – Somali piracy develops and diversifies." *Jane's Intelligence Review*. 20 January 2009

<sup>309</sup> K. Menkhaus, "State Collapse in Somalia: Second Thoughts," *Review of African Political Economy*, Vol. 30, No.97 (September, 2003), pp. 405-422.



particularity lost its relevance in terms of U.S. policy priorities.<sup>310</sup> Thus international community and in particular individual states have a collective responsibility to fight piracy off the Somali coast. Bradbury argues that at the end of the Cold War, and in the wake of the Gulf War, Somalia became a testing ground for the international community response to conflict and humanitarian crisis in the new world order. For example, the UNISOM II policies were driven more by international political concerns than by the situations in Somalia.<sup>311</sup>

The biggest obstacle is that 'generally the international community does not yet have an appropriate political acceptable and affordable response to challenge 'anarchic state'.<sup>312</sup>

#### **4.2: Effectiveness of the international Naval Forces**

International action to contain Somalia's piracy crisis developed as a response to an increasing number of states that have suffered pirate attacks off the Somali coast. Countries that have been directly targeted by Somali pirates, including the U.S., UK, Russia, South Korea, Ukraine, India, Germany, France, China and others have sent warships to protect their national shipping industries and to safeguard UN World Food Program (WFP) shipments destined for bereft Somalis by establishing "safe" shipping lanes. Success in doing so has been limited due to the sheer distance of Somalia's coastline which extends over 3,300 km.

The tendency of nation States to attempt solving the problem of Somali piracy exclusively through the employment of their naval and military might is a flawed

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<sup>310</sup> P. Schreder, *United States Foreign Policy and Change*, (Cambridge: Cambridge University Press, 1994) p. 160.

<sup>311</sup> M. Bradbury, *Somaliland: Country Report*, op. cit.

<sup>312</sup> J. Cilliers, 'Regional Africa Peacekeeping Capacity-Mythical Construct or Essential Tool?' In Cilliers & Go Millis From *Peacekeeping to complex Emergencies: Peace Support Missions in Africa* (Johannesburg & Pretoria: The South Africa Institute of International Studies and Institute for Security Studies, 1999) pp. 135-152: 138

effort and has, more often than not, proved unsuccessful. At best, it has resulted in a temporary suppression of the problem that has inevitably re-manifested itself at a later stage. This flawed exercise by various countries is currently apparent in the manner in which they are countering the “corporatized” piracy emanating from Somalia. Even with numerous navies patrolling the seas around the Horn of Africa, individually or in tandem as anti-piracy task forces, the problem refuses to die down and, even though it has abated in its original area of operation, it has only managed to spread to the seas further away from Somalia.

EU NAVFOR force have helped to ensure the safe delivery of WFP relief supplies and humanitarian aid to Somalia. According to U.S. and IMB officials, there has been a notable decline in the number of successful attacks in areas of the Gulf of Aden where the international naval presence has been visible.<sup>313</sup>

No less importantly, the international response represents an unprecedented level of inter-governmental cooperation that has been achieved in a remarkably short period of time—frequently between sovereign entities that have rarely, if ever, operated on a common footing. This collaborative action not only gives concrete expression to the reality that maintenance and regulation of the seas ultimately relies on joint interstate and agreement and enforcement, but it also provides the U.S. Navy and partner nations a unique opportunity to engage one another and work out issues of interoperability and coordination. Properly developed, this could lay the foundation for an effective regime of maritime order that is able to address piracy and other transnational threats, such as illegal fishing, drug trafficking, and environmental degradation.<sup>314</sup>

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<sup>313</sup> P. Chalk and L. Smallman, “On Dry Land: The Onshore Drivers of Piracy,” *Jane’s Intelligence Review* (August 2009), p. 40.

<sup>314</sup> P. Chalk, *Non-Military Security and Global Order: The Impact of Extremism, Violence and Chaos on National and International Security* (London: Macmillan, 2000) p. 2.

That said, the 2007/2009 international anti-piracy initiatives fell short in several respects—at least with respect to the specific challenge off the HoA. One obvious practical problem was the size of the area to be monitored (roughly two million squares miles) and the number of vessels that transit the region (at least 20,000 a year). To comprehensively cover this expansive and heavily trafficked maritime space required a massive naval deployment to patrol the Somali waters.<sup>315</sup> Difficulties have become even more attenuated as the locus of attacks has moved to the southern and eastern coasts of Somalia, where patrols are virtually non-existent, as well as further down the Indian Ocean towards the Seychelles.<sup>316</sup>

Critically looking at the international response to Somalia piracy in chapter three, I would say it has been inadequate. EU NAVFOR cannot completely eradicate piracy but it can make significant contribution to counter piracy in a number of specific areas. Its first and most important task is to ensure the safe passage of WFP ships into Somali ports. This is possible only if the flag states agree to cooperate to ensure that the goods on transit are guaranteed their safety as they pass through Somali territorial waters.

Perhaps, an interesting argument is that more than twenty countries, including China, France, India, Russia, UK and USA have responded by sending naval forces to the region off the East Africa. However, the question that arises here is how can fourteen warships effectively police the more than one million square miles of ocean that is transited by more than twenty thousand cargo every year?<sup>317</sup> This means the force will be looking to keep close watch over the whole of Somali coast and this is not an easy challenge given the thousands of square kilometers with airspace above

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<sup>315</sup> R. Gilpin, *Counting the Costs of Somali Piracy* (Washington D.C.: Georges Publishing Press, July 2009) p.45

<sup>316</sup> R. Gilpin, *Counting the Costs of Somali Piracy*.op.cit

<sup>317</sup> IMB, *Piracy and Armed Robbery Against Ships: Annual Report, 1 January – 31 December 2008*, Vol. 37

them. This include targeting high-risk areas and concentrating surveillance there both with the ships of EU naval forces and their embarked helicopters and with the maritime patrol aircraft that the U.S. has in support of operations.<sup>318</sup>

EU NAVFOR has not included vessels and personnel from third states to better its mission. Vessels from France, Germany, Greece and UK have only been patrolling waters off Somali coast. Allowing vessels and personnel from third states to participate in this operations will ensure that there is adequate security in the Indian Ocean.

Apart from offering support to WFP in its efforts to transport humanitarian aid to Somalia, the other main strengths of Operation Atalanta has been to protect the shipping of the African Union (AU) mission providing supplies to the TFG of Somalia, protect vulnerable shipping and to liaise with shipping companies as to how to avoid high-risk zones, and to cause deterrence, disruption and breakup of private gangs. Although Operation Atalanta has been generally praised, its successes have been more apparent in protecting WFP and AU shipping more than in deterring and disrupting piracy.<sup>319</sup> Moreover, the presence of military forces and cooperation by some ship operators seem to have thwarted to a great extent the number of attempted pirate attacks.

There have been, however, some collateral constraints which have reduced by far the efficacy of EU NAVFOR. To begin with, it has to be remembered that this naval force has been designed to work hand in hand with transiting ships and in

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<sup>318</sup> Ibid.

<sup>319</sup> See more in Tulio Treves, "Piracy and the use of Naval Forces: Development off the coast of Somalia," *European Journal*, Vol. 20, No.2(2009), pp. 399-414

cooperation with the Maritime Security Centre Horn of Africa (MSHOA).<sup>320</sup> This liaison, however, has thus far proved to be an impediment in the face of naval protection. This is due to the fact that a significant proportion of transiting ships have not been co-operating as required in the spirit mentioned above. Another reason which has militated against successful naval is that the pirates have been continuously expanding their sphere of operation further and further away from Somali and Yemeni coasts, well over one thousand nautical miles into the Indian Ocean and Kenyan Waters.<sup>321</sup> This, however, has made it very difficult for states to carry out anti-piracy measures.<sup>322</sup>

In addition to the foregoing, notwithstanding the clarity of the mandate with which Atalanta is endowed, many of the naval forces present have not been provided with unequivocal rules of engagement. As a result, there appears to be a total lack of coordination amongst the present naval forces, including the methods of processing alleged captured pirates. There have been reported cases where Somali fishermen are killed by these naval forces because they are often confused with pirates. It is axiomatic that the lack of clear rules of engagement should not provide naval forces with the right to commit unnecessary or unlawful killing of alleged pirates.

Many Somalis have been complaining that the warships are here to kill innocent fishermen because they cannot identify them as pirates. Since they have vowed to protect their territorial waters, the Somali fishermen and pirates are prepared all the time to die. Many a times, pirates have encountered naval forces in the high seas, and

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<sup>320</sup> International Expert Group on Piracy off the Somali Coast. *Piracy off the Somali Coast: Workshop commissioned by the Special Representative of the Secretary General of the UN to Somali Ambassador Ahmedou Ould-Abdallah* (Nairobi, Kenya, November 10–21, 2008), p. 14.

<sup>321</sup> Ibid.

<sup>322</sup> B. Robert " *Disrupting Somali Piracy via Trust and Influence Operations.*" (Monterey, CA: Naval Postgraduate School, 2009.), p. 122

they have claimed to be illegal immigrants.<sup>323</sup> Others have decided to fight back and in most cases, they are killed. If for instance they are in three boats, they will divide themselves and start fleeing in three different directions. The forces will go after one boat and kill the crew and the rest will escape.

In a nutshell, the naval commanders should always remember that EU NAVFOR remains a law-enforcement operation and should not be seen as war as such against pirates. Thus, like any situation in which the use of force is in issue, this naval force must abide by notions of proportionality and reasonableness, with the inference that naval forces should resort to lethal force against pirates only when they pose a threat to life.

Historically, the international response has focused on the symptoms of piracy while failing to address the underlying causes that have allowed it to spin out of control.<sup>324</sup> What is clear is that the solution to piracy will not only come from maritime forces but also from national efforts. The poor economic, political and security situation that exists in the Horn of Africa provides little incentives for pirates to stop attacking ships.

In spite of any impact that Atalanta may have had, piracy in the Gulf of Aden and the Indian Ocean remains a serious and continuous threat not only to WFP operations but general maritime trade. Nevertheless, the fact that Operation Atalanta has been launched in a short space of time constitutes a good precedent for how the EU can successfully conduct its foreign and security policy. It may, however, be mentioned in passing that fifteen of the EU member States have as yet to make a permanent operational contribution to Atalanta. On the other hand, there are a number

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<sup>323</sup> Ibid., p.35

<sup>324</sup> P.Thean, The Maritime Security Quandary in the HOA region: Causes, consequences and responses.op.cit

of non-EU Member States that participate in the operation, namely Norway, Croatia, Montenegro and Ukraine.<sup>325</sup> There are also several States that have sent naval forces to protect shipping from Somali piracy, such as China, Japan, Russia, the United States.

#### **4.3: Impact of Ransoms**

Another issue arising from the study is the impact of ransoms. Whether States should or should not allow payment of ransoms to pirates is the subject that will be explored here. The two arguments presented here are the pro-ransom stance advocating use of all means available to limit immediate threats of violence and disaster; versus the anti-ransom stance advocating use of all means available to limit acts of piracy over a longer term in order to fight off piracy.

##### **4.4.1 Pro-ransom**

Somali piracy is unique because it functions under a model of kidnap and ransom in which hostages are taken and traded for payments. That means, the aim of the attacks on ships sailing off the coast of Somalia is to secure ransom demands. In a normal circumstance, these ransoms are extracted by leveraging the lives of the hijacked crews. The reality of the pirates is not to steal the cargo, but they are trying to take control of crew so that they can ransom. For example, after hijacking the Ukrainian freighter *Faina* loaded with a cargo of arms and tanks in September 2008, Somali pirates did not offload weapons but they wanted money.<sup>326</sup>

Based on the study, it is evident that paying ransoms are the only tool available once a ship has been hijacked. Roach, a former U.S. Department of State posits that paying ransoms, minimizes risks of escalated violence, revenue liability, and

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<sup>325</sup> M. Murphy, *Contemporary piracy and maritime terrorism: The threat to International Security*. (New York: Routledge, 2007). p. 110

<sup>326</sup> Ibid.

environmental disaster. In his argument, if ransoms aren't paid, it can lead to the death of crew members as well as cause ecological disorder.<sup>327</sup>

Majority of ship owners prefer to pay ransoms because it is relatively cheaper compared to the cost of the ship. Most shipping companies find it comfortable to pay ransom for crew release and re-curring any prosecutorial liability than allowing his employees to be harmed. The reason why ransoms are paid is because after the ship hijack, the ship owner is forced to act under duress.<sup>328</sup> Perhaps, this argument would likely explain why ransom is most preferred method of securing hijacked crew members and ships.

#### **4.4.2 Anti-ransom**

Anti-piracy measures aims at depriving pirates and those supporting the pirates of any illicit revenue and the fruits of their crime, advocating the development of national capabilities to gather, assess, and share financial intelligence on pirate financial operations, with the goal of tracing payments to and apprehending the leaders of pirate organizations and their enablers.

Ransoms paid to criminal organizations that kidnap with a hope of securing a financial reward encourage a model for-profit capture that is both illegal and destabilizing for the victims and perpetrators of the crime. Yet this is exactly what is tacitly allowed in the waters off Somalia. President Obama's Executive Order 13536 and related international legislation sets an important tone for ending this self-perpetuating cycle of for-profit piracy off the Horn of Africa.

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<sup>327</sup> J. Ashley Roach, Former U.S. Dept. of State, Comments at ASIL Meeting, (Mar. 26, 2009) (discussing pirate ransoms, and calling piracy "more profitable than fishing")



Rear Admiral Peter Hudson, former head of the EU anti-piracy operation NAVFOR, noted that despite a reduction of piracy in the Gulf of Aden, piracy off the Somali coast was growing at an—almost industrial scale.<sup>329</sup> Other commentators have noted the diminishing return to military patrols taking place off the Horn of Africa,<sup>330</sup> and troubling indications that the various pirate gangs are beginning to act with greater cohesion.<sup>331</sup>

Anarchy in Somalia is itself a central component that allows Somali pirates to act with impunity. People engaged in piratical activities hinder efforts to foster the law and order necessary for stability and peace. Some think that prohibiting ransoms will not deter piracy. However, this view is too narrowly focused on the short term. The prohibition of ransoms may now be a small step in the fight to end piracy, but there is good reason to take each and every step as soon as it becomes politically and diplomatically feasible. Wallis argue that prohibiting ransoms may even act as a catalyst for additional international action precisely because such a prohibition necessitates a greater commitment to resolving acts of piracy in effective alternate ways.<sup>332</sup>

It is imperative that the international community take a united stand against the pirates in respect to their demands for ransom. Piracy is largely the result of the troubled political environment which offers little economic alternatives other than crime to Somali citizens. A policy led by international shipping companies and their

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<sup>329</sup> 'Piracy on an Almost Industrial Scale,' DEFENCEMANAGEMENT.COM, June, 17, 2010, [http://www.defencemanagement.com/feature\\_story.asp?id=14456](http://www.defencemanagement.com/feature_story.asp?id=14456).

<sup>330</sup> David Isenberg, *Pirates, PSC, and Lawyers*, Huffington Post, May 27, 2010, [http://www.huffingtonpost.com/david-isenberg/pirates-psc-and-lawyers\\_b\\_592036.html](http://www.huffingtonpost.com/david-isenberg/pirates-psc-and-lawyers_b_592036.html) (noting that military patrols are not a long-term solution because —[s]ending billions of dollars worth of warships to chase a ship worth \$1,000 is a losing proposition ☹).

<sup>331</sup> David Isenberg, *Pirates, PSC, and Lawyers*, Huffington Post, May 27, 2010, [http://www.huffingtonpost.com/david-isenberg/pirates-psc-and-lawyers\\_b\\_592036.html](http://www.huffingtonpost.com/david-isenberg/pirates-psc-and-lawyers_b_592036.html)

<sup>332</sup> D. Wallis, *Piracy Ransoms Funding Somalia Insurgency*, REUTERS, Aug. 24, 2011, <http://www.reuters.com/article/idUSLO00572320080824>.

governments of not capitulating to ransom demands should lower the incentives for pirates to continue operations. Knott posits that an inherent drawback is that once a policy such as this is introduced, the pirates could change their tactics and hijack ships not primarily for the ransom, but for the cargo itself.<sup>333</sup> However, it would be much more difficult to steal cumbersome cargo from ships and would demand an entire reorganization of the piracy industry's methods of operation. This would be very costly and time consuming in the least, if not impossible.

Naval forces should collaborate with governments and the shipping industry to develop a consistent response to the payment of ransom demands. There are substantial long-term risks in surrendering to the ransom demands of pirates. Paying ransoms puts other seafarers at increased risk, enables the pirates to apply the financial leverage to increasing capability and capacity, incentivizes piracy, and ultimately provides support to criminal organizations.

Any strategic communications strategy must convey these concerns. Improving ability to collect and share intelligence on pirate financial operations, coordinating with other stakeholders to trace pirate revenues or consider taking action to apprehend, prosecute, and punish persons or entities that aid and abet or conspire with pirates in violation of national law.<sup>334</sup>

#### **4.4 International Law and piracy.**

Somalia is a state without functioning government and this has become breeding ground for piracy. International law under the UNCLOS does not cover the piratical acts of this coastal state because of the requirement that the act take place on the high seas. Historically, the high seas were perhaps one of the riskiest places for piracy but

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<sup>333</sup> J. Knott, *United Kingdom: Somalia, The Gulf of Aden, and Piracy: An Overview, and Recent Developments*, MONDAQ, Apr. 15, 2009, <http://www.mondaq.com/article.asp?articleid=77982>.

<sup>334</sup> UN. Sec. Council, Monitoring Group on Somalia. op.cit

modern day Somali pirates now operate much more often in territorial seas of their non-functional. This means, some Somali pirates do not fall under the UNCLOS because they do not operate in the high seas.

Somalia has no government capable of capturing and prosecuting pirates under Somali law, therefore international law should be expanded to address this shortfall.<sup>335</sup> The UN should amend the UNCLOS definition to include areas other than the high sea. In addition, the UN through the international law should create a new international court with exclusive jurisdiction to only to prosecute pirates. To date, most countries have been unwilling to prosecute pirates. The use of bilateral agreement between certain countries such as Kenya and U.S. is not the best solution to deal with Somali piracy because piracy affects the entire international community.<sup>336</sup>

What the U.N. should do is to create a new international court specifically designed to prosecute captured pirates. Currently, the international law relies on states and their national law to actually prosecute pirates. A new international court with exclusive jurisdiction over pirates would take this pressure out of governments as it will determine its own penalties for the punishment of pirates, thus providing one standard for the entire international community. At the moment, different countries have a wide range of penalties for pirates, and it is inequitable for pirates to receive a harsher or more lenient sentence just because a certain country captures them.<sup>337</sup>

The abject failure of the international response to piracy in the Gulf of Aden is a cautionary tale about the limits of international law and the genuine lack of interest nations have in enforcing international law norms when doing so is costly for them.

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<sup>335</sup> See United Nations Convention Law of the Sea, art. 100

<sup>336</sup> A. Mwangura, "Africa Sea pirates .op.cit

<sup>337</sup> Ibid.

At first glance, the piracy problem has all the hallmarks for a successful international legal response.<sup>338</sup> The scale of the problem is truly international -- any country with commercial interests is adversely affected by the endangerment of shipping in an area through which much of the world's maritime traffic travels.

The piracy problem has enjoyed the advocacy of important international organizations such as the International Maritime Organization. Piracy is the paradigm crime for which international law authorizes enforcement and punishment.<sup>339</sup> Moreover, in a genuine act of international cooperation the major powers have committed significant naval forces to deal with the problem. Acts of piracy constitutes a violation of customary international law, as this crime is viewed as a threat to all nations making use of open seas.

Thus the spectacle of the international community wringing its hands, looking for a legal solution to the piracy problem, can be understood only as unwillingness to use the international legal tools due to the costs involved. This is ironic in accordance to international law under the principle of universal jurisdiction. This principle allows all nations to prosecute acts of piracy in their domestic courts whenever these acts occur.<sup>340</sup> Accordingly, nations could rely on this principle to seize and prosecute Somali pirates encountered on the high seas.

However, because attacks by Somali pirates occur mainly within the territorial waters of Somalia, and because these pirates frequently outnumber and overpower ships crews, a nation wishing to assist another nation's ship under attack would most likely be forced to encroach upon Somali sovereignty as part of such response.

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<sup>338</sup> J. Wombwel, "The long war against piracy": op.cit.

<sup>339</sup> M. Lewis, *Understanding Somali Piracy*. (Colombia: Colombia University press, 2008), p.111

<sup>340</sup> J. Jackson, "Problems in international systems." (New York: North Point Press, 2006), p.21

Yet these countries cannot bring themselves to prosecute a single case of piracy universal jurisdiction, even though it means allowing a major ongoing international problem go unchecked.<sup>341</sup> Indeed, the United Kingdom's decision to render all pirates it seizes to Kenya underscores the strength and weaknesses of the current international regime.

There are many of the difficulties involved in apprehending and prosecuting Somali pirates. International law lacks a basis for prosecuting pirates. Pirates who are apprehended have been released because of jurisdictional concerns<sup>342</sup>. In fact, nations are deflecting attention from their unwillingness to use robust prosecutorial options international law clearly affords. The legal and practical difficulties of dealing with international criminals deter third parties nations from doing so. The tension between the customary international law norms against piracy, on the other hand, and the international law principle of state sovereignty on the other hand, has proven to be one of the initial stumbling blocks for successful capture and prosecution of pirates.<sup>343</sup>

#### 4.5 Other issues

##### a. Somali youth and unemployment

Without a meaningful and stable government, Somalia is incapable of providing an environment conducive to the support of legitimate business opportunities or employment.<sup>344</sup> Many young men desperate for work are attracted to piracy by the cash, villas, and women that pirates seem to flaunt.<sup>345</sup> Desperation may be the most important factor driving Somalis to piracy.

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<sup>341</sup> Ibid.

<sup>342</sup> J. Gettleman, "Pirates off Somalia," *New York Times*, December 15, 2008

<sup>343</sup> Ibid., p. 36

<sup>344</sup> A. Mahamed & S. Childress, *Telecom Firms Thrive in Somalia Despite War, Shattered Economy*, (UK: Joint Services publishing company, 2009) p. 105,

<sup>345</sup> D. Wallis, *Piracy Funding Somalia Insurgency*, *Reuters*, August 24, 2008  
<http://www.reuters.com/article/idUSLO00572320080824>

Middleton observes that—in a region where legitimate business is difficult, where drought means agriculture is nothing more than subsistence farming, and instability and violence make death a very real prospect, the dangers of engaging in piracy must be weighed against the potentially massive returns.<sup>346</sup> Others see piracy as a means, and perhaps the only means, of obtaining sufficient capital and prestige to set them up in a business or seek a new life abroad.<sup>347</sup> The UN notes that the strength of these young men is not their training, which is generally very poor, but their motivation of obtaining piracy ransoms. The International Crisis Group contends that piracy is rooted in problems of unemployment, poverty, and worsening living conditions that may lead to Puntland's "disintegration or overthrow by an underground militant Islamist movement."<sup>348</sup>

In 2008, Andrew Mwangura, Head of the East African Seafarer's Union and liaison between pirates, ransom payers, and media, noted that in 2005 there were about five pirate gangs with fewer than 100 pirates, but now that many youths who have training as bodyguards and militia have witnessed rewards available at sea, he estimates this number has grown to more than 1,100.<sup>349</sup> Head of the United Nations Office of Drugs and Crime (UNODC), Antonio Maria Costa, estimates that each pirate earns \$10,000 to \$15,000 per successful raid and approximately 20 pirates participate in each attack.<sup>350</sup>

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<sup>346</sup> John Knott, *Somalia, The Gulf of Aden, and Piracy: An Overview, and Recent Developments* UK: Joint Services publishing company, 2009

<sup>347</sup> J. Knott, *Somalia, The Gulf of Aden, and Piracy: An Overview, and Recent Developments*, *International Journal*, vol. 75, p. 56

<sup>348</sup> K. Menkhaus, *Governance without Government in Somalia*, *International Security* (2007), vol. 31, no. 3, pp. 74–119.

<sup>349</sup> B. John, *Dangerous Waters: Modern Piracy and Terror on the High Seas*. (New York: First Plume Printing, 2002) p. 130

<sup>350</sup> C. Blancard, and R. O'Rourke. *Piracy off the Horn of Africa*. CRS Report for Congress, R40528. Washington, D.C. (2009): 1–28.

## **b) Regional cooperation**

Maritime affairs involve regional cooperation. Regional organizations such as AU, EU, Arab League, and NATO serve as avenues to elicit participation from individual nations in the deterrence of Somali piracy. However, the need for regional cooperation is further accentuated by the lack of capacity by most Africa coastal states to individually address maritime governance issues. Among these include lack of funds to invest in maritime navy training.

These organizations should seek out participation from member nations with the appropriate military and technical ability to seize and prosecute pirates in Somali waters. Somalia is grappling with one of the most dire and acute security situations in the world. Therefore, the question of whether it is impossible or unfair to hold Somalia responsible might not be readily answered. The lack of an efficient central Somali government might be enough to seek responsibility elsewhere. Nevertheless, the Somali government has, on occasion, engaged in the piracy question. A clear measure is the TFG's occasional.

Regional cooperation in the governance of African maritime zones Regional cooperation is perhaps the only avenue through which African states can achieve order in the governance of their ocean areas.<sup>351</sup> The challenges of governing ocean spaces can be daunting if handled unilaterally by individual states. Issues such as maritime 52 African Security Review 18.3 Institute for Security Studies attacks that have occurred in the waters off the coast of Africa cannot be addressed by a single maritime state acting in its national interest. Indeed, the transboundary nature of the challenges posed by most maritime issues call for integrated regional cooperation.

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<sup>351</sup> Piracy in Somalia: *Why Solutions can't be found at sea*, 30 Jul 2008, MARPAC Briefing

Through regional cooperation African states can pool both financial and human resources for use in the ocean governance process. This will enable African to move in tandem with the rest of the world in implementing the provisions of the LOSC, which they played a key role in bringing into force.<sup>352</sup> A good example of nations that have set out to implement the provisions of the LOSC through regional cooperation is the Pacific Island states and territories. These island nations have been able to manage their maritime zones with a considerable degree of success. African states can be as successful if they improve regional cooperation in governing their maritime interests.

#### **4.6: Conclusions**

The Somali piracy crisis demands full attention of the international community. When possible, individual nations should seize and prosecute Somali pirates who attack their ships on the high seas under applicable treaty law such as Law of the Sea. However, when a victim nation is unable to do so (because they are overpowered by the pirates or they lack the authority to do so within Somali territorial waters), they will need to rely upon other nations. Thus, the June 2008 UN Resolution needs to be implemented as fully and quickly as possible so that these other states can assist victims in combating and seizing pirates in Somali territorial waters.<sup>353</sup> In addition, consistent with the 2008 UN Resolution, UN member countries should take all necessary steps to identify monetary and material assets belonging to individuals and entities within their territory supporting Somali piracy, and freeze these assets forthwith.

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<sup>352</sup> H. Steve, "Time to Get Tough with Somali Pirates," *The Chicago Sun Times*, May 16, 2011,

<sup>353</sup> See the UN Resolution, June 2008



## **CHAPTER FIVE**

### **CONCLUSIONS**

#### **5.0 Summary**

Chapter one looked at the background of the study, statement of the research problem, objectives, literature review, conceptual framework, hypotheses and research methodology. Chapter two explored an overview of piracy off the Somalia coast. These included the origin of piracy and its root causes, pirate network and methodology. In chapter three, the researcher focusses on the challenges and impact of World Food Programme operations in Somalia between 2007 and 2009. It also examined the legal framework and the existing laws, perspectives of Kenyan Somalis on piracy, practical responses used to combat piracy and the role of the media in fighting piracy. Finally, chapter four gives a critical analysis of the impact of piracy on WFP operations in Somalia. It seeks to find out the effectiveness of the naval forces, debate over root causes of piracy versus consequences, impact of ransoms, international law and piracy and other issues such as Somali youth and unemployment.

#### **5.1 Key Findings**

The study explored the impact of piracy on WFP aid operations in Somalia during the study period. The study found out that indeed, piracy has been disrupting aid operations within the country. The study also shows the relationship between lack of effective government in Somalia and the growth of piracy. Poverty, lack of employment, environmental hardship, pitifully low incomes, reduction of pastoralist and maritime resources due to drought and illegal fishing and a volatile security and political situation all contribute to the rise and continuance of piracy in Somalia.<sup>354</sup> Murphy explores that this situation will remain so until there is an effective and

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<sup>354</sup> J. Burnett, *Dangerous water: Modern Piracy and Terror at Sea*. op.cit

simultaneous action taken against the pirate trade and an alternative means of income support mechanism implemented to replace it; otherwise criminal activity, in some shape or form, will continue to take priority as a means of generating income among the armed militias of Somalia.<sup>355</sup>

Another key finding emerging from the study is the involvement of Somali youth in piracy. Middleton observes that —in a region where legitimate business is difficult, where drought means agriculture is nothing more than subsistence farming, and instability and violence make death a very real prospect, the dangers of engaging in piracy must be weighed against the potentially massive returns.<sup>356</sup> Most Somali youth are living in abject poverty and piracy is the only way to enjoy “good life”.

Ransoms emerged also in the key findings of the study. The study found out that there are two opposing arguments regarding ransoms. These are the *pro-ransom* position asserted mainly by practitioners advocating all possible means of limiting threats of violence and disaster, against the *anti-ransom* position for doing everything possible to reduce acts of piracy. The *pro-ransom* view holds that ransoms are the only means available to the maritime industry for minimizing risks of escalated violence, revenue liabilities, and environmental disasters once a vessel has been captured.<sup>357</sup> The ‘anti-ransom’ view holds that each additional ransom payment fuels and perpetuates the piracy menace, which will continue to increase in violence and expense until military intervention is required. Before diving into either argument, it may be helpful to the international community to briefly review some facts and narratives about the ransom process upon which both sides of the debate would

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<sup>355</sup> M. Murphy, *Contemporary Piracy and Maritime Terrorism* (New York: Routledge, 2007) p. 56

<sup>356</sup> R. Middleton, *Somalia, The Gulf of Aden, and Piracy: An Overview, and Recent Developments* (UK: Joint Services publishing company, 2009), p. 78

<sup>357</sup> J. Drake, *Ships Face Greater Attack Risk in Indian Ocean*, LLOYD'S LIST, Feb. 19, 2011.

agree. Paying ransoms has been known to promote Somali piracy and what will be the way forward for the international community?

## **5.2 Recommendations to the international community.**

As it has been assessed in the first four chapters, piracy off the Somalia is rooted on land. <sup>358</sup>The reason why piracy has not been suppressed yet is because it is only addressed at sea. To curb piracy off the coast of Somalia needs to combine intervention of both land and sea. It may be said that without considerable renewed effort from the international community to address the misery and despair on the ground, the fight against piracy will be difficult if possible to win.

Based on the information collected from the study, the researcher suggested the following recommendations to the international community in the fight against Somali piracy.

1. Establish within the Somali law enforcement authorities an effective response capability against piracy.

Supporting the establishment of a specialist police unit within the regional Somali police forces tasked with developing a land based counter piracy strategy and operational response will help curb the incidence of piracy. Providing basic police training (law, procedure, operations) to the established units within the regional Somali police forces; providing basic training in police special operations and attendant procedures; assessing needs and provide operational equipment to support front line operations of the units; and supporting the understanding and development of an intelligence based enforcement response to countering piracy. <sup>359</sup>

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<sup>358</sup> P. Eichstaedt, *Pirate State: Inside Somali's terrorism at sea*. (U.S: Chicago Review Press, 2010), p. 100

<sup>359</sup> Interview with Mohammed Ali, Senior Investigative Journalist, KTN, on June, 2011

## 2. Continue intervention by foreign warships in the short term

Counter-piracy operations by foreign warships should be encouraged to continue until such time as national forces can provide maritime security. Warships should patrol known piracy areas to deter attacks. Experience from the study has shown that pirates will not generally attack shipping if they see a warship. Also there should be immediate assistance to the warships when it intervenes in a piracy incident in its immediate vicinity.<sup>360</sup>

## 3. Monitor Somali Coast through manned or unmanned airborne surveillance

Maintain an up-to-date picture of activity along the Somali coast by using airborne surveillance. Manned or unmanned airplanes could be based outside Somalia (Aden, Djibouti, Mombasa or Nairobi) and would have to provide a twice a day, night and day information, on the movements of skiffs, boats and ships, ashore and in the near territorial waters especially off the Somali coast. Airborne surveillance is more effective when used to monitor lines such as a river or a coast line. The range and endurance of modern aircraft, particularly unmanned aerial vehicles (UAVs), would allow the same aircraft to monitor the coast from Djibouti to Mombasa.

## 4. International community to develop consistent response to ransom demands

The community should focus urgently, at government level, on developing a consistent response to the payment of ransom demands.<sup>361</sup> The decision not to pay a ransom demand (or indeed to authorise an attempt to release a ship by military force) is almost always a decision that is too big for ship owners and even governments to take on their own. Although insurance companies are discouraged from paying ransoms, currently there are no laws prohibiting them from doing so.

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<sup>360</sup> See IMO Report, 2010

<sup>361</sup> J. Drake, *Ships Face Greater Attack Risk in Indian Ocean*, LLOYD'S LIST, Feb. 19, 2011

Laws must be passed to prohibit insurance companies from dealing with pirates. Unless this is done, ransoms will continue to be paid, perpetuating the problem. As previously mentioned in chapter three, pirates are seeking larger and larger ransoms for their captured ships. Insurance companies do not seem to care; their coffers are well stacked with surpluses in the hundreds of billions of dollars. As long as shipping companies are willing to pay the increased premiums, the insurance companies will not suffer financially; they will simply increase insurance premiums. The money currently being paid in ransoms should instead be used for equipping, training, and funding the newly formed maritime security teams. The IMB could coordinate this effort with the insurance companies.

Ship owners and governments generally understand that paying ransoms puts others at risk in the future. Nevertheless this logic is far from universally accepted amongst the general public and media. Somali pirates have regularly forced crew members to telephone family members at home to inform loved ones that they are about to be killed or tortured, etc. The families are then encouraged to report this to the media. The objective is to whip up public interest and pressure on ship owners and, ultimately, the ships' crews' governments to do whatever is necessary to secure the safe release of crew members. This can prove devastatingly effective.

Part of the answer to this might be an education programme pursued at international and national levels to educate the media and the wider public about the greater, longer terms risks inherent in surrendering to the demands of hijackers and kidnappers. Another part of the answer might be formal and/or informal agreements at an international level discouraging or banning the paying of ransoms – something which would make it easier for individual ship owners and/or governments to withstand media or public pressure to do this.

#### 5. Introduce improved employment opportunities for Somali coastal population

For almost 20 years the international community has been trying to rebuild the Somali economy. In suppressing piracy, this reconstruction effort must focus on the coastal areas and in Puntland, to prevent Puntland becoming a pirate state. Development of fishing industry in Somalia will create employment for the coastal population. The fishing industry has been prioritized as a real opportunity that brings benefits to the coastal communities as well as the business community in Somalia.<sup>362</sup>

#### 6. Vocational training for unemployed youth

This recommendation proposes to set up vocational training programmes in Somalia, starting

in Puntland, the semi-autonomous region in northern Somalia to enhance practical skills of unemployed youth in sectors such as fishing, animal husbandry and agriculture. These programmes will target both sexes. Young women may also receive training in health, pre- and post-natal child care and nutrition.

A large number of militia involved in piracy activities are unemployed youth without much formal or informal education. Their job prospects are therefore minimal, or in other words are limited to serve as militia men or security guards for which they are perhaps overqualified.

Education levels are low, especially for the generation that should have gone to school after the civil war broke out in 1990. Subsequently, this proposal calls for a vocational training programme that will train large numbers of local youth. By improving the skills basis, it is expected to increase their chances to find employment

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<sup>362</sup>Interview with Ahmed Kassim, Radio Producer, June 2011

in one Somalia's traditional livelihoods and turn their backs on illegal activities such as piracy.

#### 7. Register skiffs

All skiffs should be registered, numbered and their coastal base locations written on their side. The pirates use skiffs to attack targeted vessels. These skiffs are made of moulded fibreglass approximately 25 ft long with a high freeboard. They are powered by outboard motors and have been tracked at doing 30 knots. Due to their light weight, they are easily dragged up on the beach heads or moored in shallow water. Registering the skiffs and recording other relevant information will make it extremely difficult for registered skiffs to engage in piracy. Any skiff found on the high seas and not registered will be assumed to be engaged in piracy or other criminal activity.

#### 8. Keep in mind Somali perceptions when framing anti-piracy initiatives

Robust actions (naval or otherwise), should not be seen by Somalis as evidence that the international community is anti Somalia, anti Islam and/ or generally indifferent to the safety and well being of ordinary Somali people. On the contrary, every effort should be made to align anti-piracy initiatives with the real interests of ordinary Somalis so that these initiatives can and will be supported by them.

#### 9. Engagement with Somali diaspora for greater socioeconomic benefits of Somalia

It is widely acknowledged that migrants play an important role as potential development agents in strengthening cooperation between home and host societies through the following means: *human capital*, i.e. the know-how and professional skills migrants acquire through training and working experiences, and transfer from origin to destination country and vice-versa; *financial capital*, i.e. the income, remittances and savings migrants transfer to the communities of origin; and *social*

*capital*, i.e. the social and working relations and the network of migrants' associations, which fosters the economic development of the countries of origin.

Promoting international cooperation and participation of the Somali Diaspora in the social and economic development of countries of origin, by supporting the channeling of their human, financial and social resources, and by identifying synergies between the communities of origin and of destination will divert Somalis from piracy.

#### 10. Media campaign

The establishment of a coordinated media campaign alerting coastal communities and pirates

of progress under this plan (including actions at sea and legislative development). The campaign includes such activities such as: engagement in existing information dissemination systems, including local and international radio services, local print media, TV and mobile phones.

The full advantage of this initiative will not be realised unless the pirates themselves and the wider community are aware of its existence. When the community is aware, it may lead family members to discourage their members from joining pirate groups. In addition, those involved may be discouraged from engaging in further such activities.

#### 11. Strengthen coastguards

Another workable approach that will eliminate piracy includes providing funding for regional coastguard. For example, Yemen, Tanzania, Kenya and Djibouti all have small guards or navies, but none have effective capabilities, capacity-building program, provided by the US or other extra-regional nations to increase the number of ships, and personnel and training, so as to provide a sufficient deterrent to pirates.



This coastguard could be formed in several ways. The first method would be to single out the strongest and most organized pirate group and create a substantial Somali coastguard. This would ensure national ownership of the piracy question, and increase the general knowledge of the business and make an important contribution to impeding the piracy.<sup>363</sup> The idea might seem controversial, since given the extent of the Somali piracy, any future Somali coastguard will at least in part consist of some of the former pirates.<sup>364</sup> In order to carry out this, stronger clan elders need to be approached since they have links with the most organized pirate group hence they can influence.

As is common in most African societies, elders, tribal chiefs and religious leaders have considerable influence on societal ethos and activities. Sustained interaction with elders and religious leaders in the region is bound to bear fruit. These efforts would be successful since, generally speaking, the local people are against piracy.

Another option is to leverage some of the influential Somali "entrepreneurs" to create a coastguard since they are presumably in control of some of the piracy anyway. This would have the added benefit of providing Somalia with a service that they need, but obviously would require additional training. Instead of using naval assets for patrolling, they should be used for training and capacity building of the indigenous security forces. More resources should be devoted to the TFG and less to the naval presence. This solution would require TFG Interview with Hobyo, Eastleigh, Nairobi, June 2011

<sup>1</sup> Sorenson, "*State Failure on the High Seas*,"

<sup>363</sup> Interview with Hobyo, Eastleigh, Nairobi, June 2011

<sup>364</sup> Sorenson, "*State Failure on the High Seas*," op.cit

oversight and approval of the organization as a legitimate Somali coastguard.

#### 12. Improve communication among regional nations

Coordination and communication among regional nations is essential to reducing the number of pirate attacks. For example, in Southeast Asia, multilateral naval and air patrols between Indonesia, Malaysia and Singapore provided an increased naval and air presence, which strengthened security and reduced the number of pirate attacks in the strait. Regional efforts in the Horn of Africa have been limited to membership in the Djibouti code of conduct, which acknowledges piracy and emphasizes communication and cooperation, but does little else. Insufficient political will and the inability of regional governments to provide forces have made this method impracticable as well.<sup>365</sup>

#### 13. Enable or facilitate prosecution in neighbouring states.

Enhancing existing legal structures within neighbouring states, particularly Kenya, to prosecute, convict and imprison pirates once transferred to shore. All states in the region have functioning courts of law, prosecutors, judges and legislation. Most are also parties to some or all of the relevant international legal instruments.

There is generally legal jurisdiction and some legal capacity to impose law and order in response to piracy. However, they need assistance in enhancing their capacity. For instance, Kenya, in particular, has demonstrated its willingness to accept pirates and prosecute them but needs additional resources to be more effective. Otherwise, it is likely to get overwhelmed and refuse to take in any more apprehended pirates.

Shapiro, agrees that African countries need more support, given the complexity of the challenge. "Prosecuting pirates can be an incredibly complex proposition in today's globalized world," he said in a paper on anti-piracy policy presented this year at the US Embassy.<sup>366</sup>

Although Somali piracy has become an international problem that affects WFP operations, no other countries have more at stake and stand more to lose than Somalia and the neighboring East Africa countries. The AU must take the lead in the coordination of these

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<sup>366</sup> Interview with Andrew Shapiro, the US assistant secretary for political and military affairs held at US Embassy, Nairobi on 23rd July 2011

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### **List of Interviewees**

Mohammed Hassan, Kenyan-Somalia  
Abdi Kadhira, Kenyan-Somalia  
Ali Hoby, Kenyan-Somalia; formerly a pirate  
Halima Hassan, Kenyan-Somalia  
Mohammed Ali, Senior investigative journalist, Standard Media Group  
Ahmed Kassim, Senior Radio producer, North Eastern/Correspondent, Radio Netherlands.

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## **Appendix I :Questions for the interview**

### **Introduction**

*Below are questions for the interviews that was conducted for a research project entitled "The Impact of Piracy on World Food Programme Operattons in Somalia,2007-2009" leading to the award of masters degree in international Studies,University of Nairobi.*

1. Somali piracy has been impacting negatively on World Food Programme.Please can you explain what the Somalia is all about?
2. What are the root causes of Somalia piracy.
3. What is the most dangerous experience your cousin experienced as a pirate?
4. You are a renowned investigative Journalist who has travelled to Somalia and reported on pirates.Briefly, explain your experience with pirates.
5. How are Somali pirates organized?
6. Kassim,do pirates operate in organised groups?What happens before and after a ship is hijacked?



**Appendix II: Table 3 Humanitarian relief vessels attacked in Somalia, 2007–2009**

<p><b>February 2007</b></p>	<p>The MV <i>Rozen</i>, a vessel chartered by the World Food Programme to deliver UN food aid to Somalia, and its twelve-member crew were hijacked by armed pirates off the Somali coast. The Somali authorities were notified and intercepted the ship, but despite a heavy exchange of gunfire, the authorities were not able to board the vessel and the pirates escaped. After intervention by tribal elders in Puntland and subsequent mediation efforts, the <i>Rozen</i> was subsequently released in early April, with its crew unharmed</p>
<p><b>May 2007</b></p>	<p>The MV <i>Victoria</i> was attacked 60 nautical miles from the port of Merca. It issued a distress call, resulting in two boats dispatched by the ship contractor. While these boats were able to intercept the pirates before they could board the <i>Victoria</i>, one guard was wounded in a begun fire exchange and later died</p>
<p><b>March 2008</b></p>	<p>Two UN World Food Programme boats were stolen from the southern Somali port town of Merca. Police said they had arrested five suspects and found one of the boats crashed in Jazeera (pirates sometimes steal boats to use in their operations)</p>
<p><b>May 2008</b></p>	<p>The cargo ship MV <i>Victoria</i> was attacked again; this time it was hijacked off Mogadishu. The vessel was carrying a cargo of sugar from India donated by Denmark and was bound for Somalia</p>
<p><b>October 2008</b></p>	<p>Pirates attempt to hijack the Comoran-flagged MV <i>Jaikur II</i> some sixty miles off the coast of the port of Brava, south of Mogadishu in Somalia. The cargo ship, which had just offloaded over 7 000 tons of food aid from the UN World Food Programme, was able to evade the pirates and return to Mombasa</p>
<p><b>April 2009</b></p>	<p>The US-flagged and -crewed MV <i>Maersk Alabama</i> was carrying food aid for Somalia, Kenya and Uganda where the WFP is attempting to feed almost eight million people in 2009 because of drought and high food prices. The ship was attacked on its way to Mombasa, Kenya, a port critical for WFP programmes throughout the Horn of Africa since it serves as a point of entry for food aid for Somalia, Kenya, Uganda, southern Sudan and the eastern Democratic Republic of Congo. In 2008, more than 500 000 tons of WFP food assistance was delivered onboard more than 200 ships through the port. This was the first time a Mombasa-bound ship was attacked, raising concerns about security for relief supplies distributed through Kenya</p>
<p><b>April 2009</b></p>	<p>The Togo-flagged vessel MV <i>Sea Horse</i> was attacked 700 kilometres from Mogadishu on its way to pick up 7 000 tons of maize for the WFP from Mumbai, India.</p>
<p><b>April 2009</b></p>	<p>The US-flagged MV <i>Liberty Sun</i> was carrying 27 000 tons of food for the WFP for relief efforts in Somalia, Southern Sudan and Kenya, and 3 000 tons of food for World Vision and for NGOs in Uganda (Eagle). It was attacked by pirates after it had made a food delivery at Port Sudan. While damaged by rocket propelled grenade fire, it was not boarded and it headed to Mombasa under US escort</p>

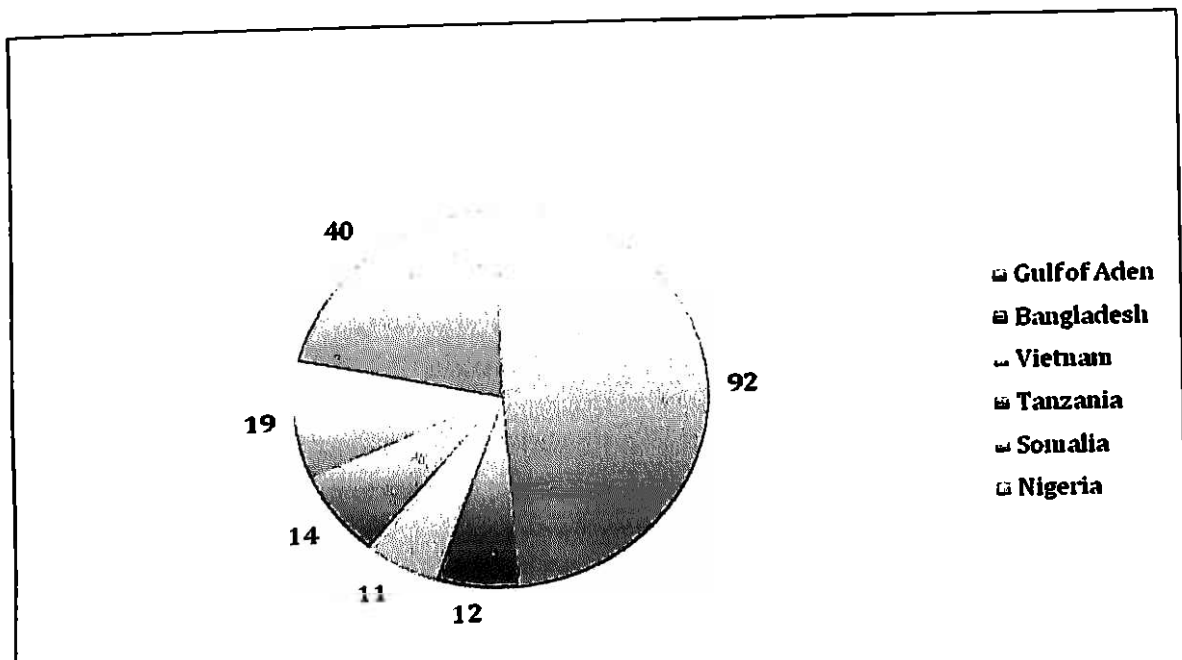
Source :Compiled by the United Nations World Food Programme.

**Appendix III: Vessels escorted By EU NAVFOR for the World Food Programme.<sup>367</sup>**

Number of escorts	Tonnes of food delivered
From 8/12/2008 to 28/2/2009	15 More than 81 000
March 2009	4 40 000

Number of Somalis fed: on average, more than 1 600 000 each day

#### Appendix IV: Total reported piracy incidents 2008



IMB Piracy Reporting Center.<sup>368</sup>

<sup>368</sup> ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships, Annual Report* (United Kingdom, January 1–December 31, 2008).p. 6.