Persistence of Piracy off The Coast of Somalia

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ABSTRACT
Until recently, piracy off the Horn of Africa seemed to be prospering, unfettered by the efforts of the international community. It continues to be a threat up to now, by march 2017 Somali pirates have released a hijacked oil tanker and its eight Sri Lankan crew, bringing the first hijacking since 2012 (HYPERLINK"http://www.Aljazeera.com, 2017, march" www.Aljazeera.com, 2017, march 17). Somalia, a country in chaos after years of civil war, was unable to slow the growth of this criminal industry. However, to end this problem once and for all, Somalia cannot buy its way out of piracy; nor can the international community rely solely on its law enforcement agencies to defeat pirates, whether at sea or on land(The World Bank:2013). By observing this fact this study tries to discern the reasons for the ineffectiveness of international actors to curb Somali piracy. The study holds, even if suppressed because of many political and material related problems, Somalia piracy has managed to stay a threat to the present time. The study examined the reasons for the continued threats posed by Somalia piracy on the international actors despite the responses against it. While the specific aims of it were; to describe sea piracy, to assess the causes for the development of Somalia piracy, catch sight of the effects of Somalia piracy on international actors, to stipulate the actions of international actors as a response to Somalia piracy, and to assess the challenges of international actors in responding to eliminate Somalia piracy. The study queries the reasons for the continued threats posed by Somalia piracy on the international actors. Besides that it asked what is sea piracy is, causes for the development of Somalia piracy, In what extent Somalia piracy affects the international actors, the responses taken by international actors to eliminate Somalia piracy, and the hindrances for the success of international actors to challenge the Somalia piracy?. Methodologically qualitative ways were used by analyzing various secondary sources of data.

1. Introduction

Maritime piracy has been a problem in the world since humans took to the waterways. Legal references have existed concerning piracy since as early as 69 B.C., when Pompey the Great was commissioned to subdue pirates (Smith, 2011:2). Piracy in the 21st century is a serious and growing problem. We live in an interdependent and interconnected global society supported by a global economy and that economy simply cannot function if the world's oceans are not safe and secure for maritime commerce (US National Security Council, 2008:4).

Piratical attacks off the Horn of Africa, especially off the coast of Somalia constitute a threat to the lives and welfare of the citizens and seafarers of many nations. Nearly 12% of the world's petroleum passes through the Gulf of Aden, which is one of the world's most important waterways *(ibid)*.

Due to the weightiness of the issue many international actors have been taking various measures to suppress Somalia piracy, but there are number of enforcement and prosecution problems, which diminishes the ability of the international community to fight the scourge of piracy (Smith, 2011:5-6). The lack of an effective national administration in Somalia also complicates attempts to combat piracy by diplomatic means (Masefield as cited in Bento, 2011:405).

2. Definition of key terms

Piracy is a war-like act committed by a non-state actor, especially robbery or criminal violence committed at sea, on a river, or sometimes on shore, either from a vessel flying no national flag, or one flying a national flag but without authorization from a national authority. It does not normally include crimes on board a vessel among passengers or crew. The term has been used to refer to raids across land borders by non-state actors. Piracy is defined in the United Nations Convention on the Law of the Sea (UNCLOS III) in Articles 100-107. According to this treaty, piracy is "any illegal act of violence or detention, or any other act of depredation, committed for private ends by the crew or the passengers of a private ship." This includes individuals who board the ship for the purposes of committing a piratical act. The act of inciting or facilitating piratical acts are also considered piracy. These acts must take place on the high seas, thus outside the area of the sea that is under the territorial control of the country that borders the water (Smith, 2011:4).

3. Key facts

Piracy off the Horn of Africa is remarkable not only for its scale and geographic scope but also for its violence. It is targeted almost exclusively to hijacking a vessel either for ransom or for use as a mother ship from which to launch attacks on other vessels. Ultimately, the business objective of Somali piracy is to exchange the captured crew and cargo for money. Between 2005 and 2011 Somali pirates hijacked 80 percent of the vessels seized worldwide. At the peak, 96 percent of worldwide hijackings were taking place off the Horn of Africa (The World Bank, 2013:4).

Current and proposed onshore or offshore policies for curbing Somali piracy are either ineffective or unsustainable. Such onshore interventions as local economic development or law enforcement initiatives aim at discouraging young Somalis from becoming pirates. They do so by increasing the cost of foregoing alternative livelihoods or by promising lengthy prison terms in case of capture. However, the response of the piracy industry will likely be to offer higher compensation so as to neutralize the intended deterrence. This can easily be done without significantly affecting profitability, given how pervasive poverty is in the communities' recruits are typically drawn from. And while offshore initiatives such as navy patrols and onboard security are believed to explain why piracy plunged in 2011 and 2012, these are only effective as long as they remain in place: they would have to be permanent to prevent any resurgence of piracy. Because of their high cost, in the long run they may simply be unsustainable *(ibid:*xxv).

4. Causes and effects of Somalia piracy
4.1. Causes of Somalia Piracy

There are many factors that drive piracy in Somalia. 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. 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.

The raising and increasing in pirate attacks off the Horn of Africa is directly linked to continuing insecurity and the absence of the rule of law in war-torn Somalia. The absence of a functioning central government there provides freedom of action for pirates and remains the single greatest challenge to regional security. Some allege that the absence of Somali coastal security authorities has allowed illegal international fishing and maritime dumping to go unchecked (Ploch *et.al,*2011:2).

The other reasons why Somalia piracy occurs are political corruption, economics of the third world, willingness of shippers to pay the costs of piracy rather than higher insurance premiums and to avoid the political risks associated with reporting attacks and the failure to develop international protection agency and today's small crews working on vessels as a consequence of cost saving tactics. Therefore pirates can come on board without ever being seen. In the crucial geographic areas, at the local level, no serious effort is made to prevent or to respond to piracy, due to the corruption of officials and simply insufficient resources, police and military forces (Meijden , 2008:18).

Modern piracy off the coast of Somalia is also said to have arisen from efforts of local fishermen, who formed vigilante groups to protect their territorial waters. Unauthorized fishing may have resulted in the loss of nearly 30% of the annual catch and toxic waste dumping in Somali waters. Initially, vessels involved in illicit fishing or dumping were attacked by these vigilante groups, with the end of either extracting taxes or deterring future incursions. One way of securing reparations was to hold the vessel and its illicit cargo until compensation was paid, and over time seizing vessels became an end in itself (Deheza, 2009: 8).

4.2. The Effects of Somalia Sea Piracy

The scale, geographic scope, and violence of Somali piracy operations have created public concern throughout the world. As many as 3,741 crewmembers of 125 different nationalities have fallen prey to these pirates, with detention periods as long as 1,178 days. Reportedly, 82 to 97 seafarers have died either during the attacks, in detention after poor treatment, or during rescue operations (The World Bank, 2013: xxi). Piracy also flows from the security problems on land, especially in Somalia, due to the lack of domestic stability, thus providing safe haven for pirates (Smith, 2011:4). Beyond the human tragedy, although certainly in part because of it, Somali piracy has imposed significant global costs, particularly on nearby economies. Increased insurance premiums, expenditures for on-board security measures, and rerouting or cancellation of shipments are among the many channels through which pirates have affected the world economy. The actual and potential links between pirates and Islamist insurgents are another source of global concern (The World Bank, 2013: xxiii).

5. The Responses of International Actors to Challenge Somalia Piracy

The international community has mobilized to combat the surge of piracy off the Horn of Africa. Over 40 countries are involved in military counter-piracy operations, in a national capacity or through three coalitions: the European Union Naval Force Somalia through Operation Atalanta, the Standing Naval Group of the North Atlantic Treaty Organization (NATO) through Operation Ocean Shield, and Combined Task Force 151. Since 2008, the United Nations (UN) Security Council has adopted 13 resolutions to support counter-piracy action off the Horn of Africa. Beyond the UN, the European Union (EU), the African Union (AU), the League of Arab States, and NATO have all moved to fight piracy off the Horn (The World Bank, 2013: 1).

The majority of antipiracy operations consist of visit, board, search, and seizure operations, in which small teams board and search suspected pirate vessels from larger naval ships such as cruisers and destroyers. (Goossens and Nelson, 2011:3).

5.1. Unilateral Responses from Governments

At least seven countries acting individually have deployed ships or aircraft in the area, both to protect vessels in transit and to rescue vessels under attack (UNSC:2011).The internationally recognized Somalia Government has struggled in recent years to form a functional unity government and to reconstitute national security and law enforcement entities. The United States has supported reconciliation efforts in Somalia and has taken a leadership role in coordinating diplomatic and military responses to the threat of piracy in the region, in coordination with the United Nations Security Council. International donors have pledged funds for Somalia that are intended in part to support the development of security forces by the Somalia government with the aim of improving local authorities' ability to act against pirates ashore (Gettleman cited in Ploch et. al, 2011:17).

5.2. Response of International Trading Companies

International shipping companies, among many, have taken two major approaches to dealing with the piracy problem in the Gulf of Aden. The first is to avoid the Gulf entirely, by rerouting ships around the Cape of Good Hope. This option adds significant time and expense. The second approach is to accept the risk of a potential hijacking and ransom demands and to continue shipping operations in the area. To reduce the level of risk for "running the gauntlet," many shipping companies now implement the shipping industries Best Management Practices while operating in the region and install recommended Self-Protection Measures to help protect their vessels from pirate attacks (Lennox, 2008:14).

6. Challenges facing International Actors for the Successful Eradication of Somalia Piracy

While the recent drop in reported instances of Somali piracy attacks has often been attributed to such efforts, the international community has agreed that a comprehensive approach is needed that also addresses the political and socioeconomic root causes of piracy in Somalia (UNSC: 2011).The major constraints for this are:

6.1. International Law Related Problems

Questions regarding legal jurisdiction, due process for detained pirate suspects, and the role of foreign military forces in anti-piracy law enforcement activities have complicated current international operations against pirates in the Horn of Africa region. The most immediate legal concern associated with anti-piracy operations is jurisdictional questions that arise based on the location of pirate attacks and/or international naval interventions, the nationalities of crew members, and the countries of registry and/or ownership of any seized vessels(Mason:2010:5)

Another problem is that the doctrine of hot pursuit prevents foreign ships from chasing possible ships suspected of piracy into territorial waters of a country that has not provided specific permission. In some cases, collusion of law enforcement in piratical acts prevents the enforcement of piracy laws (smith, 2011:4).

The nationalities of crew members and the countries of registry and/or ownership of any seized vessels. Multiple governments may be able to assert legal jurisdiction depending on the specifics of the incident. Political will may be present in some countries, but many governments lack sufficient laws and judicial capacity to effectively prosecute suspected pirate (Mason, 2010:5-6). Generally, from the pursuit and capture of pirates at sea to their prosecution in courts, current practices do not reveal a systematic application of the relevant international laws.

6.2. Weak Cooperation Among International Actors.

While there seems to be agreement that piracy at sea nowadays poses a dangerous situation to shipping and has been causing, especially over the last years, serious harm to life and property and raising concerns in respect to the marine environment and the safety of navigation, especially in straits used for international navigation, the affected states and the international community at large seem to lack a coherent and coordinated approach to combating and eliminating it.

In the case of piracy off the Somali coast and in the Gulf of Aden the prospects of regional collaboration are not at all promising. There is no sub-regional organization covering the Greater Horn of Africa and with a security agenda, the Intergovernmental Authority on Development, IGAD, but it is quite weak and haunted by rivalries and conflict between its members, Sudan, Djibouti, Ethiopia, "Eritrea",

Somalia, Kenya and Uganda. Moreover, virtually all of these have serious internal problems and none of them have naval forces worth mentioning—indeed, the regional great power, Ethiopia, is landlocked (Moller, 2008:48).

The lack of a will to prosecute also prevents enforcement of piracy laws. A significant increase in violence of piratical attacks has also decreased the will to attempt enforce the necessary laws (Smith, 2011:4).

6.3. Logistical problems

International military operations in 2011 are estimated to have cost at least US$1.27 billion. Estimating the specific cost of these operations is difficult because the vessel alone would still need maintenance and would be in training operations or in other active service even if deployed elsewhere and costs would also be incurred for personnel and other military infrastructure. But though approximate, the estimates arguably provide a first order of magnitude of the costs involved (The World Bank, 2013: 158).

Other problem with enforcement is that there are not always resources to capture pirates or to patrol the necessary areas (Smith, 2011:4). Assuming the Gulf countries as an important stake holders, significant ocean-going capability and have relatively limited maritime capacity beyond coastal vessels. Saudi Arabia is currently the only Gulf state with the naval assets to potentially contribute to maritime security operations beyond its own territorial waters. Although gulf cooperation council(GCC) states have been enhancing their naval capability—the UAE recently acquired 6 French-built corvettes, along with 24 amphibious assault ships and 70 transport and attack helicopters, while Oman has invested in at least 3 offshore vessels, to be supported by 36 naval helicopters—the objective of such acquisitions is the defense of their own territorial waters a mere 12 nautical miles off the coast which is limited(Nelson and Goossens,2011:5).

6.4. Absence of strong Central Government in Somalia

The state in Somalia collapsed completely in 1991 and has never been restored, several attempts notwithstanding. Even though the nominal political authority, the aforementioned federal government, is internationally recognized by both IGAD, the African Union and the UN, it possesses neither any internal legitimacy nor any governing capacity, making it completely dependent on Ethiopian support. It is thus, at most, a quasi-state and completely embroiled in the civil war against the remnant of the former *de facto* government, the much more effective and legitimate Union of Islamic Court (*vide supra*). Hence, it is utterly incapable of dealing with the piracy problem, should it want to do so. The same is the case of the break-away republic of Somaliland, which has been a non-recognized de facto state since its declaration of independence in 1991,but which also lacks any naval capacity—and with the semi-autonomous region of Puntland in the northeastern part of the country. Indeed there have been speculations that the regional authorities in the latter entity are collaborating with the pirates, and even that some of the proceeds from piracy may end up in the pockets of some of the federal government members (Moller, 2008:48).

It is clear that without an indigenous sea-based campaign coming from the future Somali coast guard; it will be a significant challenge for foreign navies to maintain a sufficient presence to deter acts of piracy in the region.

7. Conclusion

The Somalia piracy is said to erupt because of many reasons. Among them are political instability within Somalia and the retaliation towards illegal fishing and dumping on coasts of Somalia by international actors are important to consider. The piracy has increased on the latter half of the 2000's decade. During this process, many shipments has been hijacked by the Somali pirates most importantly for ransom payment reasons associated with the captives from the vessel. It is said that millions of dollars have been acquired by the pirates, while the loss by shipment companies and countries is estimated in billions.

Following this severe problem, international actors have taken different measures to eliminate Somalia piracy though those responses are not successful. For instance, since 2008, the United Nations has adopted a burst of UN resolutions; meanwhile, a number of special task forces, agencies and envoys have been created as part of the fight against Somalia piracy. Yet, it is neither evident that overall global coordination has improved, nor that are we anywhere near a discernible strategy and action plan that all the concerned parties are prepared to support.

This study has discussed the threats posed by Somalia piracy and the responses of international actors as well as has analyzed the outcome of their responses. It also tried to analyze the rationale behind the unsuccessfulness of international actors. Weak cooperation of international actors, absence of strong government in Somalia, jurisdiction problems, logistical problems are the major challenges that hinder the success of international actors' responses in eliminating Somalia piracy. In other words, the challenges can be considered as the opportunities for the existence and expansion of Somalia piracy.

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