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UNITED NATIONS OFFICE ON DRUGS AND CRIME MARITIME PIRACY

Introduction

Like most world issues, maritime piracy is a complex, multi-faceted problem that both affects and is affected by a diverse subset of peoples and situations. Piracy has been around for as long as man has been travelling the sea. The first reported acts of piracy were against peoples in the Aegean and Mediterranean seas around the 13th century BC. Today the topic of piracy typically pertains to acts being committed around the horn of Africa, focused primarily off the coast of Somalia. Thus far efforts to combat such acts have been largely unsuccessful and there is a great deal of debate centering on the methods and considerations in attempting to bring the pirates to justice.

A Recent History of Piracy

As previously mentioned, the first historical accounts of piracy date from the 13th century BC. From that point on piracy has been an ever-present part of human history. Unfortunately, for the sake of brevity, an in-depth account of pirate lore throughout the last three and a half millennia cannot be included here. Literature and art all around the world, but specifically in the west, have sensationalized the pirate into the swashbuckling, oftentimes heroic figures that they have nowadays become. However, regardless of the veracity of these historical accounts and the oftentimes fictionalized stories of the pirates of antiquity, more recent acts of piracy display a more contemporary set of motives and methods.

In the early 1980's, piracy began to be used as an act more akin to modern-day terrorism than to the plundering-related motives of earlier pirates. In 1981 and 1982 the Irish Republican Army (IRA) sank two coaster ships in Northern Ireland. A few years later in 1985 the Palestinian Liberation Front (PLF) hijacked a cruise ship, the *Achille Lauro*, and held its passengers hostage, demanding the release of several of its operatives by Israel.

UN System Actions

In 1982 the United Nations concluded its United Nations Convention of the Law of the Sea (UNCLOS). The Law of the Sea Convention defines the rights and responsibilities of nations in their use of the world's oceans, establishing guidelines for businesses, the environment, and the management of marine natural resources. As a result of the (then) recent conflicts in Northern Ireland, it also made mention of maritime piracy, determining that it, "consists of any criminal acts of violence, detention, or depredation committed for private ends by the crew or the passengers of a private ship or aircraft that is directed on the high seas against another ship, aircraft, or against persons or property on board a ship or aircraft." Piracy can also be committed against a ship,

aircraft, persons, or property in a place outside the jurisdiction of any state, meaning that piracy was one of the first instances of universal jurisdiction.

While the UN Convention on the Law of the Sea (UNCLOS) represented significant progress on codifying international piracy, “the article 101 definition excludes acts of piracy committed in a state’s coastal waters, limiting piracy to acts committed on the high seas or outside the jurisdiction of any state.”¹ In 1988, the International Maritime Organization (IMO) drafted a new covenant, the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA), designed to redress the problems and gaps left unresolved by UNCLOS. As Christopher Joyner notes, “the SUA Convention broadens the rules relating to piracy and, unlike the 1982 LOS Convention, it also encompasses politically motivated terrorist acts.”²

Today, however, despite new initiatives by the UN and the international community, piracy is becoming even more prevalent. Recent figures estimate that piracy against maritime transport vehicles costs between \$14-20 billion USD annually. A total of 1,845 actual or attempted acts of piracy were registered around the world between 2003 and the end of 2008, with an average of 352 attempted acts of piracy per year. The true figure is undoubtedly greater because in many cases (possibly as many as half) ship owners are reluctant to report attacks against their vessels out of concern that this will merely lead to increases in insurance premiums as well as lengthy and costly post-incident investigations.

Factors Contributing to Contemporary Piracy

Many times the reasons for piracy are born not out of greed but out of necessity. Be it through a perceived need to impact some form of socio-political change or just by virtue of poverty, the modern day pirate finds him or herself in such a position by virtue of need. Somalia, for instance has been without any form of effective central government since 1991. Many Somali pirates are former fishermen who can no longer afford to feed themselves and their families off their catch, largely because in the post-Cold War era, large-scale commercial fishing fleets from many different countries have supplanted these individual fishermen. In the nearly two decades of power-struggle and lawlessness since 1991, piracy has emerged as a viable industry along its coasts. Somalia now accounts for over one third of the reported acts of piracy in the world each year.

¹ Christopher Joyner, “Navigating Troubled Waters: Somalia, Piracy, and Maritime Terrorism” *Georgetown Journal of International Affairs* Winter/Spring 2009 p. 86.

² Christopher Joyner, “Navigating Troubled Waters” *Georgetown Journal of International Affairs* Winter/Spring 2009 p. 87.



Todd Ward, a psychologist at the University of Nevada, characterizes the psyche of a Somali pirate by giving a brief history of the country. In 1960, Somalia gained its independence from European rule dating back to the 19th century. In the midst of the Cold War, Somalia was much sought-after by two sociological groups, the governments of the Soviet Union and the United States, due to its strategic location close to the border of the African and Asian continents. Over the years, “a poor, mostly illiterate, mainly nomadic country became a towering ammunition dump primed to explode.” Though it was officially governed by the late dictator Major General Mohamed Siad Barre, most of the country was out of his control. In 1991, the Barre regime was overthrown and the sociological characteristics of Somalia began to change again. The country was stocked with military weapons and overrun by warlords whose clans turned on each other in such a way that “every port, airstrip, fishing pier, telephone pole, anything that could turn a profit, was fought over.” Somalia was in chaos, with rival sociological groups heavily armed and tearing the country apart.

Shortly after the overthrow of the Barre regime, the United States sent in thousands of troops in support of a United Nations peacekeeping mission (UNOSOM I) to protect foreign aid shipments and, in 1993, attempted to oust the warlord, Mohammed Farah Aidid, who controlled much of the southern areas of the capital, Mogadishu. This failed attempt resulted in Somalis shooting down two U.S. helicopters and killing 18 soldiers, whose bodies were paraded throughout Mogadishu. Shortly thereafter, the U.S. military left Somalia, which opened the door for the gradual influx of other sociological groups from the Middle East during the rest of the 1990s. Some beneficial sociological groups emerged as a result of the influx, such as schools and various community services, but a

strict variant of Islam known as Wahhabi came with them. In 2005, an extremist group, the Shabab, separated from the moderate Islamists and took control of Mogadishu and soon gained a spot on the U.S. list of terrorist organizations.

It is not difficult to imagine how the constant turmoil and political upheaval, or the negative perception of the victimized parties (oftentimes Westerners) being cultured in the region, coupled with a general sense of lawlessness could lend itself to acts of piracy. Increasing piracy originating in Somalia has had serious ramifications, including the disruption of humanitarian aid to Somalia, damage to international and local economies, large increases in shipping insurance and even an increased prospect of environmental disasters.

The anarchic situation in Somalia has directly contributed to the rampant scale of piracy that the world is currently witnessing off the Horn of Africa in other countries as well. With no sovereign government in place, gangs have virtual free-run of the area, enjoying widespread latitude to enforce “rules” that further and protect their own vested interests. But to make Somalia the singular focal point would be disingenuous and unfair. The problem exists all over the world. According to US Policy Analyst Peter Chalk, the concentration of piracy is greatest around the Horn of Africa and the Gulf of Aden, which accounted for roughly 37 percent of all attacks reported in 2008. But other high-risk zones, which include Nigeria/Gulf of Guinea, Indonesia, India, Bangladesh and Tanzania, collectively accounted for 59 percent of all non-Horn of Africa/Gulf of Aden incidents last year.

One parallel that can be drawn between the aforementioned areas was a propensity for poverty amongst the people living there. While it is highly unlikely that the victimized parties will be especially sympathetic to the socioeconomic conditions that contributed to make piracy a viable option, it is worth noting that to truly address the issue of piracy it may be necessary to address the issues of poverty that contribute to it.

The international community frequently attempts to respond to highly nuanced problems with blunt force, if not with military action, then the international community often implements forms of economic warfare in the way of sanctions and other measures. Often only the civilians, not the parties responsible, are adversely affected. In such cases, deep-seated poverty takes hold and leads to higher rates of crime in addition to a rapidly diminishing quality of life. These are major contributing factors that lead to piracy.

Piracy is an economically driven phenomenon. This is true both with respect to those who engage in the practice – profit being the main objective – and those against whom attacks are directed, ship owners – where the desire to keep operating costs as low as possible has frequently outweighed the need for more on-board security. This economic dimension is important in understanding the manifestations and evolving dynamics of piracy as well as for setting it apart from maritime terrorism, which is primarily aimed at attacking or otherwise undermining the oceanic environment to secure political, ideological or religious imperatives.

Recent Trends

In addition to the aforementioned psychological and socio-economic reasons, modern piracy is made more practical by virtue of two very convenient factors: the enormous volume of commercial freight that moves by sea and the necessity of ships to pass through congested (and ambush-prone) maritime choke points such as the Panama Canal, Suez Canal, the Straits of Hormuz, Strait of Bab el-Mandab, the Malacca Straits and the Bosphorus Straits.

In addition, there are a number of other contributing factors such as the shipping industry's increased reliance on skeleton crews, made possible through advancements in navigation technology but also largely done as a cost-cutting measure. This is further exacerbated by deficiencies in maritime surveillance by regional governments. In the post 9/11-era, many governments have been pressured to invest in expensive land-based homeland security initiatives. This has further reduced what in most cases were already limited resources for monitoring territorial waters.

In addition, lax coastal and port-side security have played an important role in enabling low-level pirate activity such as harbor thefts against ships at anchor. Problems of this sort have been particularly evident in Brazil, East Africa and across South and Southeast Asia. In many cases there is either no functioning maritime police presence at all or the units in place are devoid of adequate staff, boats, equipment and training.

Corruption and easily compromised judicial structures have encouraged official complicity in high-level pirate rings. The nature of this involvement has been extensive, ranging from providing intelligence on ship movements and locations to helping with the rapid sale of stolen cargo.

The problem is not helped, according to Peter Chalk, by the ready willingness of shipowners to pay increasingly large sums of money for the return of their vessels and cargo. This has provided added incentive to engage in maritime crime. Somali pirates are projected to have netted at least \$20 million in ransoms last year, with the negotiated deal for the release of the Saudi-registered *Sirius Star* allegedly running to an unprecedented \$3 million. For many gangs, the prospect of windfall profits such as these far outweighs any attendant risk of being caught or otherwise confronted by naval and coast guard patrol boats.

Finally, the global proliferation of small arms has provided pirates (as well as terrorists and other criminal groups) with an enhanced means to operate on a more destructive and sophisticated level. Originating from a variety of sources in Africa, Asia and Europe, these munitions include everything from pistols, light/heavy caliber machine guns and automatic assault rifles to anti-ship mines, hand-held mortars and rocket-propelled grenades. Most commentators agree that the availability of weapons such as these, most of which are readily transportable, easy to handle, cheap and durable, is one

of the main underlying causes that has contributed to the scale and sophistication of piracy jumping markedly in recent years, especially in the waters off East Africa. Gangs now routinely hijack large ocean-going vessels and have exhibited a proven capacity to operate as far as 500 nautical miles from shore. There has also been a discernible spike in hostage-takings. In 2008, 889 crewmembers were abducted; this was not only the highest figure on record but represents a significant 200+ percent increase on the total for 2007.

Dangers of Piracy

The dangers associated with contemporary piracy are complex and multifaceted. At the most basic level, attacks constitute a direct threat to the lives and welfare of the citizens of a variety of countries and companies. Apart from the risk of death or injury, many who have been subjected to a pirate attack suffer considerable mental trauma and may never go to sea again.

Piracy also has a direct economic impact in terms of stolen cargo, fraud and delayed trips and could undermine a maritime state's trading ability. According to the UN, the overall annual cost of piracy to the maritime industry is estimated to be anywhere between \$1 billion and \$16 billion USD. The true figure could be far higher, especially once expenses incurred from implementing counter-piracy efforts are factored in. Christopher Joyner analyzes the potential impact of piracy off the coast of Somalia on other countries; he argues that piracy off the coast of Somalia "will depress revenues for Egypt's canal [Suez Canal] by as much as 10 percent", will lead to longer, more expensive, more energy-intensive shipping, and will cause concerned governments to expend greater administrative, financial, and military resources to combat piracy.³ Due to the blurring of the distinctions between maritime piracy and terrorism in recent years, insurers such as Lloyd's of London have raised their maritime insurance rates and considered revising their physical damage compensation packages to boats to "war-risk policies."⁴

Piracy can play a pivotal role in undermining a country's political infrastructure and weakening a government's legitimacy by encouraging corruption among elected officials as well. This has been a recurring problem in Indonesia, which until 2008 was consistently designated as the most pirate-prone hot spot in the world.

A less immediately obvious problem is that piracy has the potential to trigger a major environmental catastrophe, especially if a pirated vessel is left to drift in a congested sea lane of communication. The worst-case scenario being a mid-sea collision involving a heavily-laden oil tanker. Not only would the resulting discharge of petroleum cause irreparable damage to offshore resources and marine life, but it would also seriously degrade long stretches of fertile coastal lowlands if the oil were left to drift. This would pose significant difficulties to any state that relies on the ocean as a primary source of food, either for domestic consumption or regional/international export.

³ Christopher Joyner, "Navigating Troubled Waters" *Georgetown Journal of International Affairs* Winter/Spring 2009 p. 87.

⁴ *The Economist*, "For those in peril" April 20, 2006.

Action thus Far

The recent activity off the coast of Somalia has been met with a number of international responses. The US for instance announced the creation of a new Combined Task Force (CTF) to monitor and patrol the pirate infested Gulf of Aden. The EU has been servicing a naval flotilla in the Gulf since late 2008 with contributions from the UK, France, Spain, Greece and Germany. Several other states have also sent ships to the region, including India, China, Russia, Malaysia, Saudi Arabia, South Korea, Australia, and the United Arab Emirates. Finally, the United Nations Security Council (UNSC) has now sanctioned “cooperating” states to enter Somalia’s territorial waters and attack pirate dens on land, passing UNSC Resolutions 1816, 1846 and 1851 between June and December 2008.

The United Nations Office on Drugs and Crime (UNODC) recently created the Counter Piracy Programme (CPP) in May 2009. The program primarily deals with issues in Kenya, the Seychelles, and Somalia and is designed to assist those governments in prosecuting suspected pirates. While critics claim the program is too narrow in its scope, UNODC has been successful in generating greater support for this program and these prosecutions from Australia, Canada, and the US. Currently the program is aimed at providing training and resources for the fight against piracy and has seen some success in the fight to bring these pirates to justice. Thus far the program has resulted in support being lent to regional governments with regard to prosecution of piracy, logistical and tactical support for regional police forces with regard to catching pirates and improvement of court and prison facilities in the region, including at Shimo La Tewa in Kenya.⁵

The Strait of Malacca: Successfully Combating Piracy

In 2003-04, the Strait of Malacca between Indonesia, Malaysia, Singapore, and Thailand was the global hot spot for maritime piracy. Piracy in the Strait of Malacca soared after the Asian economic meltdown of 1997, indicating that impoverished fishermen and displaced maritime workers were the most likely to engage in acts of piracy, another crucial parallel with the current situation in Somalia.⁶ The affected countries have improved their coordination of anti-piracy efforts throughout the Strait of Malacca and have successfully prosecuted significant numbers of pirates; in 2005, Indonesia, Malaysia, Singapore, and Thailand launched joint air patrols over the Strait of Malacca to reduce and/or eliminate the threat of maritime piracy.⁷ The results: piracy attempts have been reduced by more than 50% since 2004.⁸ In fact, the International

⁵ United Nations Office on Drugs and Crime (UNODC), “Counter Piracy Programme” November 2009 p. 4.

⁶ *The Economist*, “Going for the jugular” June 10, 2004.

⁷ *BBC News*, “Air patrols for Malacca Strait” September 13, 2005.

⁸ Antonio Maria Costa, “Piracy must be defeated in courts, ports, and banks, not just at sea” UNODC February 5, 2009. Found at: <http://www.unodc.org/unodc/en/frontpage/what-to-do-about-piracy-.html>

Maritime Bureau (IMB) moved the Strait of Malacca down to #3 on the list of piracy hot spots in 2008 but with an estimated 40% of all shipping, as measured financially, passing through the Strait of Malacca, the countries in the region must remain vigilant for future piracy attempts.⁹ Many Asian countries, including China, India and Pakistan, are also modernizing and expanding their navies, ostensibly to provide greater protection for their merchant fleets. Analysts throughout the region and in the United States are concerned, however, that these countries may be using the [now diminished] threat of piracy in the Strait of Malacca as a convenient cover to engage in a contemporary naval arms race.¹⁰

Additional Points

It is important to take into account the many dynamics of this situation in attempting to come to a comprehensive and even-handed approach to combating piracy. It is helpful to continue to arm and train the regional governments to combat, arrest and prosecute pirates but the international community must also look at the greater context in attempting to fix this problem. Addressing only the offending parties may seem tantamount to justice but the greater issues lie in the poverty and sub-human living conditions that manifest these activities.

For the sake of this committee, it is important that the conversation not stray from the aims and principals of the UNODC. This is not the United Nations Development Programme (UNDP) nor a non-governmental organization (NGO) engaged in development projects. This is a body concerned with the defense and prevention of crime. Ignoring seemingly peripheral details, however, would be to deny and on some levels devalue the scale of the problem, not to mention that it is lousy police work.

The other issues to consider in attempting to craft solutions for the problem are issues of sovereignty and stability (or lack thereof) in local governments. It is absolutely essential to avoid unnecessarily violent or protracted conflicts that could stir up local populations or create further unrest. In addition, despite efforts to coordinate, there exist a number of differences with regards to military Rules of Engagement (ROE) and procedure when apprehending pirates. Furthermore, the line between piracy and terrorism is not always clear. In certain instances where an act of piracy can be classified as an act of terror, conflicts could arise from differences in how to apprehend and proceed with suspects. Delegates to the UNODC must strive to comprehensively address the criminal acts of maritime piracy while also coordinating their work with related UN agencies, national governments, civil society representatives, and NGOs to ultimately reduce and/or eliminate the socio-economic inequities that make piracy an acceptable, even attractive, alternative to legal and legitimate forms of employment.

⁹ Matthew Heavens, "Asia's age-old battle with the pirates" *BBC News* December 7, 2008.

¹⁰ *The Economist*, "Into the wide blue yonder" June 5, 2008.

Guiding Questions:

1. What stakes and interests in international shipping and counter-piracy efforts does your country have? What is your country's perception of the parties involved? What is the cost of piracy to your nation and how does it compare to the cost required for combating it?
2. In such war-torn and politically destabilized regions as Somalia and Indonesia, what is the best way of countering maritime piracy?
3. Is the current international legal framework for countering piracy sufficient or does it need to be changed in some fashion (and, if so, how)?
4. What does your country feel the extent of its government's involvement should be in countering maritime piracy and what role does it think the private sector should play?
5. What are the chief land-based factors that contribute piracy in each affected area and how can these best be addressed (is this the concern of the UNODC or other bodies)?

Additional Works Cited:

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