

**ADDIS ABABA UNIVERSITY  
SCHOOL OF GRADUATE STUDIES**

**THE MARITIME DIMENSIONS OF SECURITY IN THE HORN OF  
AFRICA: THE CASE OF SOMALI PIRACY**

**BY  
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ADDIS ABABA**

**MARCH 2012**

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RELATIONS**

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## **Acronyms**

CTF-150	Combine Task Force-150
CTF-151	Combine Task Force-151
CTF-152	Combine Task Force-152
EU	European Union
EUNAVFOR	European Union Naval Force
FARC	Revolutionary Armed Forces of Colombia
HSTF	High Seas Task Force
ICC	International Criminal Court
IMB	International Maritime Bureau
IMO	International Maritime Organization
MEND	Movement for the Emancipation of the Niger Delta
NATO	North Atlantic Treaty Organization
NAVCENT	United States Naval Forces Central Command
SNM	Somali National Movement
SSDF	Somali Salvation Democratic Front
SUA Convention	Suppression of Unlawful Acts Against the Safety of Maritime Navigation
TFG	Transitional Federal Government
UIC	Union of Islamic Courts
UN	United Nation
UNCOLS	United Nation Convention on the Law of the Sea
UNEP	United Nation Environmental Program
UNSC	United Nation Security Council
UNSOA	United Nations Support Office for the African Union Mission in Somalia
UK	United Kingdom
US	United States
VLCC	Very Large Crude Carrier
WFP	World Food Program

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## **Dedication**

This thesis is dedicated to my beloved brother Fida Chala who took great responsibility in the role of helping our family in behalf of my father. Specially, he paid all sacrifice to satisfy my needs particularly in better academic achievements. Unfortunately he did not see the end result of his efforts. In addition, he made great strive to end inequality among human beings to realize justice on the land which regrettably led him sacrifice his life. He was a good role model to inspire those who fight for a justice and well being of human beings.

## *Abstract*

*This study examines the maritime dimensions of security in the Horn of Africa in relation to recent rise of piracy in the Somalian coast. Nowadays it is obvious that maritime transport is the core element of world economy and each disturbance in the world shipping can create serious problems for world economy because 85% of world trade relies on maritime transport, especially now when the world crises appeared. Currently Somali piracy forms maritime threats and vulnerabilities into the African security landscape. Since the collapse of the Somali state in the early 1990s, international community have expressed their concern toward the rise of piracy off the Somali coast and the waterways of the Gulf of Aden. Particularly, the 2008 years marked an exceptional increase in pirate attacks in Somali waters and received widespread media attention. The attacks did not only increase in number but also became more sophisticated in materials.*

*The increase 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, while additional conditions aggravate the problem. The absence of a functioning government in Somalia remains the single greatest challenge to regional security and provides freedom of action for those engaged in piracy along the Somali coast. Some observers also have alleged that the absence of coastal security authorities in Somalia has allowed illegal international fishing and waste dumping occur in Somali waters, which in turn has undermined the economic prospects of some Somalis and providing economic or political motivation to some groups engaged in piracy. The anti-piracy efforts of the global community have not yet resulted in significant successes as the world focusing on fighting the symptoms of piracy. Nevertheless, some small positive developments are apparent, mainly in regard to strengthening a coordinated and uniform approach among them.*

# CHAPTER ONE

## INTRODUCTION

### 1.1. Background of Study

In today's global environment, transnational security challenges, so called 'grey area phenomena'<sup>1</sup> pose serious and dynamic challenges to national and international stability (Chalk, 2008: iii). These dangers cannot be readily defeated by the traditional defenses in a sense that states have erected to protect both their territories and population. This is happen due to the irregularity of current world politics, a setting in which it is no longer apparent exactly who can do what to whom with what means (Ibid). The maritime sphere is especially conducive to these types of threat contingencies given its vast, largely unregulated, and opaque nature. This area covers approximately 139,768,200 square miles (2.42 times the planet's terrestrial surface area) as most of this environment takes the form of high seas that lie beyond the strict jurisdiction of any single state (Chalk, 2010: 89). This has made the issue of the security of waterways (maritime security) a subject of serious concern to states, international organizations and other stake holders in the maritime domain.

Unfortunately, Africa's waterways have in recent times emerged as the world's most dangerous routes for vessels and their crew members in terms of pirate attacks. Of particular concern is the increase in piracy and sea raids off the coast of Somalia and in the Gulf of Aden around the Horn of Africa. The situation in the region has become particularly worrisome in the past four years, leading observers to conclude that 'piracy and its fruits has become the largest single industry of that impoverished country.'<sup>2</sup> Actually the acts of sea piracy go all the way back to ancient times, the time of ancient Greece and Rome (Bradford, 2007: 4; Hirsi, 2011: 9).

During the last few decades, most piracies were concentrated in East and Southeast Asian regions of Straits of Malacca, Philippines, Indonesia, Thailand, Laos and Vietnam (Bos and Stracke, 2009: 9). However, recently, Somali piracy activities has marked a new and

major development by taking the act of piracy in ungoverned territories and posed a major threat to legitimate international maritime activities. It has reached high level during the past three years by threatening the important maritime routes in the world (Farley *et al*, 2009: 2). For instance, according to International Maritime Bureau (IMB), there were 111 attempted pirate attacks in the Gulf of Aden in 2008, of which 42 were successful and resulting in the capture of 815 merchant seamen (Hosenball, 2009: 5). This represents an increase of nearly 200% from 2007, accounting for an estimated 40% of the 293 pirate attacks reported worldwide in 2008 (Ploch *et al*, 2009: i). Similarly, the International Maritime Bureau (IMB) reported 195 attacks originated from Somali pirates in 2009 alone (Cantelon, 2010: 4). In 2010 the incidence of piratical attacks remained virtually unchanged from that of 2009, with 219 attempts and 49 successful hijackings. Even, very recently, Somali pirates hijacked sixteen of the eighteen vessels that were hijacked in the first quarter of 2011 and were responsible for holding 299 of the 344 crew members who were taken hostage during these attacks (Deborah, 2011: 3). These attacks have primarily focused on using the captured crew and ships as hostage rather than selling the cargo or ships on the black market. In this way, the pirates of Somalia have been successful because they have a secure base on the ground and next steps to operate into international shipping lines.

**Table 1: Global piracy figures: actual and attempted attacks, 2003–2009**

Location	2003	2004	2005	2006	2007	2008	2009
S. East Asia	187	170	118	87	78	65	67
South Pacific		1			2		
Americas	72	45	25	29	21	14	37
Somalia	21	10	45	20	44	111	217
Nigeria	39	28	16	12	42	40	28
Other Africa	33	35	19	29	34	38	25
Rest of the World	6	8	16	9	12	2	3
Total	358	297	239	186	233	270	377

Source: UN Institute for Disarmament Research (2010). Available at [www.unidir.org](http://www.unidir.org)

Economically, the shipping corridor off the Somali coast is very important. For instance, 7% of the world's oil supply travels through the Gulf of Aden (Percy and Shortland, 2010: 2). For this reason, several shipping companies have decided to stop using the Gulf of Aden, and instead take a considerably longer route around the African continent (Harrelson, 2010: 288). Thus, it created additional cost of total maritime risk insurance for ships travelling through this region which has been estimated to 400 million Dollar annually.<sup>3</sup> Furthermore, the most worrying to some observers is the nexus between Islamist extremism in the region in which piracy and rising Islamic militancy have intensified United States and European diplomatic interest in Somalia (Stevensen, 2010: 36). In this aspect, Somali piracy did not only threaten international commercial shipping, but also pose a significant threat to international peace and security.

While the effects of Somali piracy on the international community is getting due attention, the negative repercussions on the Somali population are still also need more serious concerns as piracy brings some economic benefits to some parts of society. Certainty, this could result in economic hardship for average Somalis. On the other hand, as Gilpin (2009: 12) stated, the persistence of pirate gang activities has also another effect on Somalis because it increases crime, insecurity and the quantity of weapons in Somalia. No doubt, the militarization of the pirates and the sharing out of criminal activities along clan lines will threaten the prospect of future state development in Somalia. Pirates have also popularized bad behavior such as use of drugs and alcohols (Twidale, 2010: 6). This behavior is especially dangerous for youth, who with little prospect for future employment may be eager to join the pirates.

## **1.2. Statement of the Problem**

As multimillion dollar criminal activity affects thousands of sailors each year, maritime piracy is a fundamental concern to the international community. Stemming from lack of an effective government in Somalia, piracy problem has become the most profitable enterprise in the East African region (Middleton, 2011: 21). Due to this reason, the International Maritime Bureau prompted to issue a warning stating,

*Somalian waters-heavily armed pirates with guns and grenades have attacked ships and fired upon them. Many past attacks took place far away from Somali coast and one such attack occurred 390 nautical miles from the coast. Pirates are believed to be using a mother vessel to launch attacks at those distances. Ships/crew are attacked, robbed and hijacked/kidnapped for ransom. Eastern and Northeastern coasts are high risk areas for attacks and hijackings. The coalition naval forces have begun patrolling but are unable to patrol the entire vast area. Ships not making scheduled calls to ports in these areas should keep as far away as possible from the Somali coast (more than 200 nm) (A.Wander, 2006: 4).*

The above warning statement is obviously indicative as piracy in the contemporary times dominating the high seas, particularly in the Eastern African region. For this reason, piracy has become an agenda of mass population, world media as well as foreign policy makers (Moylan, 2009: 1; Middleton, 2011: 21). More importantly, piracy in the Somalian coast became regarded as a threat to international stability and national security by aggravating state failure in the Somalia.

Piracy off the Somali coast is not only harmful to political and social progress, but also detrimental to economic development. Taking into account the fact that 80% of the world's trade is transported via water ways; piracy is a hindrance to growth of world commerce (Osei-Tutu, 2011: 5). The increased pirate attacks along the Somalian coast also made multi-national companies owning ships cross these areas fear of being attacked, seeing that this act of crime seriously harmed their businesses. Particularly piracy in the coast of Somalia made obstacle to commerce among neighboring nations in the Horn of Africa. For instance, as Passman (2008: 7) stated, piracy in the Somalian coast costing Kenya 139 million Dollars in lost of revenue. This happened because neighboring nations that rely on the Kenyan ports such as Burundi, Democratic Republic of the Congo, Ethiopia, Rwanda, Sudan, and Uganda, considered using alternative ports in the face of piracy. Ships have been forced to increase their fees and have found their insurance premiums rose as a result of the unending threat from pirates. At the same time, piracy could also threaten tourism industry in the neighboring states by affecting security

conditions in the region. Thus, the repercussions of Somali piracy on the neighboring states are immense.

Moreover, piracy has dangerously threatened humanitarian assistance in Somalia as pirate gangs have repeatedly attacked ships carrying food reliefs, depriving most of the Somalian population who rely on foreign assistance to survive. For instance, in April 2009, Somali pirates hijacked the MV Maersk Alabama and attacked the MV Liberty Sun, both US flagged and crewed cargo vessels contracted by the World Food Program (WFP) to deliver USAID food assistance off the southeast coast of Somalia (Ploch *et al*, 2009: 14). At the same time, on April 8, 2009, Somali pirates seized the US flagged commercial shipping vessel MV Maersk Alabama on the way to delivering food aid to the port of Djibouti en route to the port of Mombasa; on the distance of approximately 250 nautical miles South East of the Somali town of Eyl (Ibid).

Internationally, the response to the problem in the form of naval force has failed to produce expected results. For instance, as van Ginkel and van der Putten (2010: 3) stated, the increased efforts by international organization such as United Nation (UN), European Union (EU), the North Atlantic Treaty Organization (NATO) and United States, to combat piracy off Somalia coast has minimal effect on the problem. As a result, the economic benefits of piracy continue to be a significant issue with ransom payments estimated between 18 to 30 million US Dollar in 2008 (King, 2010: 4).

On the other side, the strategic location of the Horn of Africa increases its importance for international security and commerce. The northern coastline of Somalia lays to the south of the Gulf of Aden- a key transit zone for ships passing to and from the Red Sea and the increasingly active port of Djibouti. As US Department of Energy estimated, as of 2006, as many as 3.3 million barrels of oil per day were transiting the Bab el Mandeb strait between the Gulf of Aden and the Red Sea.<sup>4</sup> For this reason, the Indian Ocean water off the Southeast coast of Somalia are become home of busy shipping lanes for trade between Asia and East Africa, as well as for those ships making longer voyages around South Africa's Cape of Good Hope. Ship traffic to and from the Kenyan port of Mombasa is particularly vulnerable to security disruptions in the west Indian Ocean.

Globally, the annual cost of maritime piracy is estimated between 13 and 16 billion US Dollars (Onuoha, 2009: 38). Therefore, the challenge of piracy is recognized globally; and particularly the conditions of this area create a unique set of considerations and circumstances for policy makers. Indicative for the severity of the problem for example, certain numbers of regional policy makers have focused on the issue, as some other countries also deployed naval forces as part of a solution.

### **1.3. Objectives**

#### **1.3.1. General Objective**

The overall objective of this study is to identify the factors which have made Somalia such a conducive place for piracy on the one side, to analyze international political reactions to these incidences at sea on the other side, in order to deal with the problem.

#### **1.3.2. Specific objectives**

- To identify the factors which have made Somalia a conducive place for piracy
- To understand relation between Somali pirates and international terrorism
- To determine the repercussions of the Somali pirate activities on the international peace and security
- To evaluate initiatives of the international community responding to Somali pirates
- To discuss the question of piracy in the areas of international law

### **1.4. Research Questions**

The general research question of this study would be: to what extent that Somalia piracy is threatening international peace and security. With this general research question the following interrelated questions were raised and answered in different sections of the study.

- How did piracy in Somalia evolve in recent years and what are its determinants?
- What is the role of international law in treating the crime of piracy?

- What is the danger posed by Somalian piracy on the international navigation?
- What are the legal challenges faced by international community in addressing piracy in the Somalian coast?
- What is the relation between Somali pirates and international terrorism?

### **1.5. Significance of Study**

This study is very much relevant to the field of International Relations as long as it deals with modern day crime of piracy. Currently piracy represents a threat to regional stability and international security. With the dawn of twenty first century, terrorism and piracy are becoming major non-state actors in the international politics.<sup>5</sup> Particularly; piracy off the coast of Somalia is growing at alarming rate and becoming threat to the international trade, peace and security. The crime of piracy is harming the legal businesses of global markets and the lives of different nationalities in every hijacked vessel. Even some scholars consider this act as a violation of the rights of humanity (Middleton, 2008: 6); because hostage taking or kidnapping in most cases cost human life. In this way therefore, currently Somalian piracy is not only affecting global commerce but also disturbing international peace and security.

It is widely believed that the issue of increasing activities of piracy in Somalia is appropriately viewed as an effect of the many complex factors rising within the nation. And so this study is helpful because, it is through this study that the measures implemented to combat pirate activities are taken into focus and re-evaluated for further studies. This is to mean that, the actions that must be taken by the international communities and the Somali authorities to solve piracy should be in accordance with solving piracies complex causes.

As long as providing this paper, I have made my own contributions in regard to essential literature on the maritime based African security. Particularly, this paper is important in the process of developing piracy studies as a discipline, and providing solutions how piracy is handled as an issue by the international community. Therefore, this study is intended for the people who are concerned about how the problem of piracy is acted

upon, as it greatly help to evaluate the anti-piracy efforts status quo. By having systematic analysis and careful articulation of how the issue of Somali piracy is being dealt within the region, the knowledge regarding the issue suggests the effectiveness of the anti-piracy movements. It shed lights on the role of international institution in the counter-piracy activities. Particularly, this study is helpful for future studies concerning how to deal with Somali pirates, because it significantly enhances the international community's approach to the problem. Equally, this study serves to solve the complicated factors rising within the Somalia, and eventually provide a more appropriate way of dealing with these pirates. In short, this study is relevant as it aims to fill a gap in the literatures required to provide a systematic analysis of the Somali piracy and the drivers behind it.

## **1.6. Methods of the Study**

Methods in research study are understood as the range of techniques that are available to collect evidence about a research. This type of study is descriptive and explanatory nature, and thus falls under specific category of qualitative research approach. Qualitative research is a type of scientific research lies at interpreting social reality and the description of the lived experience of human beings. Different scholars define qualitative research approach in different ways. For instance, according to Beverly (1998: 1), qualitative research is concerned with developing explanations of social phenomena. It seeks to understand a given research problem or topic from the perspectives of the local population it involves. On the other hand, in the words of Atkinson *et al* (2007: 7), qualitative research is an 'umbrella term' and a number of different approaches exist within the wider framework of it. It is a form of social inquiry that focuses on the way people interpret and make sense of their experience and the world in which they live. This type of research is especially effective in obtaining culturally specific information about the values, opinions, behaviors, and social contexts of particular populations.

This study tried to describe and explain problem of maritime piracy in the Somalian coast. Data and information used for this study is obtained from both primary and secondary sources. The primary sources of information, obtained through semi-structured

interviews with key informant working on the international law. This key informant selected purposively from academician and expert working on the international law. This study also inductive and tries to reach a conclusion based on analysis of the data and thus, did not rely on hypothetical assumption.

As far as secondary sources of information is concerned, reviewing of books, academic journals, media reporting, IMB reports, UNCLOS and SUA Convention legal documentation, and UN Resolutions dealing with piracy in Somalia are employed. By doing so, this study delivers a fresh and original perspective on the pirates terrorizing on the waters of Somalia. In this way, the method mentioned above justifies the significance of this study as it confidently gives a profound knowledge on the acts of piracy in Somalia.

### **1.7. Scope and Limitations**

Even though piracy is a global problem, this thesis analysis the problem of piracy in East Africa specifically on Somali pirate networks. It focuses exclusively on East African piracies stemming from Somalia (and thus no other pirate networks or regions are analyzed). However, examples are obtained from other similar criminal organizations to illustrate the study. The study is limited to the incidents of maritime piracy in the coast of Somalia covering the year 2005 to June 2011.

Researcher is constrained primarily by span of time. Obviously only one regular semester covering approximately five months is allotted and is not sufficient to cover the whole area. Another limitation is related to sources. Due to the focus of the research, the primary sources of information collected to are limited. This is because the author did not obtain an opportunity to meet military personnel that have direct contact with an issue such as NATO, EUNAVFOR, and CTF-151. For this reason, the study relied intensively on the historical records, academic journals, articles, and previous research accessed on the internet. Finally, the point considered in this research is the subject to change in due time as the actions taken by the international community and the government of Somalia

is not always static. For this reason, this research findings needs to be updated after the given time of completion of this thesis.

### **1.8. Organization of the Study**

This thesis is organized into five chapters. Chapter one is introductory part, and explains the purpose and importance of the topic including methodology employed to conduct the study. Chapter two provides a review of relevant literature on the topic mainly, conceptual framework with the purpose of providing background on the piracy and related issues. Chapter three contains background information regarding the collapse of the Somali government and breakdown of the social infrastructure from which the piracy problem evolved. It begins with studying recent Somali history especially focusing on the essential political and social aspects. It also describes the root causes of the piracy and an effort to shape and effectively address the problem. Chapter four deals with international communities' response to the crime of piracy and describes piracy in the areas of the international law. Conclusion and recommendation are discussed under chapter five.

## **CHAPTER TWO**

### **REVIEW OF RELATED LITERATURES**

#### **2.1. Conceptual Framework: Understanding Maritime Security**

The following sections review relevant literatures focusing on the maritime dimension of international security. In addition, it tries to describe the overall essence and concept of maritime security by providing contextual definition of important terms used in understanding fundamental nature of maritime security in general.

It is important to view the origins and beneficiaries of security far away from land, because there are a number of identifiable criminal acts that threaten maritime peace and security where regimes and people are directly affected. The important point required here is, identifying what commonly perceived as existing or potential threats to maritime security. Hence, this is the means of addressing question of maritime security since there are a number of clearly identifiable criminal acts that threaten maritime peace and security. In this circumstance, even though maritime domain is an important aspect of international security system, it was not adequately highlighted particularly in the African security discourse. Certainly, as globalization increases, the importance of the oceans as an ever-increasing source of minerals, resources, transportation, information and power is growing (Till, 2009: 23). In this way, the sea and humanity have always been intimately connected as societies are directly or indirectly tied to the oceans through food, business, transport, climate, jobs, pleasure or information (Stopford, 2009: 1). Thus, the attributes of good order at sea cannot be divorced from global, national, human security and the security of the individual. Due to these factors, it is relevant to consider maritime area as crucial and essential part of security discourse in the international politics.

However, what does the term maritime security imply? Different scholars tried to define maritime security in their own ways as follows. According to Onuoha (2009: 32), the term 'maritime security' is understood as the freedom from or absence of those acts which could negatively affect the natural integrity and resilience of any navigable

waterway or undermine the safety of persons, infrastructure, cargo, vessels and other transportations conducting lawful transactions, through territorial and international waterways. Similarly, Pugh (1994: 24) define maritime security as unrestricted oceanic trade, safe navigation, the safeguarding of coastal communities and their livelihoods, protecting the food chain and preserving the oceanic contribution to the health of the planet. Furthermore, in words of Gilpin (2007: 1), maritime security is understood as the prevention of unlawful acts in the maritime domain, whether they directly impact the country or region in question, or the perpetrators are in journey. For the US Government, maritime security associated with the ideas of counterterrorism and thus understood as:

*The creation and maintenance of security at sea is essential to mitigating threats short of war, including piracy, terrorism, weapons proliferation, drug trafficking, and other illicit activities. Countering these irregular and transnational threats protects our homeland, enhances global stability, and secures freedom of navigation for the benefit of all nations.<sup>6</sup>*

In general, the concept of maritime security covers the free movement of shipping routes and ports, and the fight against piracy and terrorism.

However, there are different dimensions in which maritime security can be viewed on the land. This dimension involves a consideration of the different political and geographical aspects at which maritime security can be viewed as for instance, obviously the maritime dimensions of security in the Pacific Ocean will differ from that of the maritime security in the Indian Ocean. Likewise, it is not possible to compare the maritime security in Mediterranean Sea with that of Southern Ocean. More significantly, the dynamic of these dimensional levels has been highlighted recently by piracy off the coast of East Africa. The most important point to consider here is that, the multifaceted nature of problems associated with maritime security illustrated in economic, social, cultural, strategic and communication. Thus, even though piracy has always been a matter of maritime security, it is arguable that there are certain waters around the world where it is not currently a real threat to Australia and New Zealand for example (Klien *et al*, 2010: 9). The following

section briefly discusses the maritime aspects of security in selected regions of the world in order to enhance knowledge and understanding among academicians, policy makers and planners concerning present and future interests in these regions.

## **2.2. The Maritime Dimensions of Security in Selected Regions of the World**

In today's world, maritime based securities are becoming the focus of the international community because they are posing serious crimes by undermining global economy and social stability in all regions of the world. This is to mean that all nations face a daunting set of potential threats from the sea and the coastline. These dangers come from organized crime, terrorist organization, pirates and others who benefit from political instability and other disruptions. In fact, regional maritime security is a multi-disciplinary activity which draws together academicians, government officials and civil experts to examine maritime aspects of security in different regions of the world.

### **2.2.1. Australia and New Zealand**

Australia and New Zealand share many common global maritime security concerns. This similarity stem from their dependence on foreign trade and international shipping as the lifeblood for the international supply chains which run to and from the major ports in both countries. For this reason, any maritime security threats that have impacts on the freedom of navigation throughout the world's major shipping routes are the concern to both countries. For instance, ensuring maritime safety and security from disruption of pirates, terrorist is the major maritime security concerns for both Australia and New Zealand. As a result of threats posed by international terrorism in the wake of the 2001 terrorist attacks upon the US, the consequences of these events have an impact on both countries.

While piracy has always been a matter of maritime security concern for many countries, it is arguable that currently there are no piracy threats to Australia and New Zealand. However, even though there are no piracy threats within national waters of Australia and

New Zealand, the potential impact upon piracy for their flagged vessels cannot be ignored.<sup>7</sup> Particularly, the primary danger to maritime security in New Zealand related to potential disruptions to trade, of which 98 per cent by volume is carried by sea, protection of marine resources, environmental protection and the effects of transnational crime, including terrorism and the smuggling of people, goods and drugs (Klien *et al*, 2010: 19). In short, any maritime security threat that impacts upon the freedom of navigation throughout the world's major shipping routes is therefore the concern for both countries.

### **2.2.2. South East Asia: Straits of Malacca, Singapore and the Indonesia**

With the end of Cold War the conventional maritime security issues in Asia are non-military in nature. Some of these issues were piracy, smuggling, environmental security and resource security (Lai, n.d: 5; Valencia, 2006). Particularly, these issues are significant in South East Asian regions Straits of Malacca, Singapore and the Indonesia.

Piracy and maritime terrorism can be viewed as a potential threat to maritime shipping and trade in South East Asia. From late 1990s to mid-2000s, there were an increase in the number of piracy and armed robbery incidents in the Straits of Malacca, Singapore, Malaysia and neighboring waters (Lai, 2009: 158). Although such incidents have decreased recently, they still remain a constant worry to the shipping community as in the past crews have been wounded, killed, or kidnapped for ransom by violent robbers. Thus, the event seriously threatens the security of energy transportation of East Asian countries. According to International Maritime Bureau (IMB), in 2008 and 2009 only two incidents of both actual and attempted piracy were recorded each year for the Straits of Malacca, which is in sharp contrast to the 38 attacks recorded for 2004 (Sakhuja, 2010: 5).

Piracy in Southeast Asia is described as a transnational crime. As Xu (2009: 186) stated, the majority of piratical attacks in Southeast Asia are committed by small-scale criminal gangs. Their targets are vessels in ports especially in Indonesian waters. Most pirates carry knives or machetes, aiming at cash and valuables on board. Their attacks are more opportunistic and less organized. As the author stated, many of these pirates were

Indonesian fishermen living in coastal villages used piracy as a way of supplementing their inadequate livelihoods. Again, these criminal organizations feature well-trained personnel using fast boats, automatic weapons and sophisticated communications. The groups have also close links to the black market, where they would be able to dispose of their stolen cargo. Thus, East Asian pirate network endangers security of the energy transportation by disruption of energy supply and increasing the cost of energy transportation (Ibid p.187).

Aside from piracy, other crimes such as kidnapping and abduction for political purpose, as well as smuggling of drugs across national border are other maritime security problem observed in the East Asia. Among these, the abduction of foreign tourist by the Abbu Sayyaf separatist that have damaged the tourist industry in Southern Philippines and the islands of Malaysia off East Sabah are few to mention (Lai, n.d: 9). Smuggling of goods and illegal drugs is also another maritime related security problem existing in the region. In this case, the greatest threats to national security came from Chinese gangs smuggling illegal drugs into the Philippines (Ibid). To sum up, transnational crimes such as narco-terrorism, gun running, sea piracy and immigration are the major maritime security challenges existing in the South Asian region.

### **2.2.3. Europe**

It is widely believed that Europe's regional organization notably the European Union's power is strongly linked to the sea. Since 2007 the EU has a coastline of 70,000 km (by comparison with the US coastline which is 19,924 km) and its economic zone, including overseas Exclusive Economic Zones covers 25 million km<sup>2</sup>, the largest maritime territory in the world (Germond, 2011: 564). As such, the maritime dimension of the European security encompasses military and civilian aspects, intergovernmental and community components as well as institutional and geopolitical elements. It concerned with transnational threats at sea, marine environment degradations and maritime insecurity.

Similar to other region, there are transnational threats against the freedom of the seas in Europe. In fact, unlike other region, European waters are neither theatre of piracy nor robbery at sea, since the coastal areas are sufficiently well policed. As it is mentioned in the last section, the dangerous zones in terms of piracy and robbery at sea listed by the International Maritime Bureau are located in the waters near China, Indonesia, Strait of Malacca, Nigeria and the surrounding area of some Brazilian ports. But in the border closer to Europe, the Somali piracies are currently challenging European security system. Indicative of this fact for instance, the recent attacks against European commercial ships and boats have drawn attention to Somalia in particular, prompting the launch of EU NAVFOR Atalanta in December 2008, as it will be discussed in the next chapter four of this thesis. Drug smuggling and transnational crime at sea is another important maritime security concern of Europe. The production and trafficking of drugs practiced by organized criminal groups in Europe and the Mediterranean Sea is serious maritime security concerns. For example, illegal immigration and narcotics from overseas today constitute significant internal threats to the United Kingdom (McQuaid, 2009: 11), because it is a crucial crossroads for smuggling cocaine, heroin, hashish, and more recently ecstasy (Delicato, 2010: 2). As far as drugs smuggling is concerned, the risky zones in Europe are the area's most remote regions of North UK and Ireland, such as the Balkan coasts in the Adriatic Sea or the Black Sea (Ibid). This problem is further spread widely to the Strait of Gibraltar, the Baltic Sea and the overseas territories. Thus, tackling threats such as illegal immigration, terrorist threats to port infrastructure and to security containers requires strong European cooperation between relevant public agencies and port operators.

#### **2.2.4. North and Central America**

The region in America state is seen as a fairly safe maritime security environment in comparison to some other regions of the world, because organized transnational crimes such as piracy and armed robbery at sea are not available in this region. However, in Latin America the threat of violent attack carried out by organized crime in ports, in land waterways and in coastal waters presents the greatest challengers to maritime security.

For instance, the violent acts including drug trafficking carried out by the Revolutionary Armed Forces of Colombia (FARC) guerilla and other armed groups (Brombacker and Maihold, 2010: 50) targeted both military and civilian are maritime security challenges in the Colombia. As a whole, in Central and South America between 2004 and 2009 16 such incidents were reported in which 49 people were killed, 40 injured and 56 kidnapped (Ibid).

As Griffiths *et al* (1999: 15) stated the regional maritime implications of United States that most seen are the problems of drugs and illegal migration. In addition to illegal migration and drug trafficking, human trafficking is also another maritime related security problem for United States in modern time. More importantly, the maritime security of United States emanated from threats caused as the consequence of international terrorism in the wake of the 2001. More than United States however, international drug trafficking is the greatest challenges to the security in Central American states (Paquin, 2009: 21).

## **2.3. Definitions of Key Terms**

### **2.3.1. Maritime Piracy**

In order to understand and frame maritime policy regarding to piracy, an appropriate definition of piracy is required. However, the definitions given for piracy in different literatures are often synonymous with the concepts of privateers and buccaneers are often considered being one and the same. For this reason, a conceptual clarification and distinction would be made about acts of maritime piracy, buccaneers, privateers and robbery at sea in this thesis. Originally, the English word pirate comes from a recognizable Greek cognate or similar, transliterated peirates (Risso, 2001: 296). This ancient term seems to have represented a broad range of maritime violence in the multi-coastal environment of Greece and the wider Mediterranean. The Romans provided a significant step in the evolution of a more precise usage by defining pirate (*pirata*) as an enemy of all humanity (Ibid).

Even though piracy is the crime recognized as an enemy of all humanity, Halberstam (1988: 272) found, no authoritative definition of piracy under customary law. It was not established for example, whether *animus furandi* intent to rob was a necessary element, whether acts seeking to overthrow their government should be exempt such as acts carried out by state vessels and by recognized belligerents, and whether the act had to be by one ship against another or could be on the same ship (Ibid). Accordingly, there is no authoritative definition of international piracy. But to be an essence of a piratical act is violence committed at sea or closely connected with the sea by persons not acting under proper authority. Similarly, unauthorized act of violence committed on the high seas is understood as piracy by some public service in view of the fact that it committed irresponsibly for plundering, murdering of persons, destruction of goods and attacking vessels for personal enrichment.<sup>8</sup>

In the same way, International Maritime Bureau defines piracy as an act of boarding or attempting to board any ship with the apparent intent to commit theft or any other crime and with the apparent intent of capability to use force in the furtherance of that act (Cronje, 2010: 41). This definition includes actual or attempted attack whether the ship is berthed, at anchor or at sea (Ibid). Generally, in broad terms, the definition of piracy that emerges from historical writing is the essentially indiscriminate taking of property (or persons) with violence, on or by descent from the sea (Anderson, 1995: 176). However, unlike maritime terrorist counterparts, criminal pirates have no ideological or political cause, and hence they are not ready to sacrifice their lives rather it conducted in order to pursue or achieve private ends.

### **2.3.2. Armed robbery at sea**

Some writers equate the definition of piracy and armed robbery at sea. However, IMB try to differentiate acts of piracy from the acts of armed robbery at sea. Accordingly, the armed robbery against ships is, any unlawful acts of violence or detention or any act of depredation or threat thereof, while the acts of piracy directed against a ship or against persons or property onboard such ships, within a State's jurisdiction over such offences (IMB, 2008: 3).

### **2.3.3. Privateers**

Another act of piracy in modern time is called privateers. A privateer can be described as privately owned and operated warships which were commissioned and then granted a license by a national government to capture and seize the shipping assets of enemy states (Anderson and Gifford, 1991: 100). The granting of such licenses thus gave ships legal right to capture enemy ships and privateering was considered an essential part of naval warfare for centuries (Ibid p.105). They were considered legal agents of a state, almost like modern day militia. From the 16<sup>th</sup> to 19<sup>th</sup> centuries the actions of privateers formed part of official naval warfare (Ibid). A good example of the use of privateers was in the American War of Independence where the insurgent colonies, in effect contracted a naval force by issuing licenses to numerous privateers to attack British naval and merchant ships (Lee, 2011: 1).

### **2.3.4. Buccaneer**

The term buccaneer is derived from the term 'buccan' to mean a wooden frame which is used to cook meat (Konstam, 2005: 74). Although generally regarded as pirates, buccaneers differed considerably from their pirate counterparts in motives and actions. While conventional pirate crews sailed the world's oceans in search of likely targets, the buccaneers were more localized in the Caribbean and focused their attacks on coastal cities and on Spanish and French vessels (Ibid). They can thus be likened to guerrilla groups who operated on the basis of small-scale attacks on cities in a certain region. It has been estimated that the original buccaneers who were considered to be Frenchman used such frames to cook their meat on the island of Tortuga (Ibid). These Frenchmen were known as boucaniers in the French language. They can thus be likened to guerrilla groups who operated on the basis of small-scale attacks on cities in a certain region. Although later crossing the Indian Ocean, buccaneers originally used small crafts to board vessels at night and sail to nearby villages and ports to plunder (Ibid).

### **2.3.5. Maritime Terrorism**

Just as there is no authoritative definition for terrorism, 'maritime terrorism' is also hard to define. But, to look contextual meaning here, it is important to define both terms separately. It has already defined that piracy is being undertaken with the *animus furandi* for selfish reasons whereas, terrorism is best understood as several forms of armed rebellion for the sake of some higher cause. However, terrorism is a strategy or tactics which an actor may choose, either fully and permanently or, much more frequently, partly and periodically, either alternating between or combining non-violent political struggle with guerrilla war and/or terrorism (Moller, 2009a: 23). It refers to the undertaking of terrorist acts and activities within the maritime environment, using or against vessels or fixed platforms at sea or in port, or against anyone of their passengers or personnel, against coastal facilities or settlements, including tourist resorts, port areas and port towns or cities (Chalk, 2008: 3). Therefore, maritime terrorism is maritime aspects or segments of rebellions which are primarily terrestrial and committed for political purpose. Those scholars like Bos and Stracke (2009: 13) also define maritime terrorism, politically motivated or terrorist piracy as it practiced irregularly by a small number of terrorist or insurgent groups.

Comparing with other acts on the maritime environment, there are no such intensive threats of maritime terrorism observed on the worldwide. To mention few let me see the following examples. The first incident was a failed attack made by Al-Qaeda in January 1999 on the USS Sullivan, followed by a successful one on the American destroyer USS Cole on 12<sup>th</sup> October 2000 in the port of Aden, which killed seventeen and wounded thirty eight (Moller, 2009a: 25; van Huijkelom, 2009: 20). And the second incident attributed to Al-Qaeda was the attack against the French Very large Crude Carrier (VLCC) MS Limburg in the Gulf of Aden in October 2002, which was seemingly staged by an Al-Qaeda affiliate and certainly qualified as terrorism, though it had insignificant consequences (Ibid). The attacks made by the Movement for the Emancipation of the Niger Delta (MEND) on oil installations off the Nigerian coast could also be mentioned as maritime terrorist attack in Africa (Vrey, 2011: 61).

**Table 2 Examples of maritime terrorism observed worldwide from (1958-2002).**

<b>Selected Acts of Terrorism at Sea</b>
22 January 1958 – opponents of Salazar hijack Portuguese passenger ship <i>Santa Maria</i> ;
1971 – crew members protesting against the war in Vietnam hijack the American transport ship Military Sealift Command <i>Columbia Eagle</i> ;
1971 – Venezuelan opposition group hijacks vessel <i>Anzoteque</i> ;
1971 – Palestinian fighters attack Israeli tanker in the strait of Bebel Mandeb;
1971 – IRA attempts to blow up cruise liner <i>Queen Elizabeth II</i> ;
1972–1980 – IRA attacks ferries <i>Ulster Queen</i> and <i>Duke of Agryll</i> ;
1973 – Palestinian organization Black September sinks ship <i>Sanya</i> ;
31 January 1974 – passenger ferry <i>Lajuis</i> hijacked;
1974 – Greek ship <i>Karachi</i> is hijacked;
1975 – separatist movements from the southern Philippines launch guerrilla warfare at sea;
1975 – Argentine opposition movement Monteneros damages destroyer <i>Santisima Trinidad</i> at shipyard;
1975 – bomb explodes on Soviet ship <i>Maxim Gorky</i> mooring in Puerto Rico;
1979 – IRA plants a bomb on Lord Mountbatten’s yacht <i>Shadow V</i> ;
1979 – Iranian monarchists seize the rocket boat <i>Tabarzin</i> built in France;
1979 – IRA plants a bomb on Lord Mountbatten’s yacht <i>Shadow V</i> ;
1979 – Iranian monarchists seize the rocket boat <i>Tabarzin</i> built in France; 67
1979–1980 – radical environmentalists destroy and damage several countries’ whaling boats;
1980–1986 – Polisario Front for the Liberation of Western Sahara destroys Spanish trawlers <i>Garmomar</i> and <i>Costa de Terranova</i> as well as Portuguese freighter <i>Rio Vouga</i> ;
1981–1983 – IRA destroys British freighters <i>Nellie M</i> and <i>Saint Bedan</i> ;
1982 – bomb explodes on Philippine ferry <i>Santa Lucia</i> ;
1982–1984 – Nicaraguan Contras launch guerrilla warfare at sea, including mining the

entry to main ports in the country;

1984 – Libyan ship *Ghat* lays mines on the Red Sea at the exit of the Suez Canal;

7 October 1986 – Palestinian terrorists hijack Italian passenger liner *Achille Lauro*;

1988 – terrorists attack the Greek ship *City of Poros*;

1989–1994 – Eritrean separatists launch guerrilla warfare at sea, with three Polish vessels among the ships destroyed or damaged: *Bolesław Krzywousty*, *Adam Asnyk*, *Władysław Łokietek*;

1990 – IRA damages supply ship *For Victoria* built for the Royal Navy;

1994 – Algerian islamists murder the crew of Italian merchant ship *Lucina*;

1996 – Chechen terrorists take over Turkish ferry *Avrasya*;

2000 – Islamic fundamentalists damage American destroyer *Cole* in Yemen

2002 -French tanker *Limburg* is damaged by suicide explosive boat near the Yemen coast

Source: Krzysztof Kubiak (2011), *Terrorism at Sea: A New Threat to International Security*.

## **CHAPTER THREE**

### **CAUSES FOR EMERGENCE OF SOMALI PIRACY**

#### **3.1. Somalia Politics since 1991: State Collapse, Anarchy and the Rule of Fiefdoms**

In order to properly examine Somali piracy, first it is necessary to briefly review the country's recent history. The historical contexts behind the emergence of piracy in the region help us in providing true information on the causes for the resurrection of piracy in the area. Like other African regions, the area was colonized by western powers in the nineteenth century. These colonial powers were Italy, France and Britain. These colonial powers breaking an ethnically homogeneous clan based population into artificially diverse groups separated by boundaries designated by their colonial rulers in the late 1800s (S.Bair, 2009: 11). Later after Somalia gained its independence from the colonial powers in 1960, the population shortly embraced a centralized democratic government and sought to unify all ethnic Somalis and clan fiefdoms (Ibid). However, the population never achieved unity needed for a successful democracy. This led to a military coup under which General Siad Barre controlled the country with strong power for over twenty years. Barre's favoritism and cruel treatment of certain ethnic groups and clans finally led to his overthrow in 1991 and began an era of continuous instability characterized by violent clashes between warlord clan leaders. Since then, there has been no central government, no ministries, and no systematic maintenance of infrastructure in Somalia. (Lindner, 2001: 87). After all, the country fell into a state of anarchy leaving millions dead or starving and this left a country with severely fragmented nation. That is why; Somalia's politics since 1991 has been characterized by a state of continuous conflict and anarchic environment.

By January 1991, when Siad Barre was ousted from power, a battle to gain control of the country was begun by the clan based militias struggling for power and this resulted in the kill of hundreds of thousands citizens and led to further wide spread starvation across Somalia (Hansen, 2006: 5). The ousting of Barre led to a full collapse of the central

government and a rise in factional conflict. In this course of action, the most powerful clan leaders that were able to seize power or create alliances with other clans characterize several regions of the fractured country. In the months leading up to Barre's overthrow, an Ethiopian backed secessionist group called the Somali National Movement (SNM) along with a group of northern clan elders, primarily from the Isaaq clan, met and declared the former British northwestern area bordering Djibouti as Somaliland (Lindner, 2001). At about the same time, another clan called Mijerteen controlled northeast another semi-autonomous region Puntland was established by the Somali Salvation Democratic Front (SSDF) who opposed the central government (Moller, 2009b: 7). In the same time, in the capital of Mogadishu severe inter-clan fighting was taking place. By 1992, in Mogadishu and the surrounding area alone, 300,000 people died from hunger or related illnesses and 44,000 people were killed in the fighting (Ibid). Yet again, in 1991 the region of Somaliland seceded and has remained de facto independent by having its own constitution since then (Sauvageot, 2009: 255). The region of Puntland did the same thing under Egyptian and Libyan sponsorship and emerged as an autonomous region in 1998 (Ibid). After all, Somalia collapsed and became "a failed state"<sup>9</sup> in the world.

In 1994 and 1995 the US and UN engaged in the region for the missions to restore order and safeguard relief supplies respectively though their mission finally failed. In late 2000, the Transitional National Government of Somalia was established with the support of the United Nations (UN). The goal of Transitional National Government was to take control of the southern two thirds of Somali and to unite the warlords who divided the country into a clan fiefdom. However, Transitional National Government would only control several small areas in the Capita Land a few enclaves in the countries interior and never gained the clan support necessary to unite under a central government (Moller, 2009b:17).

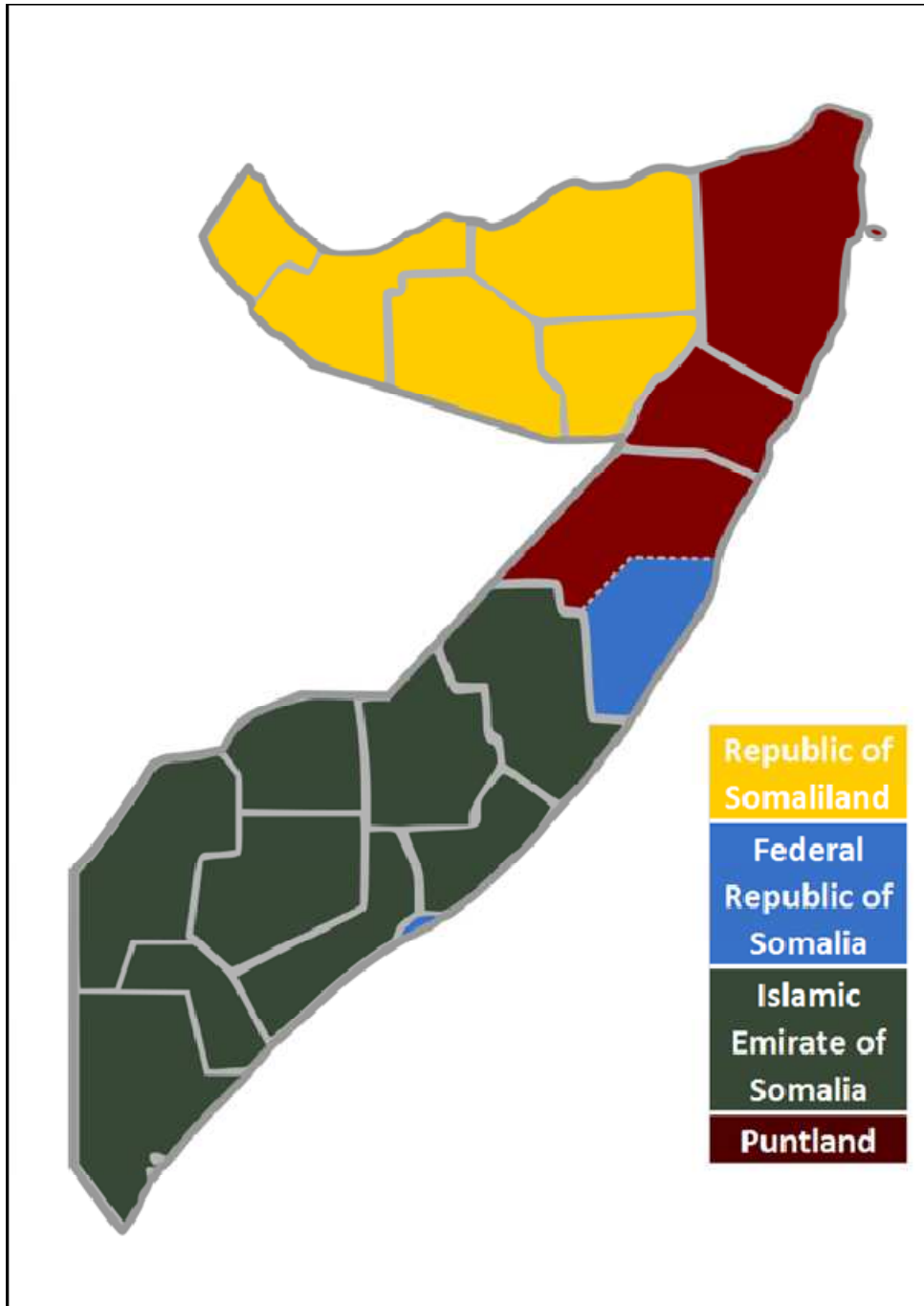


Figure 1: The divided Republic of Somalia

Source: Civil-military Co-operation Centre of Excellence (2011), Volume 3, Issue 1.

Available at [www.cimic.coe.org](http://www.cimic.coe.org)

After years of conflict, anarchy and failed negotiations, the Transitional Federal Government was established in 2004 along with a parliamentary system that allowed various clans to appoint parliament leaders. However, yet Transitional Federal Government is too weak to enforce its authority over the country and requested the assistance of the United Nations and African Union for protection.

### **3.2. The Coming and the Collapse of Union of Islamic Courts**

In 2006, a group of Islamists called Union of Islamic Courts came together and took over the area of the Transitional Federal Government sought to control. The Union of Islamic Courts ousted the warlords who had controlled the area for the last 15 years, and established a strict form of Sharia law that brought temporary stability to the volatile region. With the advent of the Islamic Courts claiming to be a unifying force and savior of the failed Somali State, the political landscape in Somalia changed significantly and suddenly. Although not an entirely new phenomenon in Somali politics, the new face of Islamic militancy exacerbated the threat to Ethiopia's sovereignty by stimulating Ethiopia's sense of insecurity.

Moreover, Union of Islamic Courts rejected the role of the Transitional Federal Government and declared war on the Ethiopia. In this way, in mid 2006 the UIC and Ethiopia started accusations and counter-accusations as the UIC blamed Ethiopia of interfering in Somalia's internal affairs while Ethiopia in turn accused the UIC of promoting a hidden agenda aimed at destabilizing the unity of the Ethiopian State (Allo, 2009: 202). Ethiopia also contended that the leadership of the UIC was controlled by forces that are still actively pursuing the vision of a Greater Somalia, a vision that aspires to integrate Ethiopia's Somali-speaking Region of Ogaden into mainland Somalia and hence threatens Ethiopia's political independence and territorial integrity. Actually this militancy and the threat of terrorism associated with it constituted those factors Ethiopia raised to justify its argument for self-defense. The Ethiopian Prime Minister said with an issue associated with the UIC, Eritrea and global terrorism:

. . . [y]ou have the messenger voice of the government of Eritrea who has been actively involved in the fighting in Mogadishu. Theirs is not a specifically Somali agenda. And finally, you have the jihadists led by Al-Itihad-al-Islamia, which I am sure you know, is registered by the United Nations as a terrorist organization. And so, for us, the Islamic Courts Union is not a homogeneous entity. Our beef is with Al-Itihad, the internationally recognized terrorist organization. It so happens that at the moment the new leadership of the Union of the Courts is dominated by this particular group. Indeed, the chairman of the new council that they have established is a certain colonel who also happens to be the head of Al-Itihad. Now, the threat posed to Ethiopia by the dominance of the Islamic Courts by Al-Itihad is obvious.<sup>10</sup>

For this reason, Ethiopian government has taken self-defensive measures against preemptive aggressive forces of the Islamic Courts and foreign terrorist groups as a legal exercise of inherent of individual or collective self-defense right embodied under Article 51 of the UN Charter. Article 51 of the UN Charter states that, “Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security (UN Charter, article 51).

Domestically Union of Islamic Court reopened ports and the airport in Mogadishu and dismantled the many barriers throughout the city and dramatically improved the day to day lives of the civilian population (Moller, 2009b: 22). In addition, the Union of Islamic Courts was in strict opposition to piracy and was able to effectively irradiate it for the second half of 2006 (Stuhldreher, 2008: 2). In fact, the Union of Islamic Courts had a mixture of radicals and moderates with no clearly defined leadership structure which would likely lead to its downfall and suspected of carrying out terrorist attacks and supporting the violent Al-Shabab militia (Moller, 2009b: 22). The United States and Ethiopia disapproved of the Islamists rule and, near the end of 2006, Ethiopian troops with the support of a few US Special Operations teams and with authority of the

Transitional Federal Government, drove the Islamists from power (Lennox, 2008: 7). The area was once again reverted to clan-based factions struggling to establish control of the region.

Today, the stability and prosperity of Somalia is as diverse as the clans who occupy the area. In some areas, there are terrible humanitarian crisis, while in other areas the population enjoys relative prosperity. For instance, the region of Somaliland remains relatively stable while the semi-autonomous region of Puntland is riddled with crime and likely harbors most of the pirates carrying out the attacks on international shipping (Ford Nowrasteh and Powell, 2006: 8). All attempts at establishing a government in the capital continue to be disrupted by fierce gun battles, suicide bombings and political assassinations. Since the defeat of the Union of Islamic Courts in 2006, Somalia's general situation has continued to deteriorate. More than 1.5 million people estimated by the World Food Programme internally displaced and 2.87 million received food aid in 2009 (Percy and Shortland, 2009: 4). Finally, the most successful actors on the Somali's internal stage after the downfall of Union of Islamic Court was the two main Islamist factions called Al-Shabaab and Hizbul Al-Islam. They were created for the purpose of retaking and controlling Mogadishu, to oust the Transitional Federal Government from power (Maouche 2010: 15). Thus, to some extent, the historical context by which Somalia has arrived in its current state will help us to understand the patterns, behavior and causes of Somali pirates in the contemporary era.

### **3.3. Factors Facilitating Somali Piracy**

Understanding the factors behind the emergence of Somali piracy can help us to analyse the complex dynamics of the problems and to find out possible solutions. The causes for emergence of piracy in Somalia are complex, multifaceted and attributed to many interrelated factors. As most academicians and policy makers claim, Somalia piracy is associated with opportunities that lawlessness, poverty, availability of cheap weapons, terrible humanitarian crisis brought by civil war combined with devastating droughts that exist in Somalia's geographical location. But here it shall also better to investigate the

origin of acts of piracy in Somalia because there has been a realization that a lasting solution to piracy off the Horn of Africa can be achieved by addressing its root causes.

### **3.3.1. Unfavorable Environmental Setting: The Pushing Factors**

The term pushing factors in this context refers to those conditions creating a given parts of the population to turns into piracy as a result of harsh economic, political, cultural and environmental setting such as poverty, lack of employment opportunities, conflicts and political and/or religious persecution.

#### **3.3.1.1. Political Insecurities**

As it is mentioned in previous section, the cause for the current violence in Somalia traced back to 1991, when the authoritarian regime of Mohamed Siad Barre was overthrown. The collapse of the government in Somalia descended into a brutal civil war which pitched clan based militias against one another. Several attempts to establish a national government have constantly failed. However, the fourteenth attempt with United Nations support resulted in the formation in exile of the Transitional Federal Government in late 2004 (NTS-ASIA, 2009: 5). The established Transitional Federal Government could not also consolidate its rule due to the formation of the Union of Islamic Court - a collection of Islamist groups took control the southern two-thirds of Somalia from the Transitional Federal Government in 2006 (Ibid).

An effort to maintain peace and security has been further worsened by the intense regional instability around the Horn of Africa. The subsequent security and power vacuum inside the state has provided ideal conditions for criminal activities. For this reason, warlords, members of local governments and tribal chiefs are suspected to be involved or benefiting directly or indirectly from piracy activities (Bos, Stracke, 2009: 16). Thus, the absence of an effective government following the collapse of the Somali state and economy coupled with a long civil war contributed much for emergence of piracy in the Somali coast. As Horn of Africa Peace and Development Center (n.d., p.2) stated, the piracy in Somalia is a symptom of serious underlying constraints that have

been afflicting the country and the countries in the Horn of Africa for a long time. This is to mean that, Somali piracy has been flourishing due to unsettled political situation in the country during the past two decades which has resulted in the disintegration of the state and the collapse of its economy. The absence of a legitimate government and the political instability that plagued the country was, thus the single greatest challenge to regional security and provides freedom of action for those engaged in piracy along the Somali.

### 3.3.1.2. Socio-economic Insecurities

As it mentioned earlier, Somalia is the poorest country in the world that currently facing worst humanitarian emergencies.

**Table 3 Socio-economic activities in the Somalia**

<b>Economy</b>	
GDP (Purchasing power parity)	\$5.5 billion (2008 est.)
GDP (Real Growth Rate)	2.6%
GPP Per capita (ppp)	\$600 (2008 est.)
GDP Composition by Sector	Agriculture: 65%, Industry: 10%, Services: 25% (2000 est.)
Percentage of population living on less than US\$2 per day	43%
Percentage of population living on less than US\$1 per day	73%
<b>Demographic</b>	
Total Population	9.8 million (July 2009 est.)
Population Growth Rate	2.8%
Population below 14 years	45%
Median age	17.5 years

Sources: CIA World Fact book, July 3 2009.

Available at <https://www.cia.gov/library/publications/theworldfactbook/geos/so.html>.

The population is increasingly struggling to cope with a devastating combination of conflict, massive displacement, drought, high food prices, devaluation of the Somalis hilling and hyperinflation. These terrible socio-economic insecurities that people faced in turn made poor Somali population to divert toward piracy as the mechanism of regular business making.

#### **3.3.1.2.1. Hazardous Waste Dumping**

The collapse of Barre government in 1991 not only resulted in political disintegration but also led to foreign waste dumping in the Somali waters. The dumping of this toxic waste is attributed to the collapse of central government and remained a major grievance for Somalis. They have been attempting to present their grievances to the international community even though international community has always been unwilling to pay attention to this issue. For instance, in the 9<sup>th</sup> Horn of Africa Conference held in Lund Sweden on 3<sup>rd</sup> - 6<sup>th</sup> of June 2010, the toxic waste dumping allegation was high agenda of various Somali academicians, students, and journalists (Hirsi, 2011: 17). Foreign ships, mostly European, regularly dump toxic and nuclear wastes in the waters around Somalia. Even there is evidence that European, United States and Asian shipping firms such as Switzerland's Achair Partners along with Italy's Progresso both have signed dumping deals with Somalia's politicians and militia leaders, making use of the Somalia coast as dumping ground (Charlier, 2011: 20).



Figure 2: European Nations Dumping Radioactive Wastes into Somali Coastal water.

Source: Somali talk.com

Obviously, industrialized nations are dumping their hazardous waste in Somali territorial waters primarily for cost minimization. For instance, in 2009, it cost a European country 2.50 Dollar per ton to dump its toxic waste in Somalia and 250 Dollar per ton to dump it safely in Europe (Hirsi, 2011: 10). Taking advantage of the lack of political security and non-enforcement of environmental security laws, the European and Asian companies are dumping waste in Somali waters. This in turn, have threatened the lives of the local fishermen and forced them to switch to piracy. For instance, (UNEP, 2005: 134) evidence available after the 2004 tsunami shows that, the washed ashore, containers and barrels, resulting in environmental problem and an outbreak of diseases among villagers. In this way, therefore it is possible to say piracy off Somalia emerged as a response to European and Asian toxic waste dumping.

#### **3.3.1.2.2. Illegal Fishing**

Fishing is a crucial African industry generating income and provides protein content diets element of food security. But illegal fishing activities practiced by Europeans made their

livelihood difficult as some become a teenage gunman with the sole objective of defending his livelihood and that of fellow fishermen against poachers. As some scholars argued, interference, pollution and illegal and uncontrolled fishing practiced by foreign vessels resulted in food insecurity, job insecurity as well as loss of state revenue. The contribution of these factors therefore made the general promotion of poverty and famine in dependent coastal communities (Vrey, 2011: 62). Indicative of this fact for instance, as the veteran Chieftain Garad Mohamed told a Canadian reporter in April 2009, he had begun his career as a fisherman from the port of Eyl watching its meager offshore stocks stripped bare by foreign trawlers during the mid-1990s (Marley, 2011: 68). Similarly, as Osei-Tutu (2011:10) argued, piracy off the Somali coast did not begin with a group of bandits looking for money or the best way to make money off the ships that travel through the Gulf of Aden; rather, it began with fishermen who were tired of foreign fishing fleets by taking advantage of the instability in the country. These activities affected economic, environmental and health of the country and its people.

Globally, an income generated from fishing illegal activities estimated between 4-9 billion Dollars, while the encroachment in Sub-Saharan Africa's waters amounting to 1 billion Dollars annually (Osei-Tutu, 2011). With no effective authority over the territorial waters of Somalia, these fishing fleets have taken control of the 3,300 km coastline available to Somalia and its abundant marine resources. An amazingly, it estimated that about 700 international vessels illegally poach in Somali territorial waters exploiting species of high value such as deep water shrimps, lobsters, tuna and sharks annually (HSTF, 2006). Recognizing that Somalia is rich in marine resources; its fishing grounds have long been accepted as one of the world's five richest fishing zone, taking advantage of the anarchy in Somalia, foreign ships illegally extract more than 450 million fish stocks (Ibid). Foreign fishing vessels allegedly called from Italy, Pakistan, China, France, Germany, Korea, Spain, Japan, the UK, Taiwan, and Portugal (Beri, 2011: 456) thus, stolen valuable economic sources from the world's poorest people.

When illegal fishing activities did not stop, the people started to see the profit that lay in attacking foreign fishing boats, and this act of robbery turned into organized or semi

organized piracy activities. As a result, ships were hijacked, crews and passengers taken hostage and ransom demanded, thereby making piracy a lucrative business. Therefore, genuine economic hardship and a sense of grievance against foreign exploitation of Somalia's maritime resources not only drives many pirates, but also serves to legitimize their activities in the eyes of their communities and declare themselves as 'body of coast guard.'<sup>11</sup> Since then, the practice of illegal fishing in Somali waters is used as a justification by pirates to engage in piratical activities.

### **3.3.2. The Accommodating Environment: The Pulling Factors**

The pulling factors in this perspective refer to those conditions creating opportunity for the general rise of piracy in Somalia.

#### **3.3.2.1. Geographical Location**

Somalia is strategically located at the Horn of Africa along one of the world's most important maritime highways on the Gulf of Aden. Hence, huge volume of maritime traffic passing through this area makes attractive for pirates to hijack ships and crew for ransom as they finally demand for business making.

Geographically, Somalia is an arid country with a large percentage desert prone to drought. The small coastal fishing villages and its difficulty to access provide an ideal hideout for pirates. In this way, geography of Somalia is a significant factor for emergence of piracy by enabling, monitoring, providing safe havens and easy targets for pirates. On the other side, lack of economic options due to its geographical difficulty coupled with the payment of massive ransoms also provides strong motivation for piracy in Somalia. For instance, according to Middleton (2008: 5), the average annual income of Somalia is estimated at 600 US Dollar, whereas a low level pirate earns up to 10,000 US Dollar per raid. Therefore, lucrative nature of piracy and its high profitability coupled with its geographic difficulty motivated the coastal people toward piracy.

### **3.3.2.2. Legal and Jurisdictional Weakness**

It is widely believed that all piracy incidents require an enabling environment. In the case of Somalia therefore, the enabling environment is absence of good governance related to conflict, disorder, the ineffective government and lawlessness coupled with the presence of small arms in the country. The weak power of the Transitional Federal Government, created a self-perpetuating circle in which this in turn, provides favorable conditions for the emergence of a strong organized piracy network. By implication, Somali's government inability to exercise its power made pirates to obtain a driving force to engage in piracy simultaneously with the limited Somali government's capacity to enforce anti-piracy laws. For this reason, Davey (2010: 1209) stated, "piracy in the coast off Somalia's is the result of an extension of the corrupt, violent that has raged on land ... since the central government collapsed in 1991." According to this argument, corrupt government officials, warring and rival clans, and small coastal fishing communities have strong interests in the continued success of the Somali pirates. Thus, Somali piracy has flourished because it is unlike other types of international organized crime activities, it is almost risk free.

### **3.4. Contemporary Piracy in Somalia: Figures and Scenarios**

It is well known that piracy has been a danger to seafaring people since ancient time. But modern pirates outshine their predecessors in numbers and materials. Triggered by piracy incidents off the coast of Somalia, currently piracy is becoming problematic in the context of international politics. It has become a frequent subject of United Nations Security Council (UNSC) deliberations, which have led to a substantial number of resolutions, such as Resolutions 1816 and 1851 (Bueger *et al*, 2011: 456). From the very beginning Somali pirates seemed to be indiscriminate in their choice of targets. All kinds of ships- big or small, industrial or commercial, civil or military have been targeted. Hijacking ships and hostage taking for ransom has been the most common practice among the Somali pirates. Globally, the annual average number of reported actual or attempted pirate attacks for the period 2000 to the end of 2006 amounts to almost one

attack each day (Davey, 2010: 1225). From this amounts, piracy off the Somali coast contributes approximately eight percent of the world's reported pirate activity.<sup>12</sup>

It is estimated that between 1,500 and 3,000 pirates operating off the coast of Somalia.<sup>13</sup> According to Safer world- a non-governmental organization works with grassroots organizations in Somalia, Somali pirates described as men with few options attracted by the benefits of crime and:

*Range in age from about 15 to 30 and are almost entirely male. Most of them are uneducated and unskilled and many come from rural communities where they find it increasingly difficult to make a living from tending livestock. For these young men, piracy offers the possibility of getting rich quick and enjoying associated benefits of a more affluent lifestyle, marriage and increased khat use (House of Commons, 2012: 15).*

Apart from the increased number of piracy incidents, the attacks have also become innovative with the involvement of steam ships rather than moored ones. The pattern and intensity of pirate attacks in Somalia is different from that of other region, since Somali pirates are dangerous and are prepared to fire their automatic weapon such as RPG, AK 47 assault rifles<sup>14</sup> at vessels in order to stop them. Moreover, they are using “mother vessels”<sup>15</sup> to launch attack at great distances from the coast. At the same time, they are making full use of modern technologies such as mobile phones and Global Positioning Systems (GPSs) (Beri, 2011: 454). The types of incident involving pirates in the region have ranged from small-scale capture of a British couple sailing round the world in their yacht in October 2009, to large attacks like Ukrainian tanker MV Faina with its cargo of battle tanks, artillery shells and grenade launchers with potential implications for international security (Percy and Shortland, 2009: 1).

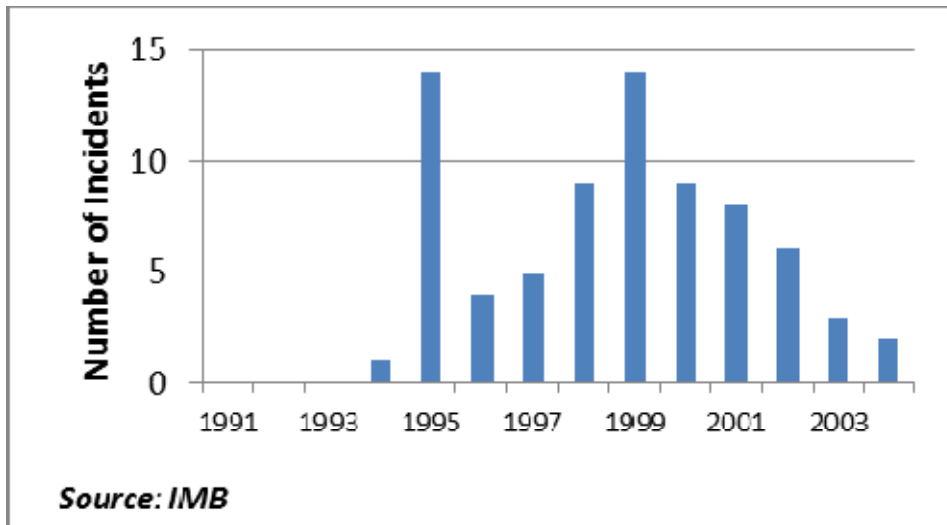


Figure 3: Somalia Piracy Trends 1991-2004

The first pirate attacks in Somalia with significant number were recorded in 2000 (Nincic, 2009: 8). But, currently the concentration of piracy around the Horn of Africa is much higher than that of other region. According to the IMB, the significant increase in global pirate attacks is directly related to the attacks by Somali pirates as indicated below.

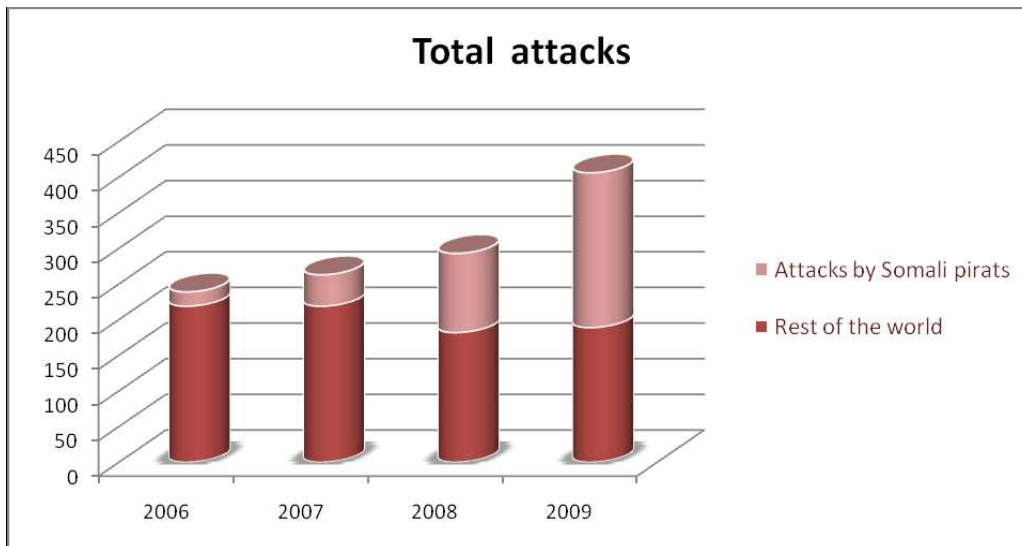


Figure 4: Comparing Somali pirate attack with the rest of the world

Source: The Journal of Commerce

### 3.5. Securitization of Somali Piracy

In the wake of the Cold War the world faced the security dilemma to follow because non-military threats become emerging and global governments realized their importance. As a result, with dawn of 21<sup>st</sup> century the world faces new challenges in the field of security categorized as state actors and non-state actors. Among non-state actor for instance, a terrorist acts in every region of the world that ranges from bombings, assassinations, and kidnappings to attacks on religious sites, population centers, and key infrastructure, and maritime piracy are prominent contemporary security challenges. And also very recently, as Le Sage (2010) stated, pirate attacks emanating from Somalia into the Indian Ocean and Gulf of Aden is a significant maritime security threat to the national and international politics.

Pirates are becoming dangerously harming international security by killing sailors, destroying physical property and posing psychological detriment. The damage is manifested not only in physical violence but also in rhetorical violence. Due this reasons, currently international political activities demonstrate the growing international attention to piracy and increase willingness to engage in practically. As Osama bin Laden suggested, when he praised the attack on the Limburg for the destabilizing effects it had on the confidence of global capitalists:

*By exploding the oil-tanker in Yemen, the holy warriors hit the umbilical cord and life line of the crusader community, reminding the enemy of the heavy cost of blood and the gravity of losses they will pay as a price for their continued aggression our community and looting of our wealth (Whitaker, 2002: 7).*

However, what is securitization of Somali piracy look like in this context? Before discussing about securitization of Somali piracy here, first let me highlight the concept of security, securitization and securitizing. First, security is about enactment of existential issues in politics to lift them above politics (Buzan, Weaver and Wilde, 1998: 21-2). Here it is important to recognize that any subject matter can be politicized and even securitized, according to the authors. The securitizing on the other hand, understood as a

move toward presenting an existential threat against a referent object. However, the securitization is not complete until the audience accepts it and often motivated by shortage of time, it must be done now or else ... (Buzan *et al.*, 1998: 23-26). Thus, securitization is the presentation of an existential threat that enables the breaking of rules. In the authors' framework, this definition is based on reality on the land and textual analysis how the concept is used, not constructed as the most convenient for researchers. Generally, security should not be viewed as something naturally positive; instead security is the condition where a threat is met (Ibid p.4-5). Desecuritization on the other hand, occurs when an issue is back in the realm of normal politics, and should be sought after.

However, does Somali piracy have significant effects on the global political security structure? To analyze the extent of this dimension it is important to take some instances. Considering that certain number of states did contribute military forces in an effort to suppress Somalian piracy and some did not. For instance as Bueger and Stockbruegger (2011: 6) stated, China and Japan have not participated in multilateral campaigns initiatives launched under EU, NATO and US mission in fighting Somalian piracy as cooperation is key concept for an effective military strategy. Clearly, this indicates formation of alliance or Blok toward certain political development of global states as it was happened in the First World, Second World War as well as Cold War. Again, there are clear indications that the contemporary fight against Somali piracy required coordination of global community. For instances, the fact that in the light of piracy discussions, the US has re-launched the idea of a Global Maritime Partnership (Kraska and Wilson, 2009: 44); and a recent (informal) debate in the UN General Assembly that has treated Somalia to be a case study (UN, 2009: 5) similar to global war on terror is another indication of Somali piracy as security issue. And in the same debate UN Secretary General Ban Ki Mon has argued to take the Somali problem as an opportunity to re-think the governance of maritime security more broadly (Ibid). Furthermore, the fact that UN Security Council has issued six resolutions; the first ones ever dealing with Somali piracy is another indication of piracy as a global problem. Clearly, these all factors are the indication of an argument that Somali piracy turned from minor local problem into a global security problem. For these reasons, piracy in the Somalia is now

considered as a threat to international peace and security by causing incredible responses from global community. However, relatively the securitization of Somali piracy involves a weaker sense of urgency in comparison with that of the First World War, Second World War and Cold War in formation of alliance.

Piracy has also significant impact on Somali's domestic peace and security. Although Somali piracy primarily targets foreign vessels, it could presents domestic security threat by exacerbating state failure in Somalia. By fueling instability within Somali territory, it further undermines the authority of the Transitional Federal Government. In the Eastern Africa region also, the new piracy threat has led to new regional initiatives and triggered cooperation for deterrence. As a result, the Djibouti code of conduct<sup>16</sup> was signed in 2009 for effective and practical measures for the suppression of Somali piracy so far unknown to the region in the field of security as an indication of piracy threats.

### **3.6. Understanding the Nexus between Somali Piracy and International Terrorism**

The current knowledge about the nature of terrorism and piracy in Somalia is significant to establish and study connection between two ideas. The central point required to study here is to identify whether Somali pirates and prominent international terrorist organization, Al-Qaeda have point of convergence in their objectives or not. As many scholars argued, even though certain elements within Union of Islamic Court (declared as terrorist by US) aligning their objectives with Al-Qaeda, the connection between the two groups is minor. As available evidence showing, relationship between Somali pirates and Islamists called UIC is not healthy one instead, it is a full of dispute and confrontation. For instance, the period during which the Islamic Courts Union came to power in Mogadishu in 2006, it effectively culminated piracy in the region and publicly declaring piracy as Haraam or anti-Islamic threatening death or amputation for any Somali caught in the act of piracy (Hamilton, 2010: 27). Similarly, when British reporter visited the seaport of Eyl asked about situation, one woman informed him:

*We are all against the pirates here. They have brought bad culture here. They come here with their shiny cars, collect their money, and leave. We worry that our children will be attracted to crime. We are very fearful of the pirates, and of the international community. We hear reports that the West will launch air strikes against our town* (Marley, 2011: 91).

To verify this fact with evidence, it is important to study the next statistics. In the table 4 below, the increase of pirates as of 2005 is largely due to organized efforts to obtain ransoms inaugurated out of Harardheere by the mastermind Mohamed Abdi Afweyne Hassan Hayir. An equally noticeable decrease would arise next year, when the fundamentalist Islamic Courts Union fought their way into power for ideological reasons. But with the Islamic Courts Union defeat and dispersal in December 2006, piracy has get bigger out of Somalia, even spreading over to infest the nearby commercial sea lanes of the Gulf of Aden. The statistics for 2008 actually represent a combined total of 111 strikes made in both bodies of water by Somali raiders, while the figures for 2009 do not include another 21 attacks which happened near the mouth of the Red Sea, bringing the total number to 217.

**Table 4: Piracy Boom, Somalia and the Gulf of Aden Analysis<sup>17</sup>**

	2003	2004	2005	2006	2007	2008	2009
Gulf of Aden	18	8	10	10	13	92	116
Somalia	3	2	35	10	31	19	80

Similarly, in 2008, when pirates of Somalia captured the Sirius Star a super tanker from Saudi Arabia that was carrying 100 million dollars' worth of crude oil, the Islamic Courts Union condemned the capture as a major crime (Karon, 2008: 1).



Figure 5: The MV Sirius Star, a Saudi supertanker hijacked by Somali pirates in 2008.

Source: Brain Wilson (2009), *Effectively Confronting a Regional Threat: Somali Piracy*.

United States army commanders themselves have similar views on this point. For instance, as Army General William Kip Ward, head of the Pentagon's Africa Command, told Associated Press, "if you look at the clan structure or the tribes to think that there may not be linkages is probably naive" (Associated Press, 2009: 2). Similarly, when asked about a link between terrorists and piracy in a press conference January 16, 2009, Vice Admiral Gortney Commander Naval Forces Central Command, the senior United States Navy officer in the region replied:

*No, we look very, very carefully for links to terrorism and any form of terrorism; and we do not see that link right now. And the reason we watch for it is terrorism is fueled by money. And so anywhere that there people are making a lot of money, we think the terrorists will go. But right now we do not see that linkage. Al-Shabab, which operating in the south; the al-Shabab and the pirates, they hate each other. The clans and al-Shabab hate each other right now. We'd want to be very careful that whatever we do, we don't drive them together. But we do not see that link now and we it would be a significant game-changer if we see it develop (Moylan, 2009: 14).*

From this point it is impossible to conclude whether a terrorist group is directly involved in criminal activities or has linkages to terrorist organization. Also if a nexus exists between piracy and terrorism certainly an underlying cause of maritime piracy, the intensity of the piracy problem magnified more than this. Thus, there is no direct connection exists between al-Shabaab and UIC (declared as terrorists by US) and Somali pirates, and the pirates show no interest in having any ideological attachment with the jihadist.

Even though there are no formal ties between East African pirates and terrorist groups, there are other factors that strengthen relation between them. For instance, the fact that large ransoms, in some cases more than 3 million US dollars utilized by extremist groups (Wadhams, 2009: 1) to finance worldwide terror campaigns strengthens this reality. However, from this point, it is also possible to understand the extent that a connection between pirates and radical Islamists mostly seems business relationship rather than political relationship.

Certainly, the existence of terrorism alongside piracy in Somalia and their shared method of operation are generally identified as the evidence for a piracy-terrorism nexus. There is an evidence terrorism is prominent in Somalia for nearly the last two decades. For instance, as Gillisi (2009: 42) stated, the Al-Qaeda terror group has maintained an active presence in Somalia for training, money exchanges and targeting killings of foreign aid

workers. No doubt, these activities combined with Al-Qaeda leader Osama Bin Laden's claimed call in 2006 for Somalis to support Islamic militants, have brought the assumption that Somalia might become the next battleground in the War on Terror. However, yet there is no evidence that Al-Qaeda members are leading or integrated into pirate crews, bearing in mind that Al-Qaeda may be providing pirates with weaponry and training in exchange for the wealth generated from ransoms. For this reason, this evidence is insufficient to indicate a categorical relationship between piracy and terrorism. In other way, the Islamic extremism found in Somalia could be an implication that pirates might be compelled by anti-Western or jihadist sentiment and would prefer attacking Western vessels. Yet the evidence is quite clear that there is no bias in the nationalities of the ships that are attacked in the act of piracy. This is an indication that the ideological goals for Somalia pirates are not clearly verify their attacking. From this account, it is possible to understand currently, Somali pirates are not primarily connected in any systematic way to any known terrorist organization. To sum up, the terror nexus of Somali piracy in understanding of international community is paradoxical in the contemporary world politics.

### **3.7. Identifying the Nature of Somali Pirates and Risk it Poses**

#### **3.7.1. Threats to Commercial Shipping and Global Trade**

The pirates that operating out of Somalia offers a significant threat to vessels traveling to and from Somalia as well as vessels traveling through the Indian Ocean or the Gulf of Aden. The attacks and the negative side effects associated with them have the potential for disrupting and affecting global trade. This is happen because pirate hijackings have hindered global trade by causing delays, raising ship insurance rates, and imposing trauma on thousands of hostages. Thus, this situation has a devastating impact on global trade. In fact, there is no study on the total costs of piracy worldwide; however estimates range from 1 billion US Dollar to 16 billion US Dollar according to Twidale (2010: 5). In such a way, piracy involves an immense loss of goods, personnel and revenue for companies around the world. A frequent movement conducted by pirates capturing vessels for ransom demand, led financial loss in many states. Therefore, Somali pirates

have terrorized commercial activities and imposed a considerable economic burden on seafaring.

### **3.7.2. Threats to Humanitarian Aid Deliveries**

As it is well known, the countries in the East Africa region are characterized by drought and political instability. Among these states, Somalia's civilians are highly dependent on food aid. However, piracy threatens the delivery of vital humanitarian assistance to the Horn of Africa much of which arrives by sea. Particularly, the food aid for Somalia transported by these hijacked vessels cannot be delivered because pirates wait for the ransoms to be paid. Notwithstanding the successful naval bodyguards for vessels with WFP food aid, the Somali piracy still threatens food aid deliveries. For instance, between June 2005 and November 2007, six World Food Programme ships carrying food for the population of Southern Somalia were attacked by pirates (Maouche, 2011: 32). These attacks represented a major threat for the humanitarian situation in the country since the deliveries of the World Food Programme represented 80% of all provisions for Somalia in 2007. Moreover, in 2008, the United States owned vessel Maersk Alabama loaded with more than 100 (of the 200) container of World Food Program was hijacked by Somali pirates on its way to Kenya (Roodenburg, 2010: 36). In January 2010 the World Food Programme announced that due to rising threats and attacks on humanitarian operations coupled with the imposition of a string of unacceptable demands from armed groups, it has become almost impossible for the World Food Programme to continue their help to one million people in south Somalia. Generally, the combination of piratical activity off the coast of Somalia and the critical situation on land share responsibility for the difficulties related to the distribution of food aid in the country where food aid has become a vital lifeline for many people.

### **3.7.3. Threats to International Security**

The dramatic increase in ship hijackings and armed robbery in the Indian Ocean near Somalia pose a serious security concern for all nations with their maritime resources. It would be emerge as an international security concern because it can present a terrorist

state haven from where international terrorist groups such as Al-Qaeda can operate and prepare their attacks. This problem could be transnational or even global dimensions, due to the fact that the incidents occur on the international waters. Sufficient evidence for this threat is United Nation Security Council Resolution 1816 (2008), which expressed its serious concern for the acts of Somali piracy on international peace and security. In fact, the general situation in Somalia was already defined by the Security Council as a threat to peace in early 1992 when it imposed an arms embargo on the country (Mair, 2011: 59).

The other area of security threat of Somalia piracy is attributed to illegal distribution of resources that pirates may increase an underground black market of arms trade. Thus, there is no way to stop these belligerents from collaborating with terrorist organizations, fuelling them with necessary equipment to conduct organized acts of violence in various parts of the world. In this context, a notable example would be the pirate captured the Faina, a Ukrainian owned ship carrying thirty three T-72 tanks along with grenade launchers, ammunition, and other material reportedly designed for Kenya's armed forces (Jeffrey, 2008:1). In this way, an act of arms trafficking in the region unquestionably contributes much to instability and violence in Somalia and whole Africa, and also one day will pose a major security threat to the rest of the world.



Figure 6: Somali pirates in small boats hijacked the arms-laden Ukrainian freighter *Faina*

Source: D. Duda and T. Szubrycht (2009), *International Journal on Marine Navigation and Safety of Sea Transportation*. Volume 3, Number 3

The other aspects of security problems that are linked to maritime piracy in the context that Somali piracy can threaten global peace and security is that, if pirates start collaborating with other maritime trafficking groups such as those smuggle narcotics or weapons of mass destruction, either for a financial or political purpose. These developments could clearly contribute to the spread of maritime violence by endangering sea routes through supporting dangerous factions across the globe. Within Somalia itself, piracy could also create security problems through the influx of small arms in already fragile nation by challenging legitimate local and regional governance systems (Bueger *et al*, 2011: 356). The emergence of piracy as a business itself is an implication of state fragility and regional conflicts and thus, cannot be understood or tackled in isolation from the international system because they have blowback effects. However, this does not

mean that, political and social instability in Somalia at first place appear to endanger once own country security. For this reason, an effort of fighting piracy in the Somalian coast cannot be implemented by once own determination but through international political institutions.

## **CHAPTER FOUR**

### **ADDRESSING SOMALI PIRACY**

#### **4.1. International Response to Somali Piracy**

As discussed in chapter three, the security threats posed by growing piracy and sea raiding along the Somali coast have attracted responses from various stakeholders. Credible responses and interventions have come from international organizations, multinational forces and private security organizations. It could not be an exaggeration if we say the current operations in the Gulf of Aden constitute the first time in history when all of the world's major naval powers come together in a response to piracy. The responses also range from media coverage throughout the world to donor conferences generating financial resources to invest in state building initiatives in Somalia, as well as the international naval force to the insurance rates for maritime shipping. Actually, the deploying of those massive anti-piracy missions shows a unique level of coordination among states in suppressing piracy as no piracy activities have received such attention before.

##### **4.1.1. The United Nation Security Council**

Piracy and armed robbery at sea have been issues that the United Nations agencies have preoccupied themselves with since 1970 as currently also took a leading role in response to piracy off the coast of Somalia. The UN has been working by establishing regulatory framework called United Nation Convention on the Law of the Sea (UNCOLS). To do this, it has adopted various resolutions and reports which has authorized counter piracy and armed robbery measures off the coast of Somalia. If for instance, if a state acts pursuant to the UN Security Council Resolution, then the act fall under Chapter VII of the UN Charter and state can arrest and prosecute the pirates and seize the pirates ships. Once the United Nations Security Council takes up the matter under Chapter VII, it becomes a matter of international peace and security and all states must comply with the resolution.<sup>18</sup>

Consequently, piracy has been an increasing issue for the UN throughout 2008, evident with Security Council Resolutions 1801 (2008), 1816 (2008), 1838 (2008), 1844 (2008), 1846 (2008), and 1851 (2008) which all make explicit reference to the growing concern over Somali piracy and provide recommendations for action (Ben-David and Ross, 2009: 9). The resolutions identified piracy off the Somali coast as threat to international peace and security and remain the agenda of the international community. Thus, it required legal framework for international action. Accordingly, United Nation Security Council authorized states and regional organizations to enter Somalia's territorial waters and territory, with Somalia Transitional Federal Government authorization and consent for the purpose of suppressing armed robbery at sea (Charlier, 2011: 46). Indeed, the consent was a pre requisite, since normally only national governmental authority has the right to pursue investigations on national territory according to the principle of state sovereignty. Therefore, resolutions 1846 and 1851 authorized the warships of the multinational Combined Maritime Force to both enter the territorial waters and land territory of Somalia when necessary to destroy pirate strongholds (Ibid).

Resolution 1846 determined for a period of 12 months, permitted warships of member nations to use within the territorial waters of Somalia all necessary means to repress acts of piracy and armed robbery at sea in a manner consistent action permitted on the high seas (Conly *et al*, 2009: 82; Warbrick, 2008: 694). By resolution 1851, the Security Council went one step further by authorizing member nations the right to enter the Somali landmass. Thus, the resolution further provides States and regional organizations with the right to undertake all necessary measures that are appropriate in Somalia, for the purpose of suppressing acts of piracy and armed robbery at sea. Having enlarged jurisdictional enforcement related to operations, the council also addressed the prosecutorial issue. So that states and regional organizations can conclude special agreements for investigations and prosecutions of detained pirates.

United Nation Security Council has been successful in identifying the scope of Somali piracy through encouraging a coordinated international response. For instance, in Somalia international anti-piracy measures adopted by UN Security Council go beyond the

traditional anti-piracy measures specified by international law since it allowed navies not only to track pirates in Somali waters but also to target pirates' land bases. But the intended consequence pursued by United Nation Security Council in regard to suppressing pirates in the Somalian coast is unsuccessful, because their overall effectiveness has been limited by their failure to apply the customary international law of piracy as it will discussed in the next sections.

#### **4.1.2. The European Union: Operation Atalanta**

The European Union is another multinational organization launched to deter, prevent and suppress acts of piracy and armed robbery off coast Somalia. Operation Atalanta is established in November 2008 as institutional framework of European Union's anti-piracy operation in Somalia. EUNAVFOR Operation Atalanta goes beyond EU members. For instance, Norway was the first non-European Union country contributed one warship to the operation in 2009 (EU, 2011: 2). Actually, EUNAVFOR Operation Atalanta is a part of the United Nations Security Council authorization established to hunt and capture pirates in Somali waters. Consequently, on 8 December 2008 the European Union (EU) established its first ever maritime operation named EUNAVFOR Somalia Operation Atalanta (Roodenburg, 2010:53). EU Naval Force Somalia Operation Atalanta was created in order to support UN Security Council Resolutions 1814, 1816, 1838, and 1846 (Noto, 2011: 92). Its operational headquarters is located at Northwood, United Kingdom (Badran, 2010: 31). The mandate issued by the EU grants warships from participating member states the authority to provide protection to vessels, patrol the Somali coastline and territorial waters, and to use force to deter or prevent acts of maritime piracy. In such a way, up to 12 European Union ships from the Netherlands, France, Germany, Belgium, Italy, Sweden and Greece are involved (Strickmann, 2009: 3). Altogether, European Union countries and non-European Union contributing States deployed naval assets comprising more than 32 vessels from 11 States and on average 4 aircraft and 1,800 personnel as part of the operation (UNSC, 2011: 662).

Operation Atalanta is successful particularly in the protection of World Food Programme vessels as well as the shipping of the United Nations Support Office for the African Union Mission in Somalia (UNSOA) (Ibid). In addition, Atalanta has disrupted numerous pirate attacks and transferred one case for prosecution in Seychelles. Since EUNAVFOR began escorting World Food Programme shipments through the Gulf of Aden and Somali territorial waters, no World Food Programme vessel has even been approached by pirates. Hence, EUNAVFOR is positive a development because pirates forced to operate outside of the Gulf of Aden to avoid the military forces in the area (McGivern, 2010: 2). As a consequence, the Area of Operations of EUNAVFOR has been expanded, and its operation date extended until December 2012.

#### **4.1.3. United States: The Combined Maritime Force**

The Combined Maritime Forces is a United States led international naval coalition comprising 25 nations that conducts integrated and coordinated operations in the Gulf of Aden, the Gulf of Oman, the Arabian Sea, the Arabian Gulf, the Red Sea and parts of the Indian Ocean (UNSC, 2010: 9). It was established after the terrorist attacks of September 11, 2001 with the task of combating maritime terrorism (Noto, 2011: 91). It is made up of three distinct Combined Task Forces (CTF), namely CTF-150, CTF-151 and CTF-152. CTF-151 conduct counter-piracy operations, while CTF-150 and CTF-152 conduct maritime security operations and aid in the building of regional capacity in the area of operations. However, it is Combined Task Force-151 that devoted to conducting anti-piracy operations off the coast of Somalia. Combined Task Force 151 consists of United States, the United Kingdom, Canada, Denmark, France, Germany, Greece, Italy, the Netherlands, Pakistan, Saudi Arabia, Spain, South Korea, Turkey and Yemen. Its command center is located in Bahrain and composes of naval ships and assets from more than twenty nations, under the US commander Terence McKnight (Badran, 2010: 30).

In August 2008, CTF-150 and partner forces established the Maritime Security Patrol Area (MSPA) in the Gulf of Aden to serve as a secure transit zone for merchant vessels (Ibid). MSPA was effective in reducing Somali pirates' attacks in the Gulf of Aden

transit zone. According to United States Naval Forces Central Command (NAVCENT), in the period of January 2009 to August 2009, CTF-151 encountered 527 pirates 282 of which disarmed and released, 235 disarmed and turned over for prosecution and 10 killed (Ibid).

## **4.2. Towards Crime of Piracy in Areas of International Law**

Before discussing piracy in international law, it is useful first to look the concept of international law itself. To begin with, international law is self-constituting of all humanity as it is actualized through law of common interest of international society; the society of all societies (Allot, 1999: 37). It distinguished from other systems of law; by the fact that international law is not the product of any national legal system, rather the product of the states (now over 193) that make up our world. It is primarily formulated by international agreement which create binding rules up on signatories. The legal relations of all international law organize the potential willing and acting of all human beings and all human societies, including the forms of society conventionally known as states.

As an interview with international law experts<sup>19</sup> reveals, piracy is one of the oldest international crimes along with slavery for which an individual arrested in high seas or in *terra nullis* may be tried in any courts of a state apprehending him. Accordingly, a pirate arrested in the territorial waters of a given state may be tried in the courts of the state arresting him. So international law permits any state to arrest and prosecute any pirate whom it may apprehend in the high seas or territorial waters.

### **4.2.1. Law of the Sea**

Currently sea has been divided up into different sections or areas each with a different legal status involving different rights and powers of states. To regulate this matter therefore, global states come together and established law of the sea based on solidarity and joint utilization of resources. Consequently, the international law of the sea in regard to piracy suppression dates back to 1958 in the Convention held on the High Seas at Genève (Kittichaisaree, 2011: 2). Nevertheless, customary international law of the sea

provides no agreed upon definition for acts that constitute the international crime of piracy over which states have universal jurisdiction. Universal jurisdiction in relation to piracy implies that all nations of the world have jurisdiction to arrest and prosecute all persons suspected of piracy or the attempt there of committed in the high seas. The arresting state applies its own domestic law, any treaties the state has acceded to dealing with terrorism and customary international law. The same applies if the terrorist act has been outlawed by the Security Council as threat to peace and security.<sup>20</sup> However, at present there are two international treaties which, at least in part, govern piratical acts and provide the jurisdictional bases for nations to prosecute such acts domestically. The first of such treaty is the United Nations Convention on the Law of the Sea (UNCLOS), a treaty which specifically defines piracy and to which some 160 nations are parties (M.Dutton, 2010: 7). The second treaty is Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention) in which 156 nations are parties. It was drafted in response to the Achille Lauro incident when politically motivated Palestinian terrorists hijacked an Italian cruise liner vessel in 1985 (Ibid). At least, theoretically, these developments of law of the sea were based on state sovereignty, nationalism and laissez-faire attitude. For this reason, specific issues in the international law of piracy, related international criminal law instruments that affect the counter piracy effort off Somalia and the relevant terms of these treaties together with their flaws as tools in combating modern piracy are examined in this thesis discussed turn by turn below.

#### **4.2.1.1. United Nation Convention on the Law of Sea**

The international sea piracy law is a special ground to assert state jurisdiction over a foreign flagged vessel, its cargo and offenders (Jesus, 2003: 373). Theoretically, UNCLOS is an exceptional legal authorization for a state to monitor and judicial functions over a foreign flagged ship, cargo and persons, applying the standards of legal behavior of its own domestic law on the assumption that a pirate is the enemy of the human race. Thus, an as an enemy of all human race, piracy is liable to be punished by all. The criminal enterprise was held to be equal to a declaration of war against mankind

and thus, in response, all nations were considered to be free to declare war against piracy. Not only did every community enjoy the right of self-defense against piracy, but also all civilized states had an affirmative obligation to suppress the crime. Hence, international law regards piracy as unique crime in this context. For this reason, piracy is the original crime of universal jurisdiction as all nations were endowed with authority to assert jurisdiction over pirates; since the crime is so atrocious and ships of all nations are at risk (Kraska, 2011: 106). Nevertheless, all efforts of intervening quarter-century has no see real progress on clearly defining piracy in international law devising a universally recognized legal mechanism for trying perpetrators.

Institutionally, UNCLOS was the first comprehensive multilateral instrument to realize collaborative approaches to world oceans governance. It entered into force in 1994 by replacing various codification conventions of 1958. By October 2010, UNCLOS had more than 160 states parties, and become a “constitution” for the world’s ocean (Ibid p.122). In this way, UNCLOS prescribes rules for activity on, over, and under the seas, and many of its provisions strengthen principles reflective of customary international law. Accordingly, the particular international law dealing with piracy is set out in Articles 100 to 107 and 110 of the United Nation Convention on the Law of the Sea (UNCLOS).

However, what is the crime of piracy in eyes of international law? Piracy is uniquely situated in international law, because pirates captured on the high seas outside the territory of every state are punished under the municipal laws of any state instead of an international court (Passman, 2008: 10). For the present purposes of discussion, it is sufficient to take important provision of the convention (Article 101), dealing with definition of piracy and action against pirates. Accordingly, Article 101 of United Nation Convention on the Law of the Sea defined piracy as:

(a) any illegal acts of violence or detention, depredation, committed for private ends by the crew or the 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;

(b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

(c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b)

By and large, the international law governing piracy is clear, and there are no significant problems of jurisdiction. However, the major gap observed from above definition of international law of piracy is that, it provides piracy as can only occur on the high seas and not in areas subject to state sovereignty. Moreover, UNCLOS definition includes only action undertaken by one ship against another ship. So, other forms of violence conducted in the territorial sea, as well as violence conducted without involvement of two ships such as, the violent taking of control of a ship by members of its crew or passengers are not included. For instance, the taking control of the Portuguese ship Santa Maria in 1961 and the Italian cruise ship Achille Lauro in 1985 (Treves, 2009: 402) which had extensive press coverage was not considered to be piracy. Furthermore, preparatory acts to piracy and other acts of violence that are not directly linked to piracy are not included in the definition. Again, UNCLOS confirms the duty of all states to cooperate in suppressing piracy, but makes the actual prosecution of pirates optional. UNCLOS includes no express provisions on transferring suspects to other jurisdictions, nor any requirement that states have adequate national laws for prosecuting pirates. This means much of decision is left to national law of prosecuting states. Therefore, UNCLOS's institutional definition of piracy is narrow in its scope and has many gaps.

#### **4.2.1.2. Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation**

Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation was adopted in Rome on 10 March 1988 (Beckman, 2009: 23). As such, as of 31 January 2009, SUA Convention has 152 state parties. It was enacted, at least in part, to

ensure that politically motivated attacks on ships could be prosecuted by the international community as acts of piracy. For this reason, it is often described as a UN anti-terrorism convention. But more accurate to say an international crimes convention because, no terrorist motive is required. The SUA Convention is considered to be the stronger, since it contains a broader definition of piracy and includes explicit instructions for extraditions amongst its signatories (SUA, 1998). It enshrines the duty to prosecute or transfer persons suspected of committing ship hijacking. The important provision of this convention is (Article 3), which prohibits a person from taking a ship by force, harming a person on board a ship, and destroying or damaging ships. In this way, it provides sufficient jurisdiction for nations to exercise control over suspected pirates.

The SUA Convention is distinct from UNCLOS primarily because it requires a state party to either prosecute or transfer an offender. Unlike the UNCLOS, the SUA Convention does not have a high seas requirement and does not apply to ships that operate only in the territorial seas of a coastal state. As Harrelson (2010: 294) stated, the SUA Convention does not hold the notion of universal jurisdiction. But there are three distinct ways a state party can establish jurisdiction over an offender in order to prosecute him or her. First, a state party can establish jurisdiction if the illegal act takes place in the state party's own territorial seas; second, a state party can establish jurisdiction if the attacks against or on board a ship flying the flag of a state party and finally, a state party can establish jurisdiction if the attack is perpetrated by one of its own nationals. In short, comparing with SUA Convention, UNCLOS's state party do not have jurisdiction to undertake into the territorial seas of another nation to capture offenders.

Essentially, more than other institutions, SUA Convention try to solve piracy problem through set of instruction by stating those acts fall under piracy. In words of Macro (2011: 425) for instance, SUA Convention clearly criminalizes piracy offenses, but it does not sufficiently specify sanctions on the state parties which is relatively important. Consequently, there is no uniform penal law among signatory states following this criminalization provision. For instance, if comparative mercy developed in some states

and if pirates become sophisticated actors with a strong understanding of international law, such leniency might lead to debate among states in the world (Ibid).

Again there are other unanswered questions in SUA Convention regarding governance of World Ocean. Firstly, in order to punish perpetrators under SUA Convention, it requires the perpetrators or victims to be the nationals of a state party to the convention. This is problematic particularly, in a situations where the coastal state is unwilling or unable to prosecute suspected pirates or transfer them to a third state since extradition or prosecution remains a matter exclusively within the judgment of the state. This situation effectively undercuts the character of the crime of piracy, which grants universal jurisdiction to prosecute the crime (Isanga, 2010: 1293). Additionally, under the SUA Convention, obligation attached to only to those states parties to the treaty. Therefore, if a signatory state with the required nexus to the offense does not prosecute, or if the states with a nexus to the offense are not signatories to the SUA Convention, pirates and maritime terrorists will not punished.

### **4.3. Legal Challenges to Anti-piracy Operation Action in Somalia**

This section discusses international legal framework dealing with Somali maritime piracy as well as the practical problems countries face in arresting, trying and jailing convicted pirates. Many commentators have focused on improving international law as a way to address the threat of piracy in the Horn of Africa. Consequently, as the international community came to deal with the increase in incidents of piracy off the coast of Somalia, several issues regarding international law of piracy came to emerge. As it discussed in previous sections, the international law of maritime piracy gives any nation criminal jurisdiction over piracy. This an implication the courts of the state that carried out the seizure may prosecute captured pirates in criminal court, or transfer suspects to other nations for legal charges. Thus for instance, if Somali pirate arrested in the Somali territory or territorial waters, can only be prosecuted in Somalia.<sup>21</sup>

However, domestic legislation of some countries lacks this legal structure to deal with the problem. Particularly, confusion reflected among Western navies over the international law of piracy and the permissible extent for use of force. For instance, on a number of occasions, the Danish Navy has released suspected pirates captured off the Somali coast onto the beach after concluding that the Danish government did not have jurisdiction over the pirates (Davey, 2010: 112). The Italian Navy also seems reluctant to arrest pirates, preferring to limit it to warding off pirate attacks rather than dealing with the potential legal dilemma that might follow an assertion of jurisdiction (Ibid). Again, Resolution 1918 (2010) of UN Security Council noted domestic criminal laws of a number of states lack provisions for criminalizing piracy needed to effectively prosecute pirates (Kraska, 2011: 104) as this avoidance of legal proceedings against pirates has also learnt by pirates. States also face a lack of political will and resources required to conduct expensive criminal trials and to imprison convicted pirates for long periods of time. In general, although international law against piracy is sufficient to deal with the problem, many nations lack the practical criminal legislation or judicial and prison capacity to prosecute piracy. Thus, without a clearly defined system for prosecuting suspected pirates, because Somalia lacks any capacity to do so, the resolution would not likely effective as it could.

Regarding to Somalian context, the significant obstacle to using international law to address the problem of piracy is obviously Somali government inability to investigate, detain, or prosecute pirates operating within its jurisdiction. Although UN maritime law makes piracy on the high seas illegal throughout the world, this law has proven to be ineffective as evidenced by the dramatic increase in piracy in the Horn of Africa in the past three years. Recognize that, although Security Council resolutions authorize the pursuit of pirates into Somali waters, most nations have been reluctant to take pirates into custody for prosecution in their own domestic courts as observed in previous section. The first problem emanates from divergence in national law of prosecuting nations. Although SUA Convention has numerous state parties in hand, many of these nations lack implementing legislation or governmental machinery that would enable them to meet their obligations (Kraska, 2011: 149). This difficulty is exemplified by joint

operations between the Combined Task Force 151, NATO, and the European Naval Force. Consequently, they continue to respond slowly to pirate attacks in Somalia because of communication failures and their mission successes also frustrated by national legal incongruities impairing the ability of the task forces to prosecute and punish perpetrators when they are detained (Kontorovich 2004; Kraska and Wilson 2008: 45). Thus, at the global level, state cooperation reveals the collective will not the capacity in view of an absence of integrated processes. This suggests the problem lies in the inter-relationships at the global state border.

Likewise, violent activities against ships off the Somali coast sometimes take place in whole or in part in the territorial seas also remain outside the scope of definition of UNCLOS. This is happen because Somali pirates do not meet high seas requirement definitions of piracy as attacks sometimes occur in the territorial seas of Somalia. When attacks take place in Somalia's territorial seas, the acts fail to meet the high seas requirement based on geographical location. Furthermore, Mukundan (2011: 71) stated logistical difficulty that complicated ships attack on the high seas outside the jurisdiction of a coastal state of Somalia because in many countries piracy is not a crime that features highly on the local law enforcement agenda. This is happen because ant-piracy movement needs adequate resources against more urgent onshore law enforcement. At the same time, the suspects pirates of Somalia there are not often have any form of personal identification, as there is no effective mechanism prosecuting states can draw upon to verify the identity of individuals, or to establish if they have past criminal convictions (Cole, 2011: 108).

Moreover, another difficulty in prosecuting Somali pirates is emanated from absence of strong domestic legal structure. For instance, as UN Security Council stated, Somalia's lack of a domestic legal structure hindered strong international action against the pirates and has led to pirates being released without facing justice (Isanga, 2010: 1269). Under UNCLOS's legal frameworks, Somalia has responsibility to 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 threat thereof any other form of

intimidation (Ibid). But these rules could not come into force due to deficient Somalia's legal framework. Available statistics is evidence for this legal confusion. Indicative of this fact for instance, according to official figures released by the US Navy, out of the 238 suspected pirates investigated by navies operating off the coasts of Somalia, half were prosecuted, and most were released (Ibid p.1270).

The United Nations Convention on the Law of the Sea (UNCLOS) permits the seizure of pirate ships without actually catching the occupants in an act of piracy or what constitutes adequate grounds to do so. This omission is especially problematic given that a Somali fishing boat with a few Kalashnikovs put away in the bottom could as easily contain legitimate fishermen as pirates (Bahadur, 2011: 147). The danger is that by prosecuting suspects for conspiracy to commit piracy, countries would be giving an unprecedented interpretation to UNCLOS that unfairly targets all seafaring Somalis. Thus, these factors and others combine to make Somalia piracy a challenging crime for the police and courts to address.

## **CHAPTER FIVE**

### **CONCLUSION AND RECOMMENDATION**

#### **5.1. Conclusion**

Currently, the world is facing a substantial range of maritime security challenges. At its fundamental level, the central aim of this thesis is to inform the reader one of a complicated transnational problem revolving around Somali based maritime piracy. The study explored, identified political, economic and social factors contributing to the emergence of piracy in Somalia. Particularly, it tried to address several questions revolving around maritime piracy in Somalia. In the first section, an overview Somali based piracy is discussed in a relation to its relevance in political science fields. In section two, a number of criminal acts that threaten international maritime peace and security identified. This is to mean that all nations face a daunting set of potential threats from the sea and the coastline ranging from drug, arms, and person trafficking, terrorism at sea, piracy and armed robbery at sea collectively pose threats to the safety of navigation, human life and maritime trade. These potential crimes does not involve a consideration of the similar political and geographical aspects of a given regions.

As suggested in this paper, piracy in Somalia has emerged because of complex factors in the region. It resides at a nexus of geographical, historical, governance, and economic factors. Immediately after Dictator Siad Barre was overthrown from power in 1991, the country has no an effective central government. Given the anarchic nature of Somali politics, the absence of a meaningful central government and the complex nature of clan loyalties is a development that experienced in the region still now. Taking advantage of poor security on land the pirates have had the opportunity to organize, train and equip and expand their activities without hindrances. Thus, pirate gangs have taken a prominent position in Somalia's daily life driven by poverty as Somali waters depleted by illegal fishing and harmed by the dumping of toxic waste, given that the circumstances in Somalia have created an environment in which pirates can act with safety. This situation

coupled with the fact that large sections of Somali society have been benefiting from piracy activities, made piracy a legitimate and justified business in the country by providing pirates with social protection and even respect. Given these factors, it is likely that Somali piracy will continue to pose a threat to the security and freedom of international maritime navigation. Consequently, Somali piracy is a product of the Somali tragedy and several socio-economic and geo-political factors pertaining in a country. Somali piracy also imposed direct costs on the immediate victims of the attacks, the ships and their cargoes, and the shipping companies. More seriously, the incident of piracy affects Somali population, because maritime piracy impedes the delivery of relief aid necessary to sustain and feed a substantial part of the population.

The rise of piracy and armed robbery at sea along the Somali coast is not a direct consequence of the conflict in Somalia. However, the environment in which these pirate groups find themselves are the direct consequences of the conflict. Faced by extreme economic hardship, the population turned to the sea as source of food. As their source of income threatened by illegal, unreported and unregulated fishing and the dumping of toxic waste in similar way to their counterparts therefore, local population utilized violence to ensure resource possession for their own interests and survival. After then, pirates have developed as the main profitable economic activity in Somalia involving different society including, corrupt officials, accountants, negotiators, local communities and so on (Roodenburg, 2010: 76). Then within a short period of time Somali piracy has moved from being a simple act of protest to become a highly organized activity. Thus, the increase 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, while additional conditions aggravate the problem.

As far as the securitization of Somali piracy is concerned, the most important finding outlined in this thesis is small number of statements made on the incidents of attack. Although the idea of the UN at sea is weakly developed, events off the Horn of Africa demonstrate a process of securitization within the UN to tackle a growing security threat at sea that involves more than defending Somalia. The UN led securitization of piracy by

means of several resolutions drew a significant response from the international community through allocation of scarce naval contingents to counter a non-traditional threat at sea. The naval operations against piracy promote good order at sea, which secures UN flagged flows of food by sea to the displaced Somali society.

The danger of piracy along the Somalian coast on the interests of states and peoples both within and outside Africa is no longer in doubt. However, what remains doubtful is the extent to which natural responses to piracy in the region can address the problem in a sustainable manner. As the findings of this thesis indicated, Somali piracy is not a sea born event, rather a land based one resulting mainly from the failed state of the country. Frankly speaking, Somali piracy is an implication that the world paying for having neglected Somalia and that neglect has come to disturb international community through ransoms, interruption of international trade, dislocation of the oil transport and World Food Programme. In short, currently in the age of globalization because the world is one village, the Somali incident has demonstrated what happens in even the remotest part or corner of the world ultimately affects the rest of the world (Odeke, 2009: 46).

Although international community showed incredible responses to Somali pirate, it failed to combat adequately. More than other institutions, UN resolutions advocate the support and cooperation of the international community to eliminate piracy off the coast of Somalia. In addition, US, NATO, EU, and other individual states and the private sector are also contributing to the fight against piracy by means of the safeguarding national, commercial, WFP aid vessels by tracking down and capturing of pirates. International law on its part criminalizes piracy acts at least theoretically. Nevertheless, the complexity of international law has constrained the coercive effect of international naval patrols. Although an UN criminalizes piracy within UNCLOS and the SUA Convention, the international legal dimension of the piracy matter exposed to narrow definition which excludes some piratical acts and the more important problem of the prosecution of pirates. For this reason, even though the responsibility for the prosecution of the suspected Somali pirates rests with the international community, few countries are

willing or able to put the pirates on trial. Matters concerning strict national laws and money are also requests important factors.

While universal jurisdiction over piracy permits any state to prosecute a pirate detained on the high seas, political and practical issues have led to very limited use of this power. Some states require a sufficient interest in the prosecution before taking action. Other states potentially willing to act are unable to do so due to limited or non-existent domestic laws governing piracy and the exercise of universal jurisdiction. In turn, the inability and/or unwillingness of states to prosecute pirates have frustrated the efforts of the naval coalition in the Horn of Africa. Above all, pirates operating in the Somalian territory have not been adequately suppressed because the Transitional Federal Government has not capacity to stop it. The international community has not helped Somalia to combat this crime either. International community has not been successful in combating piracy in high seas although international law bestows universal jurisdiction on all or any country. The powerful countries like USA seem to have concentrated in saving their own merchant ships from pirates.<sup>22</sup>

## **5.2. Recommendation**

By stating above findings, I hope this work can contribute to a fresh and original perspective in the fields of African maritime security. Side by side, I want to suggest better possible policy option required to deal with problem. Thus, I have come up with relevant policy option international community may follow toward sustainable maritime security in the Horn of Africa based on my findings. Accordingly, good governance is essential policy option to achieve sustainable maritime security and development in Africa in general and in Somalia in particular. Hence, efforts must be made to address bad governance by strengthening and connecting all institutions and mechanisms at national, regional and continental levels that are fighting corruption and undemocratic tendencies. Certainly, the importance of policies designed to curb corruption in Somalia, ensure transparency and accountability in the management of national resources, greater

investment in human development, and the strengthening democratic government especially the electoral, processes to ensure the emergence of credible leaders.

There is the need to restore a central government in Somalia. An effective central government will help to restore stability and political security in the country. The internal conflicts of Somalia are closely linked with the piracy at sea. There is the need to simultaneously address and adopt approaches for both land and sea problems if piracy is to be contained in Somalia. It must be remembered that though Somalia is a failed state, it is not a failed society and the society of Somalia must be considered and consulted when measures are being taken to resolve its problem. Indeed, piracy cannot be completely eliminated, but it can be controlled and that should be the target of not only the international community but also the Somali society as well. Thus, there should be a commitment to state building in a comprehensive approach to eliminate the pirate hijackings.

To fight the problem, the international community has to engage more actively in tackling the cause facilitating state stability and gun control inland, rather than reacting to the symptom of the current crisis. This is because the origin of most security challenges confronting Africa are failure of governance and internal contradictions that serve to undermine human development. Indeed, there are numerous factors that undermine African maritime security. But corruption, marginalization and injustice are the most prominent causes of insecurity on the grounds which have now been extended to the waters.

Naval and warships currently guarding the waters of Somalia should pay attention for foreign ships dumping toxic waste into the water and illegal fishing. If any of these foreign ships are found guilty of either Illegal, Unregulated and Unreported or illegal dumping, they should be arrested and prosecuted. In addition, there needs to be a coordinated effort among ships patrolling the waters. The numerous naval and warships need to be in constant communication so as to provide support and assistance when the need arises. Also international community should have an effective guard for naval ships

that escort the ships of the WFP to enable them safely deliver food and humanitarian aid to the people of Somalia. In addition to the WFP, commercial ships could also be escorted by the naval ships.

The international community should establish specific criminal courts trying pirates in similar to that of International Criminal Court (ICC) to deal with crime committed against humanity and genocide. This is because such a court would ensure the uniform application of international law. It will also provide an internationally recognized process to prosecute and imprison pirates. Concurrently with the development and running of the tribunals the international community should assist the emerging governments in Somaliland and Puntland in developing their respective legal capacity for criminal trials and detention.

# Appendix

## Interview Guidelines

**Addis Ababa University**

**School of Graduate Studies**

**College of Social Science**

**Department of Political science and International Relations**

### Interview Guidelines

The objectives of this interview is to understand the crime of piracy in areas of international law that will be used for thesis paper title on **the Maritime Dimensions of Security in the Horn of Africa: the Case of Somali Piracy**, in the field of Political Science and International Relations. Therefore, you are kindly requested to answer the following statements as honestly as you can. Feel confident your response needed only for academic and will be kept confidential.

1. What is the relationship between piracy and international law?

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2. What are the international legal instruments states can use to eradicate Somali piracy?

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3. It is well known that in the principle of international law, each and every state has jurisdiction over its territory and territorial sea extended up to 12 Nautical miles. However, suppose that, United State send a warship to the Somalian territorial sea; can it arrest suspected vessels in the territorial sea of Somalia without the consent of Somalian Transitional Federal Government? If United State can send a warship to the Somalian territorial sea without consent of Somalian Transitional Federal Government, why the principle of international law of universal jurisdiction does not worked in suppressing Somalian piracy?

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4. If pirate ship seized in the territorial sea of Somalia under the authority of UN Security Council for instance, does the arresting State have jurisdiction under international law to try the persons on board for armed robbery against ships?

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5. What does universal jurisdiction imply in relation to piracy?

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6. What are the rights grants to a suspected pirate under international law?

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## End Notes

<sup>1</sup>In the works of Sebastian Hiltner (2008) and Peter Chalk (1997), security in the gray area phenomenon is understood as a threat to the stability of sovereign states by non-state actors or non-governmental processes and organizations. These threats can be well explained in the concept of comprehensive security such as piracy, drug trafficking and political terrorism.

<sup>2</sup>Frank Kennedy, Somalia piracy has reached crisis point, Gulf News, 8 September 2008, <http://www.gulfnews.com/business/shipping/10243303.html>.

<sup>3</sup> Surge in marine piracy Likely to Hit cost'', BTG Intelligence, Dec. 15, 2008.

<sup>4</sup> U.S. Department of Energy, Energy Information Administration, Country Analysis Brief: World Oil Transit Chokepoints, January 2008.

<sup>5</sup> Petur Dam Leifsson (2009) examined the non-state actor that attacks a state or threatens its security by a non-state armed group or a group which constitutes irregular or combatants. These groups identified as a terrorist group, rebels groups and group of pirates. In such a way, piracy is non-state actor posing threat to security of a state, one which has recently gained a new status in pirating.

<sup>6</sup>Australian Government, Department of Infrastructure, Transport, Regional Development and Local Government, Maritime Security Notice. Security Regulated Australian Ships: Protective Security Arrangements for Transiting through the Waters surrounding the Gulf of Aden and the Somali Coast, 3 December 2008.

<sup>7</sup>A Cooperative Strategy for 21<sup>st</sup> Century Sea power [text only version], p. 8; and also The White House, the National Strategy for Maritime Security, September 2005

<sup>8</sup>Halberstam (1988) defined piracy as unauthorized act of violence committed by a private vessel on the open sea against another vessel with intent to plunder.

<sup>9</sup>Brendon Noto (2004) examined failed state as a condition of "state collapse" for instance; a state that can no longer perform its basic security and development functions and that has no effective control over its territory and borders. As such, a failed state is one that can no longer reproduce the conditions for its own existence. Robert I. Hotberg (2004) also defined nation state failed, when state convulsed by internal violence and can no longer deliver positive political goods to their inhabitants. Accordingly, the state begins to fail when it becomes consumed by internal violence and cease delivering positive political good to its citizens and this leads to political authority losing credibility among the people. Besides, governments lose legitimacy, and the very nature of the particular nation-state itself becomes illegitimate in the eyes and in the hearts of a growing plurality of its citizens. However, there is no clear universal definition of failed state.

<sup>10</sup> See Meles Zenawi, Prime Minister of Ethiopia, Press Conference, at <http://www.ethioembassy.org.uk/Archive/PM%20Meles%20Zenawi%20Press%20Conference%2027th%20June%202006.html>.

<sup>11</sup> Jasmine Hughes (2001), study's shows that the pirates operating in the coast of Somalia are disenfranchised fishermen who have turned to piracy as informal coastguards levying ransoms as fines. Many of these pirate gangs, have taken such names as Somali Marines, Central Somali Coast Guard, Defenders of Somali Territorial Waters and Ocean Salvation Corps, by suggesting many of the pirates see this as part of their description.

<sup>12</sup> Estimations vary as to the number of pirates. The Jack Lang report estimates that there are around 1,500, while the Economics of Piracy report provides estimates for 1,500 and 3,000 pirates.

<sup>13</sup> In the Peter Chalk (2010) studies, four percent of the world's reported pirate activity is directly attributable to Somalia, whereas another four percent occurs in the Gulf of Aden and the Red Sea

<sup>14</sup> Alisha Ryu, 'UN Warns of Ties between Lawless Groups in Somalia and Yemen', at <http://www.voanews.com/english/archive/2009-05/2009-05-07voa47.cfm?CFID=251948197&CFTOKEN=15570709&jsessionid=0030a403ca0494faf6f2314843350124842>.

<sup>15</sup> Bos and Stracke (2009) study show that Somali pirates use of relatively large ships as the operational headquarters as tactics of their operation. In this way, mother vessels used to carry drags alongside a number of small speed boats that could be launched independently to execute an attack and these ships could also carry sophisticated communication devices and radar enabling pirates to monitor and track passing ships in or near their navigation channels.

<sup>16</sup> Djibouti Code of Conduct concerning governments are: Comoros, Djibouti, Egypt, Eritrea, Ethiopia, France, Jordan, Kenya, Madagascar, Maldives, Mauritius, Mozambique, Oman, Saudi Arabia, Seychelles, Somalia, South Africa, Sudan, the United Arab Emirates, the United Republic of Tanzania and Yemen (hereinafter referred to as the Participants)

<sup>17</sup> This section is based on information obtained from David Marley discussion of piracy statics in the Somalian coast.

<sup>18</sup> Interview, Yacob Haile Mariam (PhD), Expert in international law, February 9, 2012.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup>Ibid.

<sup>22</sup>Ibid.

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## **Declaration**

I, the under designed, declare that this thesis is my original work and has not been presented for a degree in any other university and that all sources of material used for the thesis have been duly acknowledged.

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Teshome Chala Jaba

March 2012

This thesis is submitted with my approval as an advisor of the candidate.

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Tarekegn Adebo

March 2012