

ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES

**THE ROLE OF INTERNATIONAL COMMUNITY IN COMBATING
TRANSNATIONAL CRIME S: THE STUDY OF SEA PIRACY IN
THE COAST OF SOMALIA (SINCE 1991)**

BY

FISEHA KIROS

ADDIS ABABA

NOVEMBER 26, 2014

**THE ROLE OF INTERNATIONAL COMMUNITY IN COMBATING
TRANSNATIONAL CRIMES; THE STUDY OF SEA PIRACY IN
THE COAST OF SOMALIA (SINCE 1991)**

BY

FISEHA KIROS

**A RESEARCH SUBMITTED TO THE SCHOOL OF GRADUATE STUDIES OF
ADDIS ABABA UNIVERSITY IN PARTIAL FULFILMENT OF THE REQUIREMENT
FOR THE AWARD OF THE DEGREE OF MASTER OF ARTS IN INTERNATIONAL
RELATIONS.**

ADVISOR

DR. ZAFAR ALAM

ADDIS ABABA UNIVERSITY

SCHOOL OF GRADUATE STUDIES

**COLLEGE OF SOCIAL SCIENCES DEPARTMENT OF POLITICAL SCIENCE
AND INTERNATIONAL RELATIONS**

ADDIS ABABA

NOVEMBER 2014

ADDIS ABABA UNIVERSITY

SCHOOL OF GRADUATE STUDIES

**THE ROLE OF INTERNATIONAL COMMUNITY IN COMBATING
TRANSNATIONAL CRIMES; THE STUDY OF SEA PIRACY IN
THE COAST OF SOMALIA (SINCE 1991)**

BY

FISEHA KIROS

**COLLEGE OF SOCIAL SCIENCES DEPARTMENT OF POLITICAL
SCIENCE AND INTERNATIONAL RELATIONS**

Declaration

I, undersigned, declare that this research is my original work, and has not been presented in any other university and that all sources of materials used for this research have been duly acknowledged.

Fiseha Kiros

November 2014

This research is submitted for examination with my approval as an advisor of the candidate.

Dr. Zafar Alam

November 2014

ACKNOWLEDGMENT

This work would not have been possible without the support and encouragement from my family, advisor, numerous friends, and colleagues. To begin with, I am deeply grateful to my academic advisor Dr. Zafar Alam, whose encouragement; criticism, hospitality and patience were instrumental in the completion of this research.

Another individual who have contributed a lot to the successful completion of this research is Tewdros Aregay. His valuable support and timely intervention on improving my research have facilitated the smooth proceeding of this research.

I would like to thank my brother Gidey Abreha for his undying support and love. I thank my parents for supporting me throughout my life and inspiring me.

Special thanks go to my mother Marshet Gebru for her special encouragement to concentrate on my research during my studies enabled me to reach my potential. I love you all and thank God for you every day.

Table of Content

Acknowledgment	I
Table of Content	II
Abbreviations	VI
ABSTRACT.....	VII

Chapter One

1. Introduction	1
1.1 Background	1
1.2. Problem statement	2
1.3. Objective of the Study	3
1.4. Research question	4
1.5. Methodology	4
1.6. Significance of the study	5
1.7. Scope and limitation of the study	5
1.8 Organization of the Study	5

Chapter Two

2. Conceptual Frameworks and Related Literature Review	7
2.1 Introduction	7
2.2 Brief History of Somalia.....	7
2.3. Conceptual frameworks of Study	8
2.4. The brief history of sea piracy	10
2.5 Brief History of sea piracy in Somalia.....	10
2.6 Understanding piracy	13
2.7. Defining piracy at sea	14
2.6.1 International law definition of piracy	14
2.6.2 Understanding related terminologies	15
2.6.3 Privateer	16
2.6.4 Barbary Coast.....	17

2.6.5 Buccaneer.....	18
2.7 Understanding piracy in Somalia.....	19
2.8 Origins of sea piracy in Somalia.....	19
2.9 Why sea piracy in Somalia	20
2.10. The drivers of sea piracy in Somalia.....	21
2.11 Piracy trends in Somalia: 2002 - 2013	22
2.12 Pirates Profile.....	23
2.12.1 A Somalia pirate with weapons aboard a vessel.....	23
2.12.2 Methodology of pirates	24
2.12.3 Weaponry and funding.....	25
2.12.4 Sea piracy in the global waters: overview of attacks along the Somalia Coast, East Asia, West Africa, east Africa and in the Gulf of Aden	26
2.13 Piracy in East Asia; Malacca Straits	27
2.14 Piracy in the Gulf of Aden	28
2.15 Sea Piracy in the two extreme parts of Africa	29
2.15.1 East Africa	30
2.15.2 West Africa	32
2.16 Sea Piracy: Transnational Maritime Crime in Southeast Asia	32
2.17 Means for the emergence of Piracy in Southeast Asia	33

Chapter Three

3 The Implications of Sea Piracy in Somalia; Causes, Actors and Damages	35
3.1 Introduction.....	35
3.2 Factors Responsible for the Emergence of Sea Piracy in Somalia	35
3.2.1 The toxic waste dumping claim	35
3.2.2 Illegal Fishing	37
3.2.3 Proliferation of Small Arms and Light Weapons	38
3.2.4 Payment of ransom	39

3.2.5 The Historical Failure of Governance.....	39
3.2.6 Economic dislocation.....	40
3.2.7 Sea Insecurity.....	41
3.2.8 Lack of Maritime Sovereignty	41
3.2.9 Weak law enforcement	41
3.2.10 Geographic factor.....	42
3.2.11 Increase in commercial sea traffic	43
3.3 Actors of sea piracy in Somalia	43
3.3.1 Who are the pirates and how do they operate?	43
3.4 The Damages of Sea piracy in Somalia	45
3.4.1 Somalia Piracy in its advanced phase: since 2008	46
3.4.2 Damages to the Somalia Economy	46
3.4.3 Damages to the Global Economy	47
3.5.4 Human Damages of Somalia sea piracy	47
3.6 The Somalia Economy and the Pirate Industry	48
3.7 Regional and International Consequences	49
3.7.1 Impact on the eastern Africa	50
3.7.2 Local Consequences	51

Chapter Four

4 Involvement of the International Community in addressing the crime of Sea Piracy in Somalia	53
4.1 Introduction	53
4.2 Responses to the Degenerating Security Situation of Somalia Sea Piracy	53
4.2.1 International Community Response	54
4.2.2 The International Sea Organization and the United Nations	56
4.3 Actions Taken by the United Nations	57
4.3.1 United Nations Security Council	59
4.4 Response of International Organizations	61

4.4.1 CTF 150	61
4.4.2 NATO and EU in combating the piracy off the coast of Somalia	62
4.4.3 NATO in combating the piracy off the coast of Somalia.....	63
4.4.4 Operation Atlanta	63
4.4.5 International Maritime Bureau (IMB).....	64
4.4.6 International Maritime Organization (IMO)	65
4.5 EU in combating the piracy off the coast of Somalia	65
4.6 Unilateral Actions undertaken by States	69
4.7 Regional Measures	70
4.7.1 The Djibouti Code of Conduct	70
4.8 Somalia's Reactions to Piracy	71
4.9 Challenges and Weaknesses in the Somalia approach to Combating Piracy	73
4.10 Difficulties of pirate prosecution Enforcement	75
4.11 Challenges to Anti-Piracy Actions	76
4.12 Future Challenges of Maritime Security Governance.....	77
Chapter Five	
Summary and Concluding Remarks	79
References	
Appendix 1	
Appendix 2	
Appendix 3	

Abbreviations

AI	Amnesty International
ARS	Alliance for Re-Liberation of Somalia
AU	African Union
EU	European Union
GOA	Gulf of Aden
HRW	Human Rights Watch
HTW	Highly Toxic Wastes
ICC	International Chamber of Commerce
ICCPR	International Covenant on Civil and Political rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IHRL	International Human Rights Law
ILO	International Labor Organization
IMB	International Maritime Bureau
IMO	International Maritime Organization
IR	International Relations
IUU	Illegal Unreported and Unregulated fishing
NGOs	Non-Governmental Organizations
OAU	Organization of African Union
PFDJ	People's Front for Democracy and Justice

RPGs	Rocket propelled grenades
TFG	Transitional Federal Government
UDHR	Universal Declaration of Human rights
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Seas
USAID	United States Agency for International Development

ABSTRACT

Piracy is both an offence and a threat to nations and their citizens. And the real threat posed by piracy to international relations and law of nations has been demonstrated in the waters of Somalia. In the years following the collapse of government in Somalia during the late 1980s and early 1990s, Somalia has deteriorated into a failed state causing a serious international concern and a regional crisis. The absence of central government and high unemployment has resulted in terrible consequences. One of the severe consequences of the disintegration of Somalia was the rise of lawlessness and the rise of piracy in the Indian Ocean. This study examines the root causes, make-up, motivation, and structure of Somali pirate networks to understand how they organize and operate, and how the organizations might be disrupted. Due consideration is also given to current anti-piracy efforts and the reasons how they counter, prevent and deter the piracy in Somali waters and the Indian Ocean. Effort has been put both by Somalia Transitional Federal Government and by the International community towards nation building. This study attempts to describe the challenges and efforts of the international community in countering piracy and discusses how the international community combats piracy in Somalia from a maritime perspective. It is concluded that the piracy in Somali waters is a direct result of state collapse of Somalia and it is concluded that the international community prevent such a problem.

Chapter One

1.1. Background of the Study

Transnational organized crime is a complex security threat that demands a multi-layered approach and response. Scholars and statesmen alike have viewed transnational organized crime as a rising security threat since the early 1990s. Some see crime groups as a direct challenge to the state, arrogate of state authority and threats to the well-being of their citizens. The signing of the United Nations (UN) Convention against Transnational Organized Crime in 2000 is a prime example of how multilateral organizations seek to coordinate state responses and preserve international norms (Minale, 2010:396).

Transnational organized crime like the pirates of Somalia are among the main challenges that threaten the well-being of individuals throughout the globe. Crime groups could spread corruption, damage ecosystems and exacerbating poverty. Thus, they draw the attention of the international community and they require solution from the international organizations.

Minale considered transnational organized crime issues as the most difficult challenges facing the international community today. The issue is difficult because of many reasons, among which the following are important. Transnational organized criminals are numerous having a complex network of relationships. Most often they operate covertly which makes it difficult for any state to control them. Since they are involved in too many illegal activities they command abundant resources with which they can manipulate corrupt government officials to cooperate in their action and so forth (ibid).

Piracy is one of the most dangerous transnational crimes in our world. 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. 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 industry of that country (Hirsi, 2011).'

Recently, however, piracy activities related to Somalia 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 alarming levels during 2008 by threatening the important maritime routes in the world (Farley, 2009).

The issue is further complicated in the efforts to counter it due to concerns over illegal fishing and wastage dumping in Somalia waters. The first pirates who conducted operations in the Gulf of Aden stated that their intent for capturing foreign vessels was to protect Somalia waters from illegal exploitation. While this is clearly not the reason that pirates today conduct their operations, especially given their extended operation far beyond Somalia waters, the original complaint has not been resolved. It was important to tackle this issue in conjunction with counter-piracy efforts because pirates use these justifications to legitimize their attacks on international vessels (ibid).

1.2 Problem Statement

All countries in Eastern Africa are poor, the coastal parts, with major container ports and numerous harbors, provide opportunities to interact with wealthier markets abroad. Nevertheless, this interaction has also provided an opportunity for transnational crime.

While the effects of Somalia piracy on the international community is getting due concern, the negative consequence on Somali population deserve more serious attentions, as piracy brings some economic benefits to some parts of society like the city of Ayl while impoverish others. Piracy brought economic hardship for the average Somalian in terms of inflation. The persistence of pirate gang activities has also another effect on Somalis because it increases crime, insecurity and the quantity of sophisticated weapons in Somalia (Gilpin, 2009). No doubt, the militarization of the pirates and the sharing out of criminal activities threatened Somalia.

Both successful and unsuccessful attacks expose seafarers to dangerous experiences, with the potential for long- term physical and psychological shock. Somalia pirates are heavily armed, frequently with automatic weapons, rocket-propelled grenades (RPGs), and explosives. Pirates

attack ships, abuse seafarers, and place hostages in the complete control of heavily armed men. All of these have the potential to cause serious injury or death to seafarers.

With approximately 2,000 pirates of Somalia involved in piracy which represent an extremely small fraction of the Somalia population, which is loosely estimated to be around 9 million. However, the effects of pirates' activities are substantial, not just on maritime stakeholders but also on Somalis themselves. The economic impacts are well known and estimated to be between \$7 and \$12 billion per year (2008-2011); the human implications are not clearly known as this research will highlight. However, the impact of piracy on Somalia and Somali's is loosely documented. There is no reporting system within Somalia to document changes in socio- economic factors, and therefore no way to weigh the full impact of piracy on Somalia's. Such a large area encompasses a very large number of crime problems, and so this study was necessarily selective in the issues it could highlight.

Even though the issue is serious and contemporary, there has not been a thorough study on the implication of transnational crime in Eastern Africa particularly on the pervasive and complicated maritime problem of Somalia piracy. In light of this, the research will attempt to examine the role of international community in eradicating piracy and to identify the implications of piracy in Eastern Africa with a particular emphasis of Somalia piracy.

1.3 Objective of the Study

The major objective of the study is to critically examine the role of the international community in combating transnational crimes in the Gulf of Aden with a particular emphasis on the piracy in Somali waters. In the process of analyzing the relevant issues, attempt is made to achieve the following interrelated objectives; it is to

1. Examine the response of the international community in addressing Somalia piracy.
2. Examine the root causes of piracy in Somalia
3. Figure out the actors of Somalia piracy

1.4 Research question

Based on the above statement of the problem, this research mainly intended to critically pose a question on what are the roles of the international community in combating Somalia sea piracy shadowed with the following interrelated questions are raised:

1. What is the role of the international community in combating Somalia piracy?
2. Who are the actors of Somalia piracy?
3. What are the root causes of piracy in Somalia?

1.5 Methodology

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 (2000:556) 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.

Therefore in order to gather the appropriate data this research will mainly engage a qualitative approach. This research is therefore based on the study and analysis of primary and secondary sources. It will be explored from secondary sources such as government reports, books, journals, research's and articles by interested scholars and statesmen. The researcher will conduct an extensive analysis of official governmental and UN documents as primary sources. All relevant conceptual and theoretical definitions, frameworks, and perspectives are employed to analyze the collected data.

1.6 Significance of the study

The significance of the research is primarily expected to come-up with an answer to the research questions of the study figured out above. In addition to that the research will also provide a supplementary literature and to serve as a historical lesson. Particularly this research

will be helpful in the process of strengthening piracy studies as a discipline, and providing suggestion how piracy is addressed as an issue by the international community.

1.7 Scope and limitation of the study

There are dozens of transnational crime in the world which are too broad to be covered by this research. Even piracy is a global problem which is affecting several regions of the world. Therefore because of its broadness the focus of the researcher will be on the implications of sea piracy in the coast of Somalia.

A comprehensive study requires examining the overall transnational crime issues in the Gulf of Aden. It could also indicate a great importance if it covers all countries of Eastern Africa affected by the transnational crime issues. However due to the reason of shortage of time and resources the researcher will attempt to examine the implications of Somalia piracy by giving due attention to the aforementioned objectives. Another limitation of the study is in terms of collecting data. The last but not the least limitation of the study is the difficulty to visit Somalia in order to get primary data.

1.8 Organization of the Study

The research is divided in to five chapters including the introductory chapter. The first chapter of the research begins by introducing the topic of the study. The rest part of the chapter highlights the design of the research and techniques followed in examining, assessing and writing the research. This includes: statement of the problem, research questions, general and specific objectives, methodology of the study, significance of the study, limitations and scope of the study, and organization of the research.

The second chapter deals with the conceptual framework of piracy in the coast of Somalia. Accordingly, the chapter briefly discusses the concept of maritime piracy, the meaning and definition of sea piracy and other related terminologies of piracy. Chapter three provides a brief discussion on the Implications of Sea Piracy in Somalia; causes, actors and consequences. The factors which are responsible for the emergence of Sea Piracy in Somalia are also studied in this chapter.

Chapter four extensively deals with Analysis on the role of the International Community in addressing the crime of Sea Piracy in Somalia. Chapter five is the part that comprises the conclusion and recommendation of the research. Since each chapter has its own summary, this part deals with the general ideas that the research would like to forward. Accordingly, in this part the research has tried to suggest ideas that it beliefs are important in controlling piracy in Eastern Africa.

Chapter Two

2. Conceptual Frameworks and Related Literature Review

2.1 Introduction

The security of national and international waterways cannot be simplified, for many reasons. waterways especially oceans serves as a means of transportation, a source of economic utilization of such mineral resources as crude oil, and a source of food in the form of fishing. This has made the issue of the security of waterways as a subject of serious concern to states and international organizations. However, waterways around the Gulf of Aden have in recent times emerged as some of the world's most dangerous routes for vessels transportation in terms of pirate attacks.

One of the particular concerns is the increase in piracy and sea invasion off the coast of Somalia and in Gulf of Aden around the Horn of Africa. The situation has been particularly worrisome in the previous years (2008). Therefore this chapter will deal with conceptual framework by raising issues that are pertinent to the problems under investigation.

2.2 Brief History of Somalia

The point to understanding the circumstances from which piracy in the Gulf of Aden originates is the situation of Somalia, particularly since 1991 when the country fall down into chaos as the end of Siyad Barre's regime steered it into prevalent state of civil war. Since then for more than decade peace and stability were not there because of civil war (Sauvageot, 2009).

Somalia experienced, as most of the African countries, colonization, seeing its territory divided and its people distributed throughout the neighboring countries like Ethiopia, Somalia, Djibouti and Eritrea. When World War II ended, Great Britain ruled over a unified Somalia. In the 1950s Somalia was divided between British and Italian UN Trusteeships. In July 1960, the two territories were granted independence. When the Republic of Somalia was born in 1960, a short decade of parliamentary democracy and centralization seemed to provide the new country with a certain stability though didn't last long (ibid).

When Somalia's President Abdi Rashid Ali Shermarke was assassinated in 1969, Major General Mohamed Siad Barre took over the Somalia government. Barre ruled Somalia during the 1970s and 1980s, but stability under Barre were not there. Once Barre was overthrown, Somalia fell into civil war and broke apart into regions. According to Erec, in 1992, warlords agreed to a ceasefire, United Nations (UN) intervention arrived in the form of UNOSOM I, and "at this point, President George H.W. Bush made the fateful decision to lead a large-scale international intervention to halt the mass starvation. Later under President Bill Clinton, the US lead UN Operation Restore Hope and UNOSOM II, a more ambitious policy with less clearly defined goals. However when the Mogadishu incident on October 3-4, 1993, 18 American soldiers died, the US decided to abandon its effort to restore stability in Somalia (Farley et al, 2009: 2).

2.3 Conceptual frameworks of the study

There is no agreed concept of sea piracy that is accepted by all states, organizations and scholars. This research adopts the concept of sea piracy of the International Maritime Bureau (IMB), namely that it is the act of boarding any vessel with the intent to commit theft or other crime and with the capability to use force for furtherance of the act. Although this definition does have some ambiguity, it serves the useful purpose of providing a context for finding evidence and statistics on reported attempts or actual boarding of a vessel by an individual or group with the intent of stealing the vessel's contents or for achieving other personal benefits (John Gibson, 2009).

From sea piracy perspective, it is easier to explain what the concept of sea security entails than it is to provide a definition that is generally accepted. The term 'sea security' is defined here as the freedom from or absence of those acts which could negatively impact on the natural integrity and resilience of any navigable waterway or undermine the safety of persons, infrastructure, cargo, vessels and other conveyances legitimately existing in, conducting lawful transactions on, or transiting through territorial and international waterways. In other words, sea security incorporates unhindered 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 (ibid).

Gilpin defines sea security simply as the prevention of unlawful acts in the sea domain, whether they directly impact the country or region in question, or the perpetrators are in transit. The sea domain covers all areas and things of, on, under, relating to, adjacent to or bordering on a sea, ocean or other navigable waterway, including all sea-related activities, infrastructure, people, cargo and vessels and other conveyances.

According to Gilpin, (2011) sea security has two principal dimensions. The first is the intrinsic dimension, which is concerned with the natural integrity of all elements that form the basic and essential features of the sea domain, such as the pristine quality of the waters and the quantity of fish and other marine resources. Logically, the degradation of the natural integrity of the marine ecosystem by such activities as dumping/leakage of toxic waste and poaching constitute threats to the intrinsic dimension of sea security. The second dimension, the extrinsic dimension of sea security, covers the safety of all 'foreign' objects existing in or making use of the sea domain. This then concerns the safety of among others vessels, persons and infrastructure, which do not form part of the basic and essential features of the marine ecosystem but which are of value to a state or entity which has the legal right to make use of the sea domain (ibid).

In this sense, sea piracy threatens the two observed dimensions of sea security. In terms of the intrinsic dimension, an environmental disaster resulting from pirate violence against oil-laden ships would undermine the marine ecosystem and in turn threaten a country's food supply and local livelihoods. With regard to the extrinsic dimension, piracy poses common risks to those who use the sea environment, irrespective of their nationality or activity among others vessels and their crews, tourists, workers on oil gears. Therefore the task facing coastal states is to design and implement robust and sustainable measures that would buoy up sea security and reduce sea piracy (ibid).

2.4 The brief history of sea piracy

Acts of sea piracy go all the way back to ancient times, the time of ancient Greece and Rome. Around 500 BC pirates attacked many cargo ships that sailed the Mediterranean Sea. Furthermore, Canadian Defense & Foreign Affairs Institute described the problem of

sea piracy as aged old and ever recurrent. Periodically it has been suppressed, but never been entirely eliminated or solved in the history of maritime piracy.

Acts of sea piracy and insecurity on the high seas, particularly in the Indian Ocean and off the Gulf of Eden has more recently attracted the attention of policy makers, analysts, governments and academicians alike. Resultantly, Somalia was back on international community's radar screen, after nearly two decades of instability. Furthermore, local and international bodies and political analysts have been increasingly pre occupied with Somalia by producing numerous reports and researches about acts that could be associated with state failure for example terrorism, famine and sea piracy to just name a few. Moreover, the international community has attempted to find solutions on how these problems could be solved (it will be explained in detail under chapter 4).

2.5 Brief History of sea piracy in Somalia

Somalia formerly known as the Somalia Democratic Republic under communist rule is a country located in the Horn of Africa. As Italy grant independence on 1 July 1960 to its trust territory, the UK gave its protectorate independence on 26 June 1960, thus enabling the two Somalia territories to join in a united Somalia Republic on 1 July 1960. On 20 July 1961, the Somalia people ratified a new constitution, drafted in 1960, and one month later confirmed Aden Abdullah Osman Daar as the nation's first president (Kraska, 2011:69).

Sea piracy is a historical problem throughout the world, but after decades it has increased in recent years. The International Maritime Organization (IMO), a specialized agency of the United Nations (UN), has recorded 5,667 piracy attacks against international shipping since 1984. In 2009, the London based international organization received 406 reports of piracy and armed robbery against ships, an increase of 106 or 24.6 percent from 2008. Similarly the IMB a branch of the International Chamber of Commerce and the industry organization that tracks piracy attacks, reports that worldwide there were nearly 3,000 attempted or successful sea piracy attacks during the period.

Today the areas at greatest risk of piracy are the Horn of Africa, including offshore Somalia, the Gulf of Aden (GOA), the western Indian Ocean, the Arabian Sea, and the Red Sea. In Asia, the waters surrounding Indonesia, Malaysia, and India are the highest threat corridors.

Of the 980 successful sea piracy incidents during the five-year period of 2005–2009, of which 527 act of theft of goods occurred. Hijacking and kidnapping, the model of piracy made infamous by the Barbary pirates of old and contemporary pirates off the coast of Somalia, occurred 159 times during the same period. In 2009, more than 867 seafarers were captured and held for ransom off the Horn of Africa (ibid).

Somalia occupies the Horn of Africa, and Somalia pirates have surged in recent years. While the incidence of sea piracy is declining in most areas of the world in recent years due to cooperation among littoral states and the international community, the threat has rapidly increased along the coast of East Africa. Somalia piracy became the epicenter for sea crime, in part, due to economic desperation and a virtually lawless environment, all within close proximity of one of the globe's most lucrative trade routes (ibid).

The confluence of these factors keeps the country on a downward curve and contributes to the persistence of piracy. Warlord financiers use control of businesses, armaments, and resources to maintain power. A strong sense of clan fealty and an enduring duty to clan lineage dominate society. As dangerous as the waters are around the Horn of Africa, Pham reminds that pirates are “by no means the gravest threat to international security emanating from Somalia (ibid).

2.6. Defining piracy at sea

A suitable definition is required in order to frame sea piracy. It is for this reason that a conceptual clarification should be made about acts of sea piracy and armed robbery at sea. The definition in the United Nations Convention on the Law of the Seas (UNCLOS) is widely regarded as the most thorough description of sea piracy. UNCLOS is the sole international treaty that stipulates the rights and responsibilities of states in their use of the world's oceans.

2.6.1 International law definition of piracy

The United Nations Convention on the Law of the Sea (also known as the 1958 Geneva Convention on the High Seas) focuses on the tactic of violence utilized by perpetrators in violation of the law committed both on the seas and in the air, outside the jurisdiction of any state. It has already happened to many people onboard of sail ships, private boats and

commercial cargo vessels somewhere on the earth's seas. In article 101 of the Convention the definition of sea piracy addressing the management of the world's oceans and its marine resources by individual states, the treaty defines sea piracy as set out below:

Piracy exists if it consists of any of the following acts:

(a) Any illegal acts of violence or detention, or any act of 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) (United Nations, 1982).

This definition of piracy is used in international law. However, the International Maritime Bureau (IMB) adds another definition to the words 'piracy' and 'armed robbery'. The IMB is a specialized division of the International Chamber of Commerce (ICC). As a non-profit organization, the IMB acts as the centerpiece in the fight against sea crimes and offenses.

The IMB, in its 2008 report on piracy and armed robbery against ships, uses the following definition to state acts of piracy: "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". The IMB's definition is broad and includes any attack or attempted attack on a ship. Yet even using these two definitions does not account for extortion by port officials or differentiate sea terrorism. The IMB states that this definition includes actual or attempted attack whether the ship is berthed, at anchor or at sea (IMB, 2008).

To differentiate between acts of piracy and acts of armed robbery at sea, the IMO declare armed robbery against ships as: “any unlawful act of violence or detention or any act of depredation, or threat thereof, other than 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).

2.6.2 Understanding terminologies related with piracy

Definitions of piracy are often synonymous with the concepts of privateers and buccaneers and are often considered as interchangeable. In order to clarify any ambiguity, this research makes the distinction between piracies (pirates), armed robbery at sea, privateers and buccaneers.

Piracy is considered as an offense against the law of nations. It is a crime not against any particular state, but against all humanity. The crime may be punished in the competent tribunal of any country in which the offender may be found, or carried, although the crime may have been committed on board a foreign vessel on the high seas. The essence of piracy is that the pirate has no valid commission from a sovereign state, or from an insurgent or belligerent government engaged in hostilities with a particular state. Pirates are regarded as common enemies of all people. In that, nations have an equal interest in their apprehension and punishment; pirates may be lawfully captured on the high seas by the armed vessels of any state and brought within its territorial jurisdiction for trial in its tribunals (ibid).

In municipal law, the term piracy has been extended to cover crimes other than those defined above, such as slave trading. An independent state has the power to regulate its own criminal code, and it may declare offenses to be piracy that are not so regarded by international law. These municipal laws can have binding force only in the jurisdiction creating them. Although similar regulations may be adopted by other states, in the absence of special agreement between two states, the officers of one may not arrest or punish subjects of the other for offenses committed beyond its jurisdiction (ibid).

2.6.3 Privateer

In contrast to pirates, privateers were considered legal agents of a state, almost like modern day militia. From the 16th to 19th centuries the actions of privateers formed part of official naval warfare. 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. The granting of such licenses thus gave ships legal right to capture enemy ships and privateering was considered an integral part of naval warfare for centuries (Anderson and Gifford, (1999).

Privateer consists of acts in the nature of piracy carried out against vessels at sea by private parties licensed or authorized by a State so to act against vessels of another State. Although privateers act for private gain they are employed in the cause of belligerency and captured privateers may expect to be treated as prisoners of war. 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. 55,000 seamen served on the vessels of those privateers. Acts by privateers against vessels that are not within the authority provided by the licensing State would remain acts of piracy (ibid).

Privateer, in international law, term applied to a privately owned armed vessel whose owners are commissioned by aggressive nation to carry on naval warfare. Such naval commissions or authorizations are called letters of marquee. Privateering is distinguished from piracy, which is carried out without enlistment by a government. Privateering was abolished by the Declaration of Paris of 1856, but the declaration was not supported by the United States, Spain, Mexico, and Venezuela. The Hague Conference of 1907 prescribed the conditions under which a private merchant vessel converted to war purposes has the status of a warship. Under the U.S. Constitution, Congress has the power to issue letters of marquee and therefore to make use of privateers (ibid).

The practice of Privateering anteceded the creation of national navies. During the middle Ages, European states having few or no warships hired merchant vessels for hostile purposes. The issuing of letters of marquee to ship-owners, authorizing them to prey on the commerce of

the enemy, eventually came into general use. By way of compensation, privateers were allowed to share any booty captured (ibid).

2.6.4 Buccaneer

The buccaneers were pirates who, during the 16th and 17th centuries, preyed mainly on Spanish commerce with the Spanish American colonies. Similarly, the term buccaneer has been interpreted to have the same meaning as the concept of a conventional pirate. Although generally regarded as pirates, buccaneers differed considerably from their pirate counterparts in motives and actions. The term buccaneer means a wooden frame which is used to cook meat (Konstam, 2005).

Where 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. 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).

Buccaneer, title applied to English, Dutch, and French seafaring adventurers of the 17th century. In the previous century such daring fighters and seamen as the Englishmen Sir Francis Drake and Sir Richard Hawkins had obtained wealth in privateering operations against Spain, in the Caribbean Sea and of the coasts of North America. Inspired by the success of these men and the lure of riches, a group of wandering pirates called freebooters or buccaneers began to harass the Spanish colonies in the New World, particularly during the second half of the 17th century. The most famous buccaneer, Sir Henry Morgan, was from England. Buccaneers are usually distinguished from privateers, who had official government commissions; buccaneers rarely had valid commissions. They are also distinguished from the pirates who attacked ships of all nations and were outlawed in the 18th century (ibid).

2.7. Origins of sea piracy in Somalia

Before 1990s, piracy was not a major issue off the coast of Somalia, but like most coastal nations there were irregular incidences of armed robbery against small fishing or leisure craft that fell prey to an armed group, or ships that foundered off the coast. A more organized form of piracy began in the mid 1990's when some armed groups, claiming they were allowed coast guards charged with protecting Somalia's fishing resources they claimed. This little by little expanded after 2000 to any vessel that sail within or close to Somalia territorial waters. Both vessels and crews would be held hostage and ransom demanded. During 2005 an increase was noted in the number of attacks being attempted against vessels sailing in the Indian Ocean off the coast of Somalia (Konstam, 2005).

By 2006 some of the pirate attacks were extending as far as 350 km off the coast of Somalia. During 2006 piracy escalated as more attempts were made to hijack ships not only in the Indian Ocean but also in the Gulf of Aden and the mouth of the Red Sea. The phenomenon grew through 2007 from the major pirate bases of Eyl, Hobyo and Haradheere concentrated along the east coast of Somalia. By 2008 this reached outlandish proportions with ships being attacked seemingly at random and whenever the pirates decide. Consequently marine travel off the northern coast of Somalia, known as Puntland, has become the most dangerous region in the world for pirate attacks (ibid).

Over two-thirds of young men and women in these villages have no jobs and live in abject poverty. Only a few miles away, cargo ships laden with hundreds of millions of dollars of goods and produce slowly slide by. This was one among the many reasons for emergence of piracy (ibid).

2.8 Why sea piracy in Somalia

Compared to pirate operations in other parts of the world, South China Sea and off the coast of Nigeria, Somalia does not have the natural coastal terrain so required

by pirates, namely numerous forested inlets and islands, where ships can be hidden from aerial and sea surveillance. Somalia pirates do not need this type of terrain because their piratical aims are very singular and straight forward, ransom for hostages only. They are not interested in stealing the cargo and/or reusing the ship for other purposes, where there is a need to have a secure location hidden from view where a ship can be concealed while it is renamed and repainted. They are interested in ransom only (Nairobi reporter, 2013).

When a ship is taken by Somalia pirates the ship and the crew are held for ransom. It is in effect a hostage situation. The ship is sailed to one of the bases where the pirates can be supplied with food, water, weapons and ammunition and other resources while the negotiations take place. This is all done very openly with the ship visibly anchored off the Somalia coast. The pirates are fully aware that they are relatively secure from any rescue mission being launched directly against them while on the ship. The only alternative remaining to guarantee a secure and safe conclusion to the hostage situation is the payment of the requested ransom (ibid).

One striking aspect of piracy along the Somalia coast is that despite differences of location and clan, the methodology used for the targeting, attack and capture of ships, the detention of crews, the progress of negotiation, the amounts of ransom demands, the methods of receiving payments and ultimately release of ship and hostages are all identical. Some experts believe that these identical procedures come from a coordination of the pirates activities. Others believe that there is little or no central coordination (ibid).

These experts think that the basic operational procedures were organically developed either in Puntland or in Central Region and transferred to other groups along the coast. It is also known that there is a fundamental operational directive, or base code of practice, among the pirates that once a ship has been ransomed and is released that it cannot be further targeted by any other group of pirates.

2.9. The drivers of sea piracy in Somalia

There are many factors that drive piracy in Somalia. One should not be surprised that piracy has taken root in Somalia given the social upheavals, human hardship, environmental degradation and the entrepreneurial spirit of the Somalia. Piracy is flourishing in Somalia as it is a quick way for all involved to earn a large amount of money way beyond any other means of income generation.

While the action of piracy involves some risk the benefits far outweigh the risk, a fact indicated by the few arrests made and less deaths and injury suffered by pirates to date. Poverty, lack of employment, environmental hardship, pitifully low incomes, reduction of pastoralist and sea resources due to drought, poverty and illegal fishing and a volatile security and political situation all contribute to the rise and continuance of piracy in Somalia. This situation may remain so until there is an effective and simultaneous action taken against the pirate trade and an alternative means of income support mechanism implemented to replace it; otherwise criminal activity, in some shape or form, will continue to take priority as a means of generating income among the armed militias of Somalia (ibid).

The pirates also firmly believe that they have every right and entitlement to attack illegal fishing vessels operating in their territorial waters as their fishing resources are being pillaged daily by international shipping vessels from Asia and Europe. The pirates believe they are the only option to curtailing this injustice. Equally the pirates did admit that the initial idea of protecting their coast line has been hijacked to the current situation where any vulnerable vessel is a target. Targeting other ships is supposed to highlight the illegal shipping but has now become such a huge international problem that the origins for the initial actions have been forgotten. However, they do admit that humanitarian aid and other supporting commercial vessels should not be targeted for piratical gain (ibid).

2.10 Piracy trends in Somalia since 2002

Acts of modern piracy and robbery at sea have been common for the past 30 years. Modern piracy hotspots include the Caribbean, the South China Sea, the rivers and ports of Latin America, and the waters surrounding Singapore and Malaysia. Similar attacks became prominent in African waters during the 1970s and 1980s as the continent erupted in coup d'états, guerrilla fighting, civil war and tribal conflict (Konstam, 2008). The Indian Ocean and the Red Sea became increasingly dangerous as ships were attacked by pirates. The large ports of Mogadishu were especially targeted.

After the mid-1990s the number of global piracy attacks decreased. This was until 2002/2003, when the IMB reported an unprecedented number of 445 actual and attempted attacks worldwide. This sudden increase was predominantly due to incidents in the waters of Singapore. As from 2000 however, the number of attacks gradually decreased. But from 2002 onwards, attacks began to emerge off the Somalia coast. Foreign fishing vessels were attacked inside and outside its territorial waters (ibid).

In 2008, 293 incidents of piracy and armed robbery were reported to the ICC International Sea Bureau's Piracy Reporting Centre. This increase can be attributed to the unprecedented number of attacks off the coast of Somalia and the Gulf of Aden as merchant shipping was also targeted. Of the 293 global attacks in 2008, 111 took place within the Gulf of Aden and the east coast of Somalia. The activities of pirates in these waters included the hijacking of 42 vessels and the kidnapping of 815 hostages (IMB, 2008).

Noteworthy of the piracy and armed robbery attacks in and around the coastal waters of Somalia, is the high levels of effectiveness and efficiency with which attacks are carried out. Pirates have not only evolved in terms of their tactics, vessels and weaponry but are also extending their range to attacks far beyond the coastal waters of Somalia to the high seas of the Indian Ocean. Although these groups expanded their range of attack, hijacked ships were still kept in Somalian ports until ransoms were paid (ibid).

2.11 Pirates Profile

2.11.1 A Somalia pirate with weapons aboard a vessel

Most of the pirates are young. An official list issued in 2010 by the Somalia government of 40 apprehended pirate suspects noted that 80% (32/40) were born in Somalia's southern conflict zones, while only 20% (8/40) came from the more stable northern regions. As of 2012, the pirates primarily operated from the Galmudug region in the central section of the country. In previous years, they largely ventured into sea from ports in the northeastern Puntland province, until the regional administration launched a major anti-piracy campaign and established a sea police force. According to a 2008 BBC report, the pirates can be divided into three main categories:

- Local fishermen, considered the brains of the pirates' operations due to their skill and knowledge of the sea.

- Ex-militiamen, who previously fought for the local clan warlords, or ex-military from the former Barre government used as the muscle and;

- Technical experts, who operate equipment such as GPS devices;

The closest Somalia term for 'pirate' is *burcadbadeed*, which means "ocean robber". However, the pirates themselves prefer to be called *badaadintabadah* or "saviors of the sea" (often translated as "coastguard") (Nicarraway, 2009).

2.11.2 Methodology used by pirates

The methods used in a typical pirate attack have been analyzed. They show that while attacks can be expected at any time, most occur during the day; often in the early hours. They may involve two or more skiffs that can reach speeds of up to 25 knots. With the help of mother ships that include captured fishing and merchant vessels, the operating range of the skiffs has been increased far into the Indian Ocean. An attacked vessel is approached from quarter or stern; RPGs and small arms are used to intimidate the operator to slow down and allow boarding. Light ladders are brought along to climb aboard (Kraska, 2011).

Pirates then will try and get control of the bridge to take operational control of the vessel. According to Sky News, pirates often jettison their equipment in the sea before arrest, as this lowers the likelihood of a successful prosecution.

Somalia pirates' hijacking techniques have evolved over time. Their successful record of high profile attacks reveals their advanced level of organization. No type of vessel is immune from pirates attack. Although there are five separate pirate groups operating in different regions, they all use the same tactics. Therefore, many believe that these pirates follow a code of procedures similar to modern navies. Their sophisticated types of attacks are worth nothing.

If the target vessel is within the territorial water or nearby, Somalia pirates will use speedboats. Around six speedboats, each loaded with six to ten armed men, will surround the target from all sides. If the captain refused to surrender, they would fire alarming shoots from their automatic weapons and rocket propelled grenade (RPG); while one of their boats will move toward the ship unnoticed where pirates will gain access using grappling hooks and irons to climb aboard. Then they overtake and put all the hostages in one place and order the captain to sail toward Somalia waters, usually toward Eyl Port, the headquarters for pirates. Hostages are kept safe, till ransom is paid (ibid).

If the target vessel sails in international waters far away from Somalia waters, Somalia pirates use the phantom ship technique. They launch their operation from a mother ship or phantom ship, an ordinary ship which seems non-threatening. Mother ships are usually larger fishing vessels which were previously captured and whose owners refused to pay ransom to free them. Pirates reuse these ships in their piratical operation as the mother ship. They load their speedboats, arms, food, and fuel onto their mother ship. In Most of the cases, the mother ships are fishing vessels from neighboring states such as Yemen and Egypt. The original crew of the mother ship is asked to act normally, while pirates on board try to identify any vessels passing by. Once the target is identified, six speedboats are launched immediately from the mother ship to attack the target. This technique in hijacking ships has enabled Somalia pirates to attack ships far away from Somalia (ibid).

This technique is swift and surprising. Captains realize that they are under attack late. The average time for a pirate attack is fifteen to thirty minutes. It is extremely difficult to

distinguish a pirate mother ship from any ordinary ship since pirates' mother ship does not carry the Somalia flag.

Unlike pirates in other parts of the world, Somalia pirates do not steal the hijacked ship and its cargo. Somalia pirates create hostage situations. They ask the owner of the hijacked vessel to pay ransom in exchange for the ship and its crew. Once ransom is delivered, the crew and their ship are released. Somalia pirates are known for taking care of their hostages to ensure ransom is paid. Another distinctive feature of Somalia piracy is that pirates do not try to hide the hijacked ships; they sail openly toward the Somalia coast. Pirates either keep the hostages in their ship near the Somalia coast or take them ashore till ransom is paid. It is estimated that pirates gained \$ 150 million of ransom payments in 2008 (Essam Mahmoud Badran, 2010).

2.11.3 Weaponry and funding

The pirates get most of their weapons from Yemen, but a significant amount comes from Mogadishu, Somalia's capital. Weapons dealers in the capital receive a deposit from a Hawala dealer on behalf of the pirates and the weapons are then driven to Puntland where the pirates pay the balance (Chalk, 2008).

The funding of piracy operations is now structured in a stock exchange, with investors buying and selling shares in upcoming attacks in a bourse in Harardhere. Pirates say ransom money is paid in large denomination US\$ bills. It is delivered to them in burlap sacks which are either dropped from helicopters or cased in waterproof suitcases loaded onto tiny skiffs. Ransom money has also been delivered to pirates via parachute, as happened in January 2009 when an orange container with \$3 million cash inside was dropped onto the deck of the supertanker to secure the release of ship and to authenticate the banknotes, pirates use currency-counting machines, the same technology used at foreign exchange bureaus worldwide crew (ibid). In 2008, there were also allegations that the pirates received assistance from some members of the Somalia Diasporas. Somalia expatriates, including some members of the Somalia community in Canada, reputedly offered funds, equipment and information. According to the head of the UN counter-piracy division, Colonel John Steed, the Al-Shabaab group in 2011 increasingly sought to cooperate with the pirate gangs in the face of dwindling funds and resources for their own

activities. Steed, however, acknowledged that he had no definite proof of operational ties between the pirates and the Islamist militants (ibid).

2.12 Sea piracy in the global waters: overview of attacks along the Somalia Coast

Piracy in African waters is not new. For instance, the Barbary Coast in North Africa (Morocco, Algeria, Tunisia and Libya) was a common area for piracy from the 17th century to the early 19th century. In recent times, however, Africa has featured prominently in the global map of violence at sea. An observer of piracy in Africa will notice two major developments (ibid).

First is the concentration of pirate violence in three main regions, namely the Somalia coast and the Gulf of Aden along the east African coast, Nigeria's territorial waters in West Africa, and the Mozambique Channel / Cape sea route in Southern Africa. Second is the increase in the frequency and sophistication of pirate attacks. In this regard the Somalia coast and the Gulf of Aden are extreme danger zones for shipping in Africa's waters. According to statistics from the IMB, piracy has become much more dangerous in the last few years. The latest annual report by the IMB shows that in 2008, a total of 293 incidents of piracy and armed robbery against ships were reported worldwide, which is an increase of more than 11 per cent on 2007. Africa accounted for the highest incidence of global piracy, with 189 cases. The region was followed by South Asia with 55 cases. The Indian subcontinent recorded 23 cases, while America and Far East Asia witnessed 14 and 10 attacks, respectively. The report attributed the increase to the unprecedented number of attacks in the Gulf of Aden (92 cases) carried out by Somalia pirates.

Around the Somalia coast, pirate attacks have increased both horizontally and vertically. Horizontally, pirates have acquired the weaponry and high-tech gadgetry that enabled them to expand the range of their attacks up to the Gulf of Aden and deep into the Indian Ocean. They now make use of automatic weapons and rocket-propelled grenades.

Their mode of operation involves the use of large 'mother ships', which follow the targeted ship by means of GPS devices. On approaching their target, they dispatch smaller speedboats that move in to enable the pirates to board the target and navigate the ship and its

crew to any destination they choose. Attacks now take place right up to the Yemeni coastline. It is estimated that of the 16 000 vessels that pass through the Gulf of Aden every year, around 40 are hijacked (ibid).

Vertically, attacks have increased in the sense that all kinds of vessels including general cargo ships, bulk carriers, tankers, fishing vessels, sailing yachts and tugboats are targeted, attacked and hijacked. Even cargos coming into Somalia as part of the United Nations World Food Programme (WFP) aid are not spared from pirate attacks. In October 2005, for instance, Somalia pirates hijacked a UN food cargo ship which was in the process of unloading 850 tons of corn and rice at a Somalia port. In 2008 alone, pirates operating off Somalia's coast, in the Gulf of Aden and the Indian Ocean carried out over 130 attacks against ships, turning the region into the world's most dreaded waters (ibid).

The extension of pirate attacks beyond the Somalia coast into the Gulf of Aden seriously threatens the vital international trade route between Africa and Europe, and by extension Asia. The Gulf of Aden is a key sea trade route, where thousands of ships navigate the Red Sea before passing through the Suez Canal which links Europe to Asia (ibid).

2.13 Piracy in East Asia; Malacca Straits

Piracy was present in the Straits of Malacca even before the start of East - West-commerce in the 16th century. The pirates became more organized in the 19th century when they started building so - called "specialized pirate communities" (Teitler 2002). The vast majority of common piracy attacks in the Straits of Malacca constitute low - level armed robbery in Malaysian as well as Indonesian waters. The revenues from such attacks often are a source of income in times of need for the desperate local populations, mainly fishermen. These 'hit- and - run' attacks are most often directed against small craft, including ships, fishing vessels and local merchant ships that pass through waters near the pirate communities (Liss, 2007).

A number of attacks went beyond low level armed robbery as they were far better organized, and included an important degree of violence. These acts fall under the category of medium - level armed assault and robbery. Unemployed and desperate fishermen were recruited by well organized criminal gangs in order to conduct piratical attacks.

Major criminal hijack also occurs in the Malacca Straits. Asian criminal syndicates such as the Chinese Triads or the Japanese Yakuza have been accused of being involved in major piratical operations in South East Asia. Internationally organized pirate gangs have been hiring experienced local pirates in order to conduct attacks resulting in long term and permanent seizures of predominantly medium sized vessels, including cargo ships, bulk carriers and tankers. A further sign of an increasing degree of organization was the fact that “fishers have in recent years increasingly been forced to make up -front payments to pirate gangs in order to fish safely in certain areas and the hijacking of fishing boats and kidnapping of crew for ransom have become regular occurrences in some parts of South East Asia, such as the Malacca Straits” (Liss, 2007). In many cases, the kidnapped ships have been renamed, partly repainted and newly registered in order to be sold or used for illegal trading.

2.14 Piracy in the Gulf of Aden

While the vast majority of the piratical attacks in the Malacca Straits are small- scale robberies, the average common piracy attack in the Gulf of Aden is far more sophisticated. Between 2007 and 2009, 221 actual and attempted attacks have taken place in the Gulf of Aden (IMB 2009). Out of these, the overwhelming majorities amounted to medium- level armed assault and robbery or major criminal hijack according to the classification of the IMB and represent a clear threat to international merchant shipping (IMB 2007, IMB 2008, and IMB 2009).

The IMB attributes all the acts of piracy in the Gulf of Aden to Somalia pirates, with no attack by Yemeni pirates reported (IMB 2009). Within Somalia, the semi-autonomous region of Puntland in the northeast of the country has become the base of most of the pirate activities in the Gulf of Aden. In the neighboring province of Somaliland, piracy has never gained a foothold (Middleton 2008). Various groups of pirates, organized along clan lines are currently active in Somalia waters.

Immediate attacks are conducted by small and rapid skiffs, but the pirates have increased their range by using mother ships. Generally, these are fishing trawlers that were captured by the pirates closer to shore and are subsequently used as staging posts further out to sea (Middleton

2008). According to reported incidents, the pirates in the Gulf of Aden are always armed, but they very rarely use their weaponry which evidences their high professionalism (Moller 2009).

Piracy in the Gulf of Aden has dramatically increased the cost of international trade in the area. The insurance rates for ships passing the Gulf raised forty fold in 2008, from an estimated USD 500 to USD 200,000 per passage (Frump 2009). Installing deterrence systems on the ships is also costly. Long range acoustical devices cost USD 20,000 – 30,000 each, and permanent onboard security guards are even more expensive (Gilpin 2009). The phenomenon also negatively impacts nearby countries. For instance, Egyptian income from ship passages of the Suez Channel dropped from 5.1 billion to 3.6 billion USD in two years (Wasser, 2009:143).

In his 2008 study, Peter Chalk estimated the direct and indirect costs of Somalia piracy to the global trade to be somewhere between 1 billion to 16 billion USD (Chalk 2008). These numbers have likely risen considerably due to the growing intensity of piracy and the stepped-up countermeasures (Graf, 2010).

2.15 Sea Piracy in the two extreme parts of Africa

Sea economic opportunities of Africa are increasingly being threatened by the growing threat of sea piracy. Until very recently sea piracy has been largely concentrated in Asia. However, in 2007, for the first time since statistics on pirate attacks have been kept the number of pirate attacks in east Africa surpassed those in Asian waters. This continued into 2009, with attacks in Africa surpassing those in Asia by far. However, reported piracy attacks in East Africa slowed down in 2010 while South China experienced a significant increase.

Instances of piracy are monitored both by the IMO and by the IMB, which acts as a focal point in the fight against all types of sea crime. According to the IMO incidents of piracy and armed attacks against shipping increased at an unprecedented rate. A total of 489 incidents were recorded by the IMO in 2010 compared to 406 in 2008 and 206 in 2007. Most of the incidents occurred in East Africa and South China. Sea pirate attacks in Africa are concentrated in Somalia and Nigeria. However, the attacks are not limited to these countries. According to the IMO, seventeen other littoral countries experienced pirate attacks during 2008-2010.

2.15.1 East Africa

After Asia, Africa is the largest continent; it is also the second most populous continent. The land area is immense-covering one-fifth of the total surface of the earth and the coastline is 24,233 miles (39,000 kilometers) in length. The shoreline overlooks some of the most strategic waterways in the world. Thirty-three thousand ships transit the Gulf of Aden (GOA) annually, for example. Six thousand five hundred oil tankers carrying 7 percent of the world's daily oil supply use the route. The passage links trade between the East and West through the neighboring Strait of Babel Mandeb and into the Suez Canal. Ironically, the spread of piracy throughout the Horn of Africa occurred just as the global economy began to collapse in slow motion during the 2008–2009 Great Recession.

Somalia occupies the Horn of Africa, and Somalia pirates have surged in recent years. While the incidence of maritime piracy is declining in most areas of the world in recent years due to cooperation among littoral states and the international community, the threat has rapidly increased along the coast of East Africa. Somalia piracy became the epicenter for maritime crime, in part, due to economic desperation and a virtually lawless environment, all within close proximity of one of the globe's most lucrative trade routes.

The majority of incidents in sea piracy in east Africa are off the coast of Somalia. Even though the first pirate attacks of any significant number were only recorded in 2000, the roots of the current crisis date back to 1991 when Mohammed SiadBarre was overthrown, leaving the country without an effective central government and locked in civil conflict. Taking advantage of the power vacuum, rival warlords carved out influence over regional territories – first on land, and then increasingly at sea.

Fishermen, discouraged at the inability of the central government to protect their countries and at the number of foreign fishing vessels illegally exploiting their traditional fisheries, took matters in to their own hands. Initially arming themselves to chase off the illegal foreign fishing vessels, they quickly realized that robbing the vessels was a lucrative way to make up for lost income. Seeing their success, land based warlords co-opted some of the new pirates, organizing them in to increasingly sophisticated gangs.

The year 2009 was the worst in pirate attacks in East Africa. The attacks off Somalia and in the Gulf of Aden rocketed by over 250 percent in 2009. Reported incidents increase from 61 in 2008 to 222 in 2009. A total of 48 vessels were hijacked and 4 crew members were killed. Incidents in East Africa are mainly in international waters. Out of the 222 reported incidents in 2009, 204 were in international waters.

Kenya and Tanzania are also affected by piracy but not anywhere near the levels seen off the coast of Somalia. According to IMO, many of the pirate attacks reported in these two countries are actually committed by Somalia pirates operating farther and farther from their territorial waters. Somalia pirates can now sail as far as 250-400 km away from coastlines to launch an attack.

Increased presence security in the Gulf of Eden led to a decline in incidents off the coast of Somalia. IMO reports show that the number of reported pirate attacks in East Africa decreased from 222 in 2009 to 172 in 2010. Out of the 172 attacks, 168 were in international waters, 2 were in territorial waters and 2 in port area. While most of the attacks occurred off the coast of Somalia and the Gulf of Aden, isolated attacks were reported on a fishing vessel in Seychelles international waters (ibid).

2.15.2 West Africa

Incidents of sea piracy in West Africa occur mainly in Nigeria. They are directly linked to oil production in the Niger delta. Some pirates claim to be fighting for a fairer distribution of Nigeria's vast oil wealth, and as protest to the damage caused by oil production in the Delta. The cost of sea piracy to Nigerian society and the economy have been significant, not only to the oil industry, but to local fisheries and regional trade as well.

Incidents of piracy and armed robbery in West Africa increased from 42 in 2008 to 46 in 2009 and to 47 in 2010. Unlike the attacks in East Africa, most of the attacks in West Africa occurred in territorial waters while the ships were at anchor or berthed. Other countries that are affected by sea piracy and robbery in West Africa, even though not to the extent of Nigeria, are Cameroon (Douala Anchorage), Cote d'Ivoire (Abidjan Anchorage), Pointe Noire Anchorage (Congo), Liberia and Guinea (Conakry). Most of the incidents are theft that happen in port area and are due to poor port security (Kennedy.k, 2011).

Chapter Three

3. The Implications of Sea Piracy in Somalia; Causes, Damages and Actors

3.1 Introduction

Under this chapter due focus will be on the actors, impacts and the factors contributing to the emergence of piracy off the coast of Somalia. Understanding the reasons behind the problem can serve as a basis for possible solutions to this complex and multifaceted phenomenon. In addition, the increasing cost of the piracy problem for the global community in general and Somalia in particular will be broadly addressed. The costs and dangers show the scope of the Somalia piracy problem and explain the desperate need of the global community to solve the piracy problem as soon as possible.

3.2 Factors Responsible for the Emergence of Sea Piracy in Somalia

The beginning of Somalia piracy, however, is not solely the consequence of the collapse of the former government of the Somalia society. The meanwhile extensive piracy studies literature provides us with a good understanding which factors trigger the outbreak of piracy. Studies on the so called “root causes” of piracy and on the regional variations of piracy operations and their sophistication have elaborated various factors. Somalia piracy has its roots in a combination of factors: civil war in the state, the failure of domestic and international efforts to create central governance in Somalia; poverty and displacement; geographic opportunity, weak law enforcement, sea insecurity, economic dislocation, cultural acceptability, illegal fishing and other supplementary factors. Taken together these provide us with a good understanding why piracy in Somalia has emerged. Now let’s take a look at each of them how they became a reason or means for the outbreak of the case.

3.2.1 The toxic waste dumping claim

The dumping of toxic waste has remained as one of the major grievance Somalia have been attempting to present to the international community. On the other hand the so called international community is and has always been unwilling to pay attention to this issue. The toxic waste dumping allegation was high on the agenda of various Somalia academicians, students, and journalists. However delegates who represented the European Union and various

international bodies lessened this grievance. Some delegates reduced the toxic waste dumping to a mere claim that needed investigation (Milton, 2009).

This example is a manifestation of how different the views of the Somalia have differed from that of the major powers of the world. On the question of toxic waste in 1997, in the Italian magazine *Famiglia Cristiana*, Greenpeace published a landmark investigation into the dumping, which showed that it started in the late 1980s, and exposed Swiss and Italian companies as brokers for the transportation of hazardous waste from Europe to dump in the Somalia waters. Subsequent research has also shown that the company employed physically to ship the waste was wholly owned by the Somalia government (Milton, 2009). Milton goes on to highlight that, the European Green Party tabled a question in the European Parliament about the dumping of toxic waste from German, French and Italian nuclear power plants and hospitals to the waters of Somalia. Moreover, a large investigation in Italy, a former colonial power in Somalia concluded that around 35 million tons of waste had been exported to Somalia for only \$6.6 billion, leading the environmental group Legambiente to assert Somalia's inland waste dumps are among the largest in the world. Similarly, Hussein, (2010) argues that many developing countries, especially African countries, have been victim of the adverse effects of highly toxic wastes (HTW) originated from the developed countries.

Similarly, Hussein, (2010) observes that insufficient evidence of toxic waste dumping in Somalia is often advanced as an argument to justify the aforementioned inaction. Nevertheless, Ambassador David Shinn, (2010) said Toxic waste occasionally shows up on the shores of many countries. It is not an issue confined to Somalia. While the international community may be playing down the problem, the pirates have significantly exaggerated it in an effort to justify illegal piracy.

Dumping of hazardous toxic is not confined to Somalia alone. According to the (Guardian, 2009) Ivory Coast became a victim in 2006 when a British-based oil trader dumped lethal toxic waste there. If these traders who are willing to minimize their disposal costs and maximizing on their profits have done that in Ivory Coast where there is a functioning government, what do we expect them to do in a territory without a government (Somalia). The effects of hazardous wastes dumped inappropriately on both human and other environmental components are incalculable (ibid).

3.2.2 Illegal Fishing

Illegal fishing is another major grievance Somalia has been echoing. According to various researches illegal fishing is the worst that Somalia experienced. Perhaps, one explanation for illegal fishing could be attributed to the decline of stocks of the last decades and increasing demand for fish have led governments around the world to introduce tougher set of laws.

Overfishing harms poor coastal states and communities most. Most observers claim that the weak institutions, and thus weak fisheries governance, of many of these coastal states often lead to a situation where illegal fishing undermines the conditions for local fisheries and food security, thereby threatening the livelihoods of poor coastal populations (Swedish FAO Committee, 2009).

The pirate groups accords to a broadly sympathetic narrative in which they are former fishermen who were forced to protect their waters from illegal fishing and dumping of waste following the breakdown of order in Somalia. Some of the pirate groups encourage this description, even naming some of their groups as the ‘coastguard’ and making reference to the acts of piracy as a kind of ‘tax’ on the illegal fishing vessels. However, the UN Monitoring Group on Somalia noted that only 6.5% of Somalia piracy attacks have been against fishing vessels: the vast majority of piracy over the last four years has been against larger, merchant vessels carrying goods between east and west (House of Commons, 2012).

According to Mwangara (2010) a Kenyan piracy expert, Illegal unreported and unregulated fishing (IUU) is a serious international problem. It is projected that the worldwide value of IUU stands at US\$4 to \$9 billion, with a large part of it from sub-Sahara Africa, particularly Somalia. Moreover he goes on to argue that IUU practice involves fish catch laundering through mother ship factories, uncontrolled trans-shipment and resupply.

With these means allowing vessels to remain for months, refueling, resupplying and rotating their crew. As a result fish catch laundering doesn’t require entering ports because they can transfer their catches onto transport ships. Moreover pirates mix their loot with legally caught fish on board of the transport vessels. Although fish catch laundering generates hundreds of millions of dollars in the black market, is no less criminal than money laundering, but it is not

yet punished. Mwangura argues that ports used for Somalia fish laundering include harbors in the Seychelles, Mauritius, Kenya (Kiunga, Mombasa) and the Maldives (ibid).

Furthermore, the Sydney Morning Herald (2008) cited the United Nations' Food and Agriculture Organization estimates there are 700 foreign owned vessels fully engaged in unlicensed fishing in Somalia waters. This resource piracy could be directly linked to the collapse of the local fishing industry and subsequent poverty of coastal communities and it has been cited as one of reason why piracy has flourished in Somalia particularly in Puntland. Hundreds of coastal dwellers used to earn their living through fishing. Prior to the civil war that started in 1990, Somalia was a major exporter of agricultural product (Mario, 2010).

3.2.3 Proliferation of Small Arms and Light Weapons

The global proliferation of small arms has provided pirates (as well as terrorists and other criminal elements) with enhanced means to operate on a more destructive and sophisticated level. The variety of weaponry currently available on global black markets is truly enormous. Originating from sources in Africa, Asia, and Europe, it includes anything from pistols, light/heavy machine guns, and automatic assault rifles to anti-ship mines, handheld mortars, and Rocket Propelled Grenades (RPGs).

Access to these arms most of which are readily transportable, easy to handle, cheap, and durable is one of the main factors contributing to the growing level of violence that has come to typify piracy in recent years. The director of the IMB's office in Kuala Lumpur, Noel Choong, remarks: Five to six years ago, when pirates attacked, they used machetes, knives, and pistols. Today, they come equipped with AK-47s, M-16s, rifle grenades, and RPGs (Sarah Percy, 2011).

The Horn of Africa, which is characterized by porous borders, weak governments and ineffectual national security systems, figures prominently in the continent's map of regions with a high circulation of illicit weapons. The wars in Uganda, Somalia and Sudan have sustained the illegal market in, and illicit use of, small arms and light weapons. With a substantial volume of these arms circulating in an environment of worsening poverty, it is little surprise that Somalia youths have turned to piracy to make a living (ibid).

3.2.4 Payment of Ransom to pirates

The payment of ransom to secure the release of vessels or farers hijacked by pirates adds to the complexity of the piracy activities along the Somalia coast. The cost of piracy globally is estimated at between US\$13 and US\$16 billion annually. Because of the absence of an effective central government in Somalia, intervention and rescue is unlikely and the payment of the ransom is almost the only way out. Ship owners, knowing that no rescue is likely, pay up, and the increased success rate of hijacking of vessels in the area lead to even more hijackings. It is estimated that in 2008 alone about US\$30 million was probably paid by ship owners to free their vessels and crews hijacked by Somalia pirates. The Kenyan government has admitted to paying ransom in excess of US\$150 million to pirates operating in the region in 2008 (Mario, 2010).

The payment of a ransom has two major implications. First, any time a ransom is paid to a kidnapper; it produces obvious short-term benefits but much larger, hidden, long-term costs. The obvious benefit is the release of the hostages, but the hidden cost is that it encourages all organizations that specialize in hostage taking, immediately and in the future. Hostage taking is like any other type of business if it is profitable enough, kidnapping organizations will expand and new kidnapping organizations will appear. Second, it provides pirates with finance to procure sophisticated weapons. This has contributed to the frequency of their attacks, the expansion of the range of their onslaught and the success rate of their forays. This further emboldens the pirates and even worsens the situation.

3.2.5 The Failure of Governance in Somalia

The result in the collapse of the Somalia state is at the root of pirate violence in the region. Since the overthrowing of President Siad Barre in 1991, the country has been in virtual lawlessness or without central government. The absence of a functional national government has led to the proliferation of warlords and armed militias, and consequent fragmentation of Somalia into a patchwork of rival fiefdoms. The result is that Somalia's coastline has been divided among militia groups and warlords who engage in piracy or provide information, protection and support to criminal gangs involved in piracy. The confession of one notorious Somalia pirate, Mohamed Abdi Hassan, or 'Afweyne', shows that warlords were behind pirate attacks reported in Somalia waters.

The failure of governance has in other words resulted in a climate of insecurity in Somalia, which led to the development of a criminal economy. The reign of terror which has plagued Somalia on land created the environment for the extension of violence to the profit from piracy in turn again sustains the insurgency in the country as a whole. The failure of the Somalia state has meant that its territory has been saturated with small arms and light weapons (Kraska, 2011).

3.2.6 Economic dislocation

Rightfully piracy has often been described as a business model and has been seen as an activity that is primarily economically motivated. While piracy promises considerable revenues, a direct causal link between poverty and lack of employment opportunities and piracy cannot be constructed. Rather than poverty, the crucial factor is economic dislocation. Communities that tend to engage in piracy are those which have been economically marginalized, have been put at disadvantage by economic developments and globalization processes or are not allowed to participate in sources of wealth.

Economic dislocation refers to Somalia in at least two senses. On the one hand with the end of the UN intervention in the 1990s, Somalia became a territory that received only scant attention from the international community. While humanitarian aid continued to flow, before counter-piracy changed the picture, Somalia has neither benefitted from large scale international development support, nor gained a share of globalization induced economic wealth. Hence, for instance (Kamola, 2012) suggests that Somalia piracy can be understood as creative (and profitable) attempts to develop a vibrant economic sphere within places marginalized from the world economy for more than a century (ibid).

3.2.7 Sea Insecurity

A factor closely related to weak law enforcement is the degree to which the sea environment of a region is insecure and prone to violence. Piracy tends to occur in which there is a host of other illegal activity, such as human trafficking, smuggling and illegal fishing. This is not only related to the question of coast guarding and law enforcement at, but also in how far

violence and insecurity at is considered to be the norm (Kamola, 2012). The more the sea environment is securitized and it is, for instance, the higher the likelihood of piracy.

3.2.8 Lack of Maritime Sovereignty

Countries require maritime sovereignty in order to benefit from their oceans. The basic duty of a navy is to exercise maritime sovereignty. Coastguards add to order at and the ability of a country to maintain its sovereignty within its territorial waters. These are vital issues, specifically as states must protect their own sea territory and citizens from threat. However, it is a fundamental principle of international law that sovereignty must be exercised to be recognized. Yet, in the case of weak states the mere existence of a minor capability is important as it could have vast political consequences even for powerful states if they would disregard such sovereignty (Kamola, 2012).

Somalia has no ability to protect and defend its sea sovereignty and the lack of central authority on land is therefore also prevalent. Other countries in the Horn of Africa region struggle to build up and maintain basic naval forces and uphold harbor security. Having a small navy and a coastguard is therefore not viable and if coastguard functions are performed, it is usually done by naval units.

3.2.9 Weak law enforcement

The factor of weak law enforcement stresses that the lower the risk of getting caught and punished for piracy, the higher the likelihood that piracy occurs. This concerns various levels of law enforcement stretching from coast guard and naval capabilities by which coastlines should be patrolled and guarded. As shown in various studies the prevalence of official corruption is a further major factor impacting the likelihood of piracy, since pirates not always operate outside the law but often in collaboration with law enforcement agencies (Kamola, 2012).

Finally, the quality of regional interstate collaboration in sea security matters has to be considered. Pirates operate across sea borders and efficient collaboration mechanisms are needed to allow for hot pursuit of perpetrators as well as the sharing of intelligence and evidence between national agencies (ibid).

Somalia's sea, coastal and territorial law enforcement has been weak after years of civil conflict. Basic law enforcement is provided through the rudimentary policing and judicial capacities of the regional governments, such as the government of Puntland. Perhaps more importantly, the mechanisms of the traditional clan-based law of Xeer govern wide parts of the Somalia society (Notten, 2007).

Clearly there was lack of capacities to effectively police the Somalia coast and persecute suspects, in Somalia as well as littoral countries. Moreover, there have been frequent accusations that parts of Somalia governmental elites benefit from or even participate in piracy operations, which points out that corruption is endemic (ibid).

3.2.10 Geographic factor

Geography firstly refers to the obvious fact that regions with close proximity to waterways tend to have piracy. Proximity to major lanes of transportation and major ports renders piracy more lucrative, hence increases the likelihood of piracy. Geography, however, also refers to the existence of hideouts, that is coastal strips or islands which are difficult to reach or control. Hideouts are necessary for preparing a piracy operation and for the case of ransom piracy to anchor the vessel. Piracy dens however are dependent on basic infrastructure, such as roads or nearby villages to ensure the logistics required for an operation. In principle piracy operations can also be launched from ports, especially if they are weakly governed. In geographical terms Somalia has an impressive coastline of 3,025 km. The Gulf of Aden the southern gateway to the Suez Canal is one of the major trading routes, with more than 20,000 ships a year, including a substantial number of the world's crude oil, navigating through it. A significant number of remote coastal villages provide dens and a sufficient infrastructure for kidnap and ransom piracy (Kamola, 2012).

3.2.11 Increase in commercial sea traffic

Today, roughly 80 percent of all global luggage's are transshipped by 12 million to 15 million containers are estimated to be on the world's oceans at any one time. This included 5.9 billion metric tons of oil and bulk commodities as well as general cargo packed in containers. Combined with the large number of ports around the world there are some more than 6,591

terminals currently in operation this has provided pirates with an almost limitless range of tempting, high-payoff targets (ibid).

All of these bottlenecks require ships to significantly reduce speed to ensure safe passage. Exacerbating this vulnerability has been the growing tendency of many shipping companies to replace full staffing complements with skeleton crews sometimes numbering no more than a half dozen personnel as a cost cutting device. Although this has helped lower operating costs, it has also made hijacking much easier.

3.3 Actors of sea piracy in Somalia

3.3.1 Who are the pirates and how do they operate?

The pirates are usually armed with automatic rifles (AK - 47), rocket - propelled grenades and an assortment of light weapons. Three broad categories of pirates could be identified: battle- hardened clan-based militia, youth looking for quick money to finance plans (like marriage or emigration) and fishermen who are forcibly recruited for their navigational skills (Gilpin, 2009).

Each network is comprised of dozens of armed militia, a few conscripted fishermen and hundreds of unemployed young men loosely organized in gangs. Pirates utilize small skiffs which can travel up to 30 knots. Coordinated attacks involving three to five of these boats are used in tandem to swarm targeted vessels until the pirates can board a ship with grappling hooks and ladders. Multiple skiffs distract and unsettle the crew on the targeted vessel until one gang is able to board, followed by the others. Ships that get hijacked are usually slow vessels (traveling 15 knots or less), with low sides (or at least sitting low in the water).

The actors are using mother ships to draw their skiffs deep into international waters. They have been trained in and thought seriously about the tactics required to take hostage vessels that are multiple stories in height. They have negotiators and spokesmen, accountants and financiers, logistics coordinators and caterers, and an extensive financing/money laundering network that employs members of the Somalia Diaspora living in countries around the globe, including Canada (Gilpin, 2009).

One does not have to look very far amidst the poverty and desperation in Somalia to see that there is the potential for millions of young Somalia men to be lured in to this criminal activity by the hero status pirates have enjoyed in their home ports, the extra wives they have been able to marry, and the SUVs they've been able to purchase (Patrick, 2008).

Most pirates are illiterate 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. Captain Reindorp noted that these men are merely the 'foot soldiers' of piracy who are at the bottom of an investment chain.

Captain Reindorp provided a description of how pirates attack: Most attacks occur either from a single skiff, a small vessel, or from two skiffs generally not more than that. Each skiff contains between two and six pirates. They are armed with a range of weapons, normally small arms, ranging from the traditional AK47s to RPGs (ibid).

They will maneuver one of the skiffs to come alongside the vessel and they will throw up a line on a hook, a grappling rope or some form of apparatus by which they can climb up on to the freeboard of the ship. If they are detected during that, they will usually fire at the ship, generally in and around the bridge, aiming either to get the master to slow down or to clear their way on to the freeboard. Once they have got on to the ship, they will proceed to the bridge and take it over (ibid).

However, Captain Reindorp cautioned that there was no "typical attack" and that Somalia pirates had proven to be very adaptable. Following a successful attack, pirates will steer the vessel toward anchorages on the Somalia coast and open a negotiation with the ship owner or, in the case of private vessels, they will contact the hostages' families. Negotiations are usually conducted via satellite phone and can typically take between three and 12 months (ibid).

One example of the pirates flexibility is their adoption of 'mother ships', vessels that are larger than skiffs and can carry fuel and food, allowing pirates to extend both the time they can spend at and their area of operations. Such mother ships are often themselves pirated vessels. Mother ships have become a focus of anxiety in the industry.

3.4 The Damages of Sea piracy in Somalia

The dangers associated with contemporary piracy are complex and multifaceted, having direct implications for human, political, economic, and environmental security. At the most basic level, attacks constitute a direct threat to the lives and welfare of the citizens of a variety of flag states. As noted above, strikes are frequently violent and can be expected to involve casualties. Disturbingly, there has been a marked rise in physical assaults, with the 440 hostage takings in 2005 remaining the highest figure on record. Although the overall number of these incidents dropped in 2006, they were still significant at a total of 188 (Patrick, 2008).

Quite apart from the risk of death and physical injury, many passengers who have been subjected to a pirate attack have suffered considerable mental trauma. Many of those who do not fully recover ever go to again. Despite this, the human cost involved in modern day piracy is seldom recognized, largely because assaults tend to be directed against less than visible targets. Shipping is out of sight, out of mind, and nothing is done. Piracy also has a direct economic impact in terms of fraud, stolen cargos, delayed trips, and higher insurance premiums. In addition, it could potentially undermine a sea state's trading ability (ibid).

More recently, similar problems appear in Bangladesh, Nigeria, Indonesia, and the Horn of Africa although not worst like the piracy of Somalia. Overall, the IMB estimates that piracy costs the shipping industry anywhere from \$1 billion to \$16 billion a year. In the opinion of the IMB, it is only a matter of time before pirates trigger an environmental disaster of this sort (ibid).

3.4.1 Somalia Piracy in its advanced phase: since 2008

The rate of piracy incidents off the Horn of Africa has escalated considerably since 2005. This is especially the case as both the quantity and the size and value (or quality) of the vessels attacked and taken for ransom has escalated exponentially. Predictably, this escalation tracks and reflects significant advancements in the organization of Somalia piracy. What began as mere sea attacks has evolved into sophisticated, adaptive, and multifaceted international organized crime. The pirates are armed with grappling hooks and aluminum ladders, rocket-propelled grenades, rifles, knives, narcotics, satellite phones, global positioning systems, and fishing lines (Kamola, 2012).

Generally, targets are attracted in using deceptive tactics such as phony distress calls or pirates posing as fishermen. Vessels are fired upon and compelled to slow their speed of approach while pirates clamor aboard, commandeer the ship, and sail it to anchorage off a friendly coastal town (ibid).

3.4.2 Damages to the Somalia Economy

A significant proportion of ransom payments enter the Somalia economy via payment for services, as well as the purchase of consumer durables and high tech vehicles. Piracy proceeds have contributed to a real estate bubble in piracy havens. Anecdotal evidence suggests that property prices rose sharply between 2007 and 2008. This has created hubs of economic activity around piracy centers. However, investments in infrastructure or public services are still lacking. This, coupled with deteriorating law and order (as evidenced by the proliferation of illegal arms and well-funded militia), has affected the business climate. In a sense, the non - crime economy has been crowded out by the piracy- fuelled business. There is also the danger that ransom payments are creating new and better equipped warlords, with potentially adverse consequences for political reconciliation in Somalia. While it is true that a number of local businesses benefit, the piracy asset bubble and conspicuous expenditure patterns of the pirate gangs suggests that this economic activity is unlikely to be sustainable. Domestic and outside investors are also discouraged because of severe crime (Robin, 2011).

3.4.3 Damages to the Global Economy

Piracy imposes costs on the global economy. According to international shipping organizations, insurance rates for ships have raised to \$20,000 per voyage in 2009 because of piracy, from an estimated \$500 in 2008 – a forty- fold increase. Also, avoidance namely, the alternate route around the Cape of Good Hope adds roughly 3,500 miles to the journey. The cost of this diversion is particularly worrisome during spikes in oil prices. Detering pirates is also costly. For example, long range acoustical devices cost \$20,000- 30,000 each and permanent onboard security guards could be prohibitively expensive. It costs an estimated \$1.3 million to deploy a frigate for a month, and approximately \$200 - 350 million to sustain naval vessels in the Gulf of Aden annually (Kamola, 2012). Somalia's neighbors are also impacted by the costs of piracy. Increased insurance premiums and diverted trade affects economic growth, while

continued sea insecurity contributes to the bad neighborhood syndrome which discourages investment and tourism.

While the numbers might appear substantial, some analysts argue that they are relatively insignificant. They point out that the costs represent less than 0.1 percent of world trade and that only 0.6 percent of the 21,000 ships passing through the Gulf of Aden was attacked and 0.2 percent actually boarded. In their view, the adverse impacts of piracy can be absorbed by insurance coverage and relatively little is passed on to the consumer (ibid).

3.4.4 Human damages of Somalia sea piracy

The human costs are notable. Piracy has resulted in loss of life, shock inflicted on hostages and their families. It also threatened to undermine human security in the Horn of Africa by disrupting much-needed foreign relief assistance. Targeting relief shipments worsens food insecurity in Somalia, where an estimated 3.2 million people over one-third of the population rely on food aid and humanitarian supplies (Gilpin, 2009).

3.5 The Somalia Economy and the Pirate Industry

The history of political violence and state failure in Somalia is well known, but the Somalia economy is not well researched, owing to lack of data. According to the 2011 data, Somalia is one of the poorest countries in the world with per capita GDP estimated at less than US\$300. A quarter of the population relies on food aid provided by the World Food Programme. Agricultural activities are the main contributors to GDP, and there is a service sector based around telecommunications and the transfer of remittances from the Somalia Diasporas (Donna, 2013).

Few specific details are known about the Somalia economy. The IMF's 2009 assessment of Somalia simply states that the Somalia government has not been able to restore order and that the absence of an internationally recognized government and official information about economic and financial developments precludes a full assessment. Despite the lack of detailed information about the employment and output of the different sectors, the researcher attempts to pin down the relative importance of piracy in the Somalia economy. A considerable number of people appear to be directly employed in the piracy business.

Compared to Somalia's annual per capita income of 273 US\$, piracy is clearly a financially attractive career for unemployed young men. A single pirate hijack can result in a ransom ranging from US\$500,000 to a record US\$9.0 million in 2010. As ransom amounts are often kept as a commercial secret, estimates of total incomes from piracy in Somalia come in all sizes, mostly vastly inflated. About US\$40 million were paid in ransoms in 2008. A realistic estimate for 2009 is in the region of US\$70 million. To put this into context, in 2008 and 2009 the official government budgets of Puntland province were US\$11.7 million and US\$17.6 million respectively. The proceeds of total official cattle exports from Somalia in 2009 are in the region of US\$ 43 million. Piracy therefore potentially generates a large amount of foreign exchange receipts and income relative to the size of the Somalia and especially the Puntland economy.

The earnings of piracy are shared between the pirates, the guards, the negotiation teams, the financiers of the piracy expeditions and bribes for local officials. The UN estimates that 40% of the proceeds fund local employment directly, of which the pirate crews get 30% and those employed on the land-side operations 10%. Another 10% is paid in gifts and bribes to the local community, while 50% is paid to the financiers and "sponsors" of the business, which are often said to be based abroad.

If the money was spent locally so as to create multiplier effects, it could have a transforming effect on deprived coastal communities, impoverished by years of economic uncertainty and illegal and destructive overfishing. The testimony of locals interviewed on the effect of piracy on the economy is, however, conflicting. On the one hand, piracy is said to bring a lot of direct employment opportunities to the local community. In addition pirate financiers and ex pirates are said to be investing in local businesses and contributing to the provision of local governance and public goods (ibid).

Any form of conspicuous consumption requires employing private security guards around the person, car and compound, generating further employment opportunities. On the other hand there are complaints that the participation of locals in the gains generated by piracy is negligible, because much of it is moved abroad funding property purchases in Nairobi or Mombasa. Money spent on imported status goods such as SUVs does not create local multiplier effects (ibid).

Critics of piracy also express concern that the local poor suffer because piracy is generating inflation and disrupting trade flows causing price increases in important commodity prices. Residents in coastal communities often complain that they are not participating in the gains from piracy (ibid). Overall, there is therefore considerable uncertainty regarding the effect of ransom payments on the Somalia economy.

3.6 Damages at the Regional and International level

The marked increase in the number of reported attacks along the Somalia coast and in the Gulf of Aden has caused a considerable damage to international trade. The economic implication of piracy on shipping companies, insurance companies and states is excessively high. All major shipping companies insure their ships and cargos. Nonetheless, when passing through the Gulf of Aden, which is considered a high risk zone by the insurance companies, the premium increases. A recent study estimates an increase in insurance and transport costs from \$ 500 to 20,000 per voyage through the Gulf of Aden (Potgieter, 2009).

The increasing insurance premium coupled with ransom payment was causing a considerable damage to the shipping companies and flag states. Hence, some shipping companies are forced to either increase the cost of shipping or take a longer route meaning extra travel and fuel. It affects the prices of goods, just like adding fuel to the existing inflated prices. States in the Horn of Africa, Arabian Peninsula and those states whose trade transits through the Gulf of Aden was suffering from the higher trading cost (ibid).

The human cost is also of serious concern for the international community. For example, out of the 889 crew members taken hostage in 2008, 815 were taken in Somalia, 4 people lost their lives, 14 are still missing and 2 crews were injured as a result of Somalia pirate attacks. Piracy incidents could also increase the possibility of environmental degradation. Pirates have been indiscriminately firing Rocket Propelled Grenades in order to capture potential targets. Such violent act against chemical and oil tankers could result in major oil spillover and cause environmental damage in the Horn of Africa. This happened to the 150,000-ton Japanese oil tanker, though the spill was contained before causing major damage (ibid).

3.6.1 Impact on the eastern Africa

Besides Somalia, the entire region is affected by the scourge of piracy. The area of operation corresponds to an ever expanding triangle, stretching from Yemen and Oman to Seychelles and the United Republic of Tanzania, and even to Mozambique. More and more, the pirates are using hijacked vessels as mother ships to carry out other attacks further off from the coast, at less than 200 miles from India and 120 miles from Maldives (May 2010). They do not hesitate to use captured crew members as shields to challenge naval forces. As pointed out by the President of the United Republic of Tanzania, 26 attacks took place off the Tanzanian coast between 25 September and 18 December 2010. The shift of attacks to the south and east of the Indian Ocean reflects the pirates' ability to constantly adapt in order to bypass the security corridor established by naval forces. In the south, the pirates now set up base along the coast of Somalia before heading towards Mwatara (the United Republic of Tanzania) or dispersing into the vast expanse of the Indian Ocean, cruising critical shipping lanes. (Ahmed, 2011)

From an economic standpoint, piracy has a dangerous negative impact on the major economic sectors of the region, notably tourism and fishery (4 percent drop in GDP in Seychelles in 1990, 90 percent of which was from these two sectors). Local business is also affected by the increase in commodity prices, coupled with the impact of insurance premiums on the final consumer, not only in Kenya and the United Republic of Tanzania, but also in landlocked countries serviced by the East African coastline (Burundi, eastern Democratic Republic of the Congo, Ethiopia, Malawi, Rwanda, Uganda and Zambia). Port operations, sea traffic and imports have declined across the Horn of Africa, with an attendant risk for energy supplies to East African countries. In fact, only three vessels supply gas to Comoros, Madagascar, Mauritius, Seychelles and the United Republic of Tanzania. Hijacking any of those vessels would have a major impact on gas supplies to those countries. Any attack on a vessel carrying hazardous materials could also affect the environment.

The entire region has not only suffered from the negative economic effects of piracy, but also witnessed a gradual increase in illegal activities connected with piracy (money-laundering, destabilization of the real estate sector, trafficking of weapons and migrants), which are, to some extent, replacing legal activities. Some States of the region fear that logistical bases

would be set up in their territory (Kenya, Seychelles and the United Republic of Tanzania), and even that their populations would find new outlets (ibid).

3.6.2 Local Consequences

The impact of piracy on Somalia can be seen from different angles. It is feeding the internal conflict, disrupting aid and incapacitating Somalia's economy. It has been argued that piracy is fueling the war in Somalia. There are allegations that the pirates provide financial assistance to Al-Shabab - an Islamist insurgency listed as terrorist group by the US. The group is currently fighting against the transitional government of Somalia (Kidist and Berouk, 2009).

Piracy is also critically hampering aid delivery to Somalia. According to the World Food Programme (WFP), Somalia needs over 185,000 tons of food every year, with about 1.5 million people dependent on it. The hijacking of vessels carrying aid usually results in the suspension of food deliveries, which in turn jeopardizes the lives of the Somalia people.

Economically, piracy makes Somalia a very dangerous destination. It is discouraging potential over business partnership and investment. It is also reducing port revenues and funds available for Somalia's struggling economy. It also reduces the income of communities dependent on port revenues. And, it contributes to currency inflation as a result of large inflows of foreign currency earned by pirates. The Marine sovereignty of Somalia is also violated as a result of piracy. Now different states are allowed to enter into the Somalia territorial waters freely in the name of combating piracy (ibid).

Though piracy is highly criticized for its negative consequences, some Somalia residents, however, seem to appreciate the act. Accordingly, piracy is creating new business opportunities and jobs, especially in impoverished towns. Once the pirates caught the vessel, local traders supply foods, water and soft drink and other necessities for crews and the pirates until they conclude the ransom negotiation. The construction of new houses seems to also have benefited the local people and business community. In general, piracy activity is boosting Puntland's economy, given its insignificant annual income which is estimated to be \$ 10 million. The mushrooming of piracy dependent industry is therefore creating new economic opportunity for the local people (ibid)

Chapter Four

4. Involvement of the International Community in addressing the crime of Sea Piracy in Somalia

4.1 Introduction

Piracy of the Horn of Africa was a prominent international issue. Turning Somalia from being a failed state to a state welcomed back by the international community is an overwhelming task. The huge humanitarian and political crisis in Somalia and the wide range of consequences and dangers for the international world highlight the need for additional and a more focused attention of the world community.

The serious and wide ranging consequences of Somalia piracy are plenty as we have seen under chapter three. This is particularly the case for vessels containing aid shipments, which require security firms to protect them. Acts of piracy are making the delivery of aid to drought hunger stricken Somalia more difficult and costly. For example, in 2008, the World Food Programme had to suspend food deliveries temporarily because of the threat of piracy, but now several countries have agreed to provide naval escorts.

It is hence mandatory that the international community to effectively confront the issue of piracy in Somalia, whether through measures like naval patrols or through the use of international law. It is obvious that the danger of piracy in Somalia is almost curbed. Therefore this chapter is an account of the many anti-piracy actions off Somalia, initiated by the multiple players in the international arena. Several maritime initiatives of international organizations and countries and other actors will be reviewed in detail. In addition, the regional and international cooperation and coordination mechanisms that play a substantial role in the restoration of Somalia sea piracy will be analyzed. At the end the challenges of Somalia sea piracy and its future condition will be assessed.

4.2 Responses to the Degenerating Security Situation of SomaliaSea Piracy

The security threats posed by growing piracy and sea raiding along the Somalia coast and in the Gulf of Aden have attracted varying responses from various stakeholders. Responses and interventions had come from international organizations, multinational forces, regional networks

and private security organizations. The nature and thrust of some of these responses are discussed briefly below.

4.2.1 International Community Response

Threats emanating from the lack of maritime security will affect all states and, therefore, need an international solution. Especially in Somalia in the absence of strong central government the burden of ensuring maritime security is mainly left for the international community. This, in turn, needs a collective effort from state actors and non-state actors involved in the maritime business, international organizations and the maritime industry.

Accordingly, the UN and other major international organizations such as the International Monetary Bureau (IMB) and the International Maritime Organization (IMO) passed resolutions, protocols and circulars in an effort to prevent and suppress piracy off the coast of Somalia. The IMO issued a firm guidance to deter incidents of piracy. The IMB provides a communication channel for ships under attack to seek assistance from naval forces patrolling the area (Mulugeta, 2011:76).

The UN Security Council also passed a series of resolutions in combating piracy off the Somalia coast. Resolution which was unanimously adopted on 2 June, 2008, gives the right to enter Somalia's territorial water for foreign warships in order to fight piracy for a period of six months, in cooperation with the government of Somalia. The resolution affirmed that the authorization for action applies only with respect to the Somalia exceptional situation and should not be considered as establishing customary international law. It also requires states to coordinate their efforts. The resolution was renewed which extended the mandate for 12 months and gave permission for states to use all necessary means such as deploying naval vessels and military aircraft, as well as seizing and disposing of boats, vessels, arms and related equipment used for piracy. Another resolution calls upon all states interested in the security of maritime activities to take part actively in the fight against piracy on the high seas off the coast of Somalia, in particular by deploying naval vessels and military aircraft. Further resolution calls states combating piracy to conduct operations on land in Somalia for the period of one year (ibid).

As piracy becomes a concern off the Somalia coast, combined task force (CTF-150) received an expanded mandate to combat and deter it. As a result, it established a Maritime

Security Patrol Area (MSPA), in August 2008 to protect ships passing through the Gulf of Aden. A force of coalition Navy warships and aircrafts from the US, United Kingdom, France, Denmark, Pakistan, Canada, Germany and Spain have been patrolling the MSPA. Pirates caught by CTF-150 and other states' naval forces were taken to court in Kenya and Yemen. In November 2008, a seven year prison sentence was passed by the Kenyan court on 10 Somalia pirates. Some other states like France and Denmark, however, choose to hold their own piracy related trials (ibid).

At the regional level, more recently, a sequence of meetings was initiated to promote regional action addressing piracy and armed robbery against ships in the wider context of maritime security. The first of these meetings was held in Yemen for states in the Red Sea and the Gulf of Aden areas. The combined antipiracy action is having a positive effect. It helped to deter an increasing number of pirate attacks. However, pirates still have targeted several vessels in the region, including vessels transiting within the MSPA. Therefore those and other supplementary points taken so as to trickle down the danger of Somalia sea piracy accomplished by different organizations will be discussed in detail below in this section.

International efforts to suppress piracy in the region have generally taken the form of supplying naval forces to detect and prohibit pirate attacks. However, the long term suppression of piracy in the region requires that governments take over responsibility for securing their own coastline and suppressing pirate activity in their territorial waters. Noting the dramatic reduction in pirate activity in Southeast Asia following the conclusion of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships (ReCAAP), governments in the region have begun to implement a similar system for coordinating anti-piracy efforts. However, the East Africa in general Somalia in particular that would be parties to such an agreement do not have the capacity to commensurate with the scope of the Somalia pirate threat. This Part will examine the effectiveness of international security fleets for the increased local involvement in the suppression and prosecution of piracy.

There were a number of international navies dedicated to combating piracy in the region. In January 2009, the United States Naval Forces Central Command established Combined Task Force 151 (CTF 151) to conduct anti-piracy missions off the Somalia coast. North Atlantic Treaty Organization (NATO) has also deployed fleets to the region to conduct anti-piracy

operations. Operation Allied Provider was launched in October 2008 to provide security for World Food Program deliveries of food aid to Mogadishu.

These multinational fleets have engaged in a number of distinct anti-piracy missions. For example, CTF-151 has established a Maritime Security Patrol Area, a stretch of ocean in the Gulf of Aden patrolled by coalition warships. Although a useful service, this provides protection only in a small area. This idea might be extended by creating escorted convoys of merchant ships, but given the high volume of commercial traffic through the region, such a system may prove too costly to administer. Attempting to sanction against pirate attacks on the high seas is ineffective and inefficient solution. Because there is no central government to make and implement the embargo. There are also significant legal concerns inherent in the suppression of piracy in East Africa by foreign states. Acts of piracy have long been held subject to universal jurisdiction. However, while international law provides a definition for piracy and provides states authority to control and seek pirates, the substantive aspects of prosecutions for piracy are generally conducted under the local law of the capturing state (Tennis, 2011).

4.2.2 The International Sea Organization

Somalia located in the horn of Africa sits along one of the world's busiest waterways. Over 21,000 ships use the Gulf of Aden to cross from the Mediterranean Sea to the Indian Ocean each year via the Suez Canal and Red Sea, and nearly 11% of the world's sea borne petroleum passes through this region as well. Only up to 32.1 km wide in some places, the Gulf of Aden has proven to be a perfect place to waylay cargo ships transporting valuable goods for the Somalia pirates, and this waterway has earned the nickname Pirate Alley. Under this area a lot of organizations participated and played their own role in curbing the danger of Somalia piracy. Accordingly the contribution of those organizations that had been engaged to handle the issue will be described below.

4.3 Actions Taken by the United Nations

Part VII of the Law of the Sea Convention deals with issues of piracy on the high seas. Article 100 states that repression of piracy is a collective duty for every state, even in their non-

jurisdictional waters. Article 105 states that any military vessel has the right to seize a pirate ship and its property on board, arrest the crew, and put them on trial under their national jurisdiction, as long as such a seizure takes place on the high seas or in any waters outside the jurisdiction of that particular state.

Therefore, when piracy occurs in the territorial waters of a particular state, pirates are subject to that state's jurisdiction and capacity to prosecute. The narrow scope of the Law of the Sea Convention's piracy provisions severely limits the availability of international law to deal with piracy in places such as Somalia.

For instance in September 2012, a Danish warship captured 10 men suspected of being pirates cruising around the Gulf of Aden with rocket propelled grenades and a long ladder. But after holding the suspects for nearly a week, the Danes concluded that they did not have jurisdiction to prosecute, so they disembark the pirates on a beach, minus their guns. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, relating to mutual legal assistance, assistance in prosecution and extradition, matters not addressed in the law of the sea.

The Security Council restates its condemnation of all acts of piracy and armed robbery against vessels in Somalia territorial waters and on the high seas off the coast of Somalia. It also called upon organizations to cooperate with the shipping industry and the IMO, and to operate consistently with the resolution and relevant international law by deploying naval vessels and military aircraft, and through seizure and disposition of boats, vessels, arms and other related equipment used in the commission of piracy and armed robbery off the coast of Somalia.

Similarly, Resolution 1851, adopted on December 16, 2008, invited states to make special agreements with other nations in the region to facilitate prosecution of pirates. It also encouraged the creation of an international cooperation system and a center for the sharing of information. It further held that for twelve months following the adoption of Resolution 1846, states and regional organizations cooperating in the fight against piracy and armed robbery at sea off the coast of Somalia for which advance notification has been provided by the TFG to the Secretary General may undertake all necessary measures that are appropriate in Somalia, for the

purpose of suppressing acts of piracy and armed robbery at sea, pursuant to the request of the TFG.

These measures, however, must be undertaken in a manner consistent with applicable international humanitarian and human rights law. These resolutions were adopted after suggestions arose that hijackers could escape the Law of the Sea Convention's definition of pirates provide a legal basis to effect the rapid transit ashore of pirates captured at sea where both the flag State and the receiving State are States Parties to SUA. The receiving State Party to SUA is required to make an immediate inquiry into the facts, and to notify other State Parties that might have jurisdiction as to whether it intends to exercise its jurisdiction. The receiving State Party is required to extradite such offenders to another State Party with jurisdiction or to submit the case to its competent authorities for the purpose of prosecution (Ranee, 2010).

4.3.1 The Security Council

The Security Council has played an active role in fighting Somalia piracy. It is the main source for international legislation and it has been the main spur for other actors to assume an active role in fighting piracy. The Security Council has been relevant in clarifying and reminding states of the rights and obligations under International Law that pertain to every state in fighting piracy.

A series of resolutions have been dedicated to tackling Somalia piracy apart from Somalia's ongoing situation. The first resolution in 2008 dates from June; resolution 1816 recalled the provisions of the UNCLOS and urged, under paragraph 2, every battleship present in the region to take up responsibility in this regard, allowing every state in cooperation with the TFG to enter Somalia's waters. This resolution authorized states to act in cooperation with and with prior notification of the TFG to:

(a) Enter the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea, in a manner consistent with such action permitted on the high seas with respect to piracy under relevant international law; and

(b) Use, within the territorial waters of Somalia, in a manner consistent with action permitted on the high seas with respect to piracy under relevant international law, all necessary means to repress acts of piracy and armed robbery.

This was a proactive stance in fighting piracy. For the first time, a state warship can suppress acts of piracy and armed robbery not only on the international waters, but also in the territorial waters of Somalia. This only requires the permission of the Somalia Transitional Federal Government (TFG) and its notification of the UN Secretary General. The absence of effective coast guards, police, and efficient judicial system in Somalia encouraged the Security Council to adopt such unprecedented resolution acting under Chapter VII of the Charter of the United Nations. This resolution was passed with Somalia's consent.

However, this resolution is contrary to states obligations under the UN Convention on the Law of the Sea and High Seas Convention. That is why the resolution affirms that the authorization to enter the territorial water of a state applies only with respect to Somalia and shall not affect the right or obligations, or responsibilities of member states under international law and shall not be considered as establishing customary international law. Thus, the authorization was exceptional to the case of Somalia.

The latest Security Council Resolution concerning Somalia piracy was adopted in November 2009, renewing the authorization of states to enter Somalia territorial waters to fight piracy and armed robbery against ships with the permission of the TFG and the notification of the UN General Secretary. The authorization was renewed for another twelve months.

In the final analysis, the long series of resolutions adopted by the Security Council has focused in three levels;

The first is to develop a coordinated response among countries engaged in fighting piracy in Somalia. The UN succeeded in this respect with the formation of the Contact Group on Piracy off the Coast of Somalia (CGPCS).

The second is to encourage states to assist TFG to bring justice to pirates operating in their land.

The third is to support International Maritime Bureau (IMB) to continue to develop and implement avoidance, evasion, and defensive best practices and guidelines to follow when under attack or sailing in waters of the Coast of Somalia with coordination with shipping and insurance industries (W. Michael, 2011)

This implies that the Security Council becomes active in approving mandates adapting the legislation to changing circumstances, supporting and urging the implication of willing states, with the goal of putting an end to the curse of piracy in the Horn of Africa. Its resolutions represent an important legal base for the states that have been establishing new mechanisms or have been upgrading their presence in the region.

4.4 Response of International Organizations

4.4.1 Combined Task Force 150 (CTF 150)

Somalia pirates attracted the biggest modern anti-piracy military operation, given the number of the countries taking part and the size of naval presence dedicated to counter Somalia pirates. In this regard, there are three coalitions of naval forces have been deployed on the Gulf of Aden operating under different umbrellas but unified on one goal to stop and deter Somalia pirate attacks. Besides, individual countries unilaterally sent their warships to protect vessels carrying their flags passing off Somalia waters. Thus, the area of the Gulf of Aden and surrounding Somalia waters experiencing extraordinary military presence.

Before the establishment of CTF-151, this area was under the charge of CTF-150 which has performed counter terrorism and maritime security operations since 2001. In August 2008, CTF-150 and partner forces established the Maritime Security Patrol Area (MSPA) in the Gulf of Aden to serve as a dedicated, more secure transit zone for merchant vessels. MSPA was effective in reducing Somalia pirates' attacks in the Gulf of Aden transit zone.

Currently Combined Task Force (CTF 150) conducts maritime security operations in the Gulf of Aden, Gulf of Oman, the Arabian Sea, Strait of Hormuz, Red Sea and the Indian Ocean. By the end of 2007 CTF 150 comprise of naval forces from Canada, France, Germany, Italy, Pakistan, the United Kingdom and the United States, while nations that have participated include Australia, Italy, Netherlands, New Zealand, Portugal, Spain, Turkey, Bahrain and Saudi Arabia.

CTF 150 was established in 2001 as the maritime adjunct of Operations enduring freedom, launched by the United States in response to the 9/11 attacks. Its key responsibilities are to monitor, inspect, board and stop suspect shipping, limit maritime crime and piracy and conduct operations to assist states in the region to combat terrorism and to enhance regional stability. According the official sources, CTF 150 will maintain a sustainable presence off the Horn of Africa for an indefinite period of time.

The involvement of European states in CTF 150 relates to their responsibilities within NATO and the EU. These countries are unlikely to get involved in Africa unilaterally and are usually careful to first consult with the AU and African nations. Although some of these navies (like the German Navy) are stretched for alternatives due to their involvement in other regions, like the Middle East, they will probably remain a part of CTF 150. A factor that limits CTF 150 is restrictions posed by international law and it would interesting to see if other countries will follow the French initiative to escort WFP ships between Mombassa to Mogadishu.

CTF 150 is without doubt an important role player in the Horn of Africa region. Through its forward presence it deters upright activity at sea, enhance the security of maritime communications, while also safeguarding energy installations and harbors in its area of operations. No single state has the capacity to conduct such extensive operations on its own, which makes the requirement for permanent coalitions force (Ahmed, 2011).

4.4.2 NATO in combating the piracy off the coast of Somalia

NATO and the EU have been the most active actors to limit or suppress piracy in the Gulf of Aden. NATO started as soon as in October 2008 to provide escorts to the food deliveries of the WFP due for hunger stricken Somalian people. As the report of Chatham House pointed out, the danger of humanitarian catastrophe is one of the biggest concerns with piracy. According to the WFP, disruption of supplies caused by piracy could starve 2 million people. Therefore, NATO destined four frigates from Italy, Greece, Turkey and the UK, part of the Standing NATO Maritime Group, upon the request of the UN. The request was prompted by the need to provide security for deliveries before the EU could set up its projected naval force (Ahmed, 2011).

In addition to Combined Task Force 151, NATO deployed its own anti-piracy operation. In October 2008, the North Atlantic Treaty Organization (NATO) deployed its first

anti-piracy operation, named Operation Allied Provider, to serve as a temporary protection force for World Food Program assistance shipments in the Horn of Africa (ibid).

This operation only lasted for two months, before NATO end it and reassigned the task of protecting WFP maritime cargos to the European Union's new naval operation. In March 2009, NATO initiated a new anti-piracy mission named Operation Allied Protector under the command of Standing NATO Maritime Group. The mission was to deter, defend against and disrupt pirate activities. In August 2009, NATO replaced Operation Allied Protector with a new antipiracy mission, named Operation Ocean Shield, under the command of Standing NATO Maritime Group. The new mission of Operation Ocean Shield is to fight piracy and contribute in capacity building efforts with regional governments. Warships from United Kingdom, Greece, Italy, Turkey, and US are taking part in Operation Ocean Shield.

4.4.3 Operation Atlanta

Far bigger effort is the naval force set up by the EU (EU NAVFOR) under the name of Operation Atlanta. The operation was set up in two steps. First an antipiracy coordinating cell (EU NAVCO) was set up on September 15th through the Council Joint Action with the goal of exchanging information and coordinating antipiracy naval operations; the initiative came from a meeting between the two ministers of defense of France and Spain in August. Second the EU NAVCO was disbanded as soon as the decision to establish the naval force was taken on the 8th of December (Ahmed, 2011).

The mission of the force was already stated in the Joint Action approved on November 10th as consisting of:

- (a) Accompanying ships mandated by the WFP to deliver food to Somalia,
- (b) Protecting the passage of merchant ships cruising through the area,
- (c) Keeping watch over areas off the Somalia coast and
- (d) Deterring and preventing acts of piracy off the coast of Somalia.

4.4.4 International Maritime Bureau (IMB)

Another international body that performs a vital mission in the region is the International Maritime Bureau (IMB), an organ belonging to the International Chamber of Commerce (ICC) and based in Kuala Lumpur. This body manages a Piracy Reporting Center and releases key reports accounting for the trends and incidents happening all through the year, very valuable information for analysts and shipping companies operating in hot areas. The Organization was established in Geneva in 1949 and has its office operating in London. Apart from its responsibilities regarding legislation and other matters concerning maritime traffic, the IMO also handles the problem of piracy (Ahmed, 2011).

The objective of the IMB is to protect international trade from crime, fraud and malpractice. The IMB Piracy Reporting Centre commenced in 1992. The Centre is based in Kuala Lumpur and refers reports of piracy attacks to law enforcement agencies and issues warnings to shipping on areas of high risk of piracy. For IMB reporting purposes, it has been determined that the meaning of piracy as defined in the Convention is not sufficient for the industry which includes insurers and insured parties.

There are difficulties in States taking proceedings to prosecute the pirates they capture. Prosecutions are costly and difficult to mount logistically. There have been several trials in the United States, one in Holland and a number in Kenya, a neighboring State to Somalia, and there is concern that the prosecutions are only picking up foot soldiers and not the organizers and principal beneficiaries on shore. It is recognized that to reduce the incidence of piracy in the Gulf of Aden a principal task for the international community was rebuilding of the collapsed Somalia society (ibid).

4.4.5 International Maritime Organization (IMO)

The International Maritime Organization (IMO) is an agency of the United Nations Organization with the responsibility for the safety and security of shipping. It is the vehicle through which nations arrange consultations leading to treaties in this area. Examples of the work of the IMO are the Convention for the Safety of Life at Sea 1974, Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation 1988, and the ISPS

Code (International Ship and Port Facilities Security Code 2002). IMO has not been required to take further steps with regard to piracy than is provided for in the Law of the Sea Convention, but it has undertaken initiatives aimed at fostering agreements between governments in piracy infested areas and a range of measures to counteract piracy (Ahmed, 2011).

Since the degeneration of sea security in the Somalia waters, the International maritime Organization (IMO) has lead the way in pushing the crime of piracy for addressing the security challenges at international fora. The IMO is an autonomous body, operating within the UN network, whose main function is to regulate commercial shipping and tackle marine pollution. In line with its remit, the body has intensified efforts to bring the threats posed by growing piracy in Somalia waters to the attention of both the TFG in Somalia and the United Nations Security Council (UNSC) since 2005.

4.5 EU in combating the piracy off the coast of Somalia

The EU was involved in dealing with the crime of piracy because of its potential negative impacts on regional and international security. Somalia was a case in point that has become more prominent on the political agenda since the raise of piracy off the coast of Somalia. While the EU is currently trying to forge a comprehensive approach in its Somalia policy it started with a piecemeal course of action. Following the collapse of Somalia state structures in the early 1990s, the EU initially resumed its engagement solely in the area of humanitarian aid. The other two focal points of EU engagement have been development cooperation and political dialogue (European Action External Action Service 2011).

The European Union launched its first naval operation, EUNAVFOR Somalia Operation Atlanta, under the framework of the European Security and Defense Policy (ESDP). Operation ATALANTA's mission is to: provide protection for vessels chartered by the WFP; provide protection for merchant vessels; employ the necessary measures, including the use of force, to deter, prevent and intervene in order to bring to an end acts of piracy and armed robbery which may be committed in the areas where they are present.

The main EU countries taking part in the operation were: Netherlands, Spain, Germany, France, Greece, Italy, Sweden, Belgium and Luxembourg. Non-EU countries which have joined the operation are: Norway, Croatia and Montenegro. The running costs of the

Atlanta Operation amount to EUR 8.3 million for the first year shared between EU member states. Under Operation Atlanta, military personnel can arrest, detain, and transfer suspects who may be prosecuted by an EU member state or by Kenya, under an agreement signed on March 2009, with the EU and Kenyan authorities, or to Seychelles. In the period of August 2009 to January 2010, the number of WFP vessels escorted by Atlanta reached 57 plus 20 escorts for AMISOM (ibid).

According to the EU, its naval force in the Horn of Africa is a part of a global action initiative conducted by the EU to tackle the Somalia crisis with its political, security and humanitarian dimensions. EU ,in addition, supports the African Union military mission in Somalia (AMISOM) financially, in terms of planning, and capacity building to increase the efficiency of the Somalia police force. On the other hand, the Joint Strategy Research for Somalia for 2008-2013 provides an allocation of EUR 215 million under the EC's 10th European Development Fund (EDF). Further, On 22 and 23 April 2009, the International Conference in support of the Somalia Security Institutions and the AMISOM was held in Brussels, organized by the UN, the EU and the African Union. Almost USD 213 million was pledged to help the Somalia Transitional Federal Government bring about peace and stability (ibid).

This implies that EU became a major donor in the field of development assistance: the aid budget of 215 million Euros originally planned for 2008 to 2013 was augmented by 175 million in August 2011. Key areas have been governance and security, education, economic development and food security. The EU has also become a firm supporter of peace initiatives held under the auspices of IGAD. This process finally led to the establishment of Somalia's Transitional Federal Institutions (TFI), including a Federal Transitional Charter, the Transitional Federal Government (TFG) and a Transitional Parliament. Since then the TFI have been the official representatives of the Somalia state in the international arena, despite the fact that they have hardly resided within the country, have never controlled it and were repeatedly accused of massive fraud and corruption, as well as the fact that parts of the country have either claimed their independence or autonomy within the state of Somalia (European Commission 2011).

From 2004 onwards, the future of Somalia statehood was further negotiated in international conferences with the ultimate aim of ending the transitional period. This was finally achieved in August 2012 when, in an initial stage, a new constitution was drafted and accepted

by a National Constituent Assembly as envisaged by the EU and UN sponsored Roadmap for the End of Transition in Somalia in September 2011. In the second stage, a new parliament was appointed by a group of traditional Somalia Elders; advised by a Technical Selection Committee, which then elected a speaker and a president. In addition to ending the violent conflicts in diverse parts of the country, particularly in south-central Somalia, the next steps will then be to set up permanent democratic structures, resolve the status of the various regions and adopt the provisional constitution in a national referendum (Ehrhart and Petretto, 2012).

EU policies towards Somalia have become closer since 2007 as a result of several components: the provision of security onshore, including the rebuilding of the Somalia security sector, and the countering of pirates' activities. With regard to the first component, major support has been provided for AMISOM. Its primary task is to assist the TFI in facilitating the provision of humanitarian assistance and in creating conditions for reconstruction, reconciliation and the sustainable development of Somalia (European Commission, 2012).

Moreover, the EU has put some effort into enhancing security in the country via the European Union Training Mission (EUTM) for Somalia, which was established in 2010, in Uganda. The objective of this military mission is to contribute to the reform of the Somali security sector by providing training for several thousand recruits to be integrated into the Somalia National Security Force and by funding them and paying their salaries. The entire undertaking is being executed in close coordination with the UN, AMISOM, Uganda and the US (ibid).

The maritime component was set up in 2008, when the increasing challenge of piracy off the Somalia coast affected upon the EU's agenda. The Council therefore decided to launch its first military naval mission, EU Naval Force Somalia Operation Atalanta (EUNAVFOR). EUNAVFOR's mandate is based on the direct request by the TFG for the international community's support in tackling the problem of piracy. Accordingly, the mission works towards four objectives: the protection of vessels from the World Food Programme (WFP) delivering food aid to Somalia and the protection of AMISOM shipping; the protection of vulnerable vessels cruising off the Somalia coast; the deterrence, prevention and repression of acts of piracy and armed robbers; and the monitoring of fishing activities off the coast of Somalia (European Union 2012).

The operation's overall political objective is to improve maritime security in the region, while its politico military objective is to deter piracy and to strengthen the security of main maritime routes. Via the Instrument for Stability, the EU has also focused on improving the regional response towards piracy by means of its Critical Maritimes Routes Programme. Finally, the EU initiated the mission "Regional Maritime Capacity Building for the Horn of Africa and the Western Indian Ocean" (EUCAP NESTOR) in 2012: this civilian operation is a regional training mission which is also aimed at strengthening the maritime capacities of selected countries in the region including Somalia (ibid).

The EU's comprehensive approach to Somalia and the piracy issue is still a work in progress with mixed results so far. On the one hand, there has never been such a high degree of inclusion and coordination embracing state and non-state, sovereign and private, and civilian and military actors as in the fight against Somalia piracy. On the other, the scourge of piracy is still a reality. The objective of protecting WFP and AMISOM shipping has been successful because none of these vessels has been hijacked since 2008. With regard to the task of protecting other vulnerable vessels, the establishment of the IRTC has led to a significant reduction in attacks within the Gulf of Aden but also to the ballooning of piracy in the Indian Ocean; moreover, the success rate of Somalia pirates in general has been reduced considerably, especially in 2012, after years of raising attacks the years before. For instance, the number of hijackings in the Gulf of Aden decreased from 31 to 4 so far (ICC-IMB 2013).

Nevertheless, given that 57 attacks off the coast of Somalia were reported between January and September 2012, it can be stated that the objective of the deterrence, prevention and repression of acts of piracy has been achieved only partially so far. A crucial reason for this is the insufficient land based support dealing with the structural causes of the phenomenon. Another one is the fact that large numbers of suspected pirates arrested by naval forces have to be released immediately due to the lack of capacities for prosecution, and the unwillingness of many states to prosecute pirates in their own courts (UNSC, 2012).

4.6 Unilateral Actions undertaken by States

As far as the individual states in the region is concerned, they should ideally enhance their capacity to limit maritime threats and build out their capabilities on the levels of law

enforcement, customs, fisheries and navies to make it possible to enforce sovereignty in their ports, territorial waters and economic exclusion zones.

Yemen is an important role player in the Gulf of Aden and has been affected by the crisis in Somalia. Many thousands of Somalia refugees have fled to Yemen, while tension exists between Yemen and representatives of Somalia and Somaliland (mainly due to allegations related to illegal fishing, piracy and smuggling). The Yemeni Coast Guard is active in a policing role at sea, and it is expanding slowly, but lacks proper equipment. In general Yemeni authorities have done much to improve port security in Aden.

Notable response to the growing piracy problem is the move by states in the region, and in cooperation with the IMO, to establish a regional center for combating piracy in the Gulf of Aden and Arabian Sea, to be located at Sana'a in Yemen. Apart from the Sana'a center, two other centers established, in Tanzania and Kenya.

Consequently, a high profile meeting of states from the western Indian Ocean, Gulf of Aden and Red Sea areas, held in Djibouti on January 2009, adopted a code of conduct dealing with the repression of piracy and armed robbery of ships in the western Indian Ocean and the Gulf of Aden. The meeting was attended by representatives of the maritime and port authorities of Comoros, Djibouti, Egypt, Eritrea, Ethiopia, France, Jordan, Kenya, Madagascar, Maldives, Mauritius, Mozambique, Oman, Saudi Arabia, Seychelles, Somalia, South Africa, Sudan, the United Arab Emirates, Tanzania and Yemen as well as other IMO member states. The adoption of the code of conduct was undoubtedly a starting point for successful anti-piracy cooperation and coordination in the region.

The proposed regional antipiracy centers operate in a similar fashion to the Regional Cooperation Agreement on Combating Piracy and Armed Robbery. They contribute to the suppression of piracy through regional cooperation by means of information exchange, joint patrolling and capacity building for navies of the coastal states (John Gibson, 2009).

4.7 Regional Measures

Paralleled to international efforts to suppress Somalia pirates, regional efforts were also taken. There are many regional efforts such as Arab League conference on Somalia

pirates. However, Djibouti Code of Conduct was the most important regional mechanism because it contains new measures and rules of engagement to counter Somalia pirates. Also, Djibouti Code of Conduct was sponsored by key international and regional organization and contains practical steps tackling Somalia piracy. Therefore, this part focus on Djibouti code of conduct as unique regional anti-piracy effort against Somalia pirates (ibid).

4.7.1 The Djibouti Code of Conduct

The International Maritime Organization (IMO) launched a successful international anti-piracy program in the late of 1990s which successfully engaged regional countries on multilateral basis to improve anti-piracy cooperation. This program succeeded in suppressing piracy in the Strait of Malacca and other regions in Asia.

With the emergence of piracy in the Gulf of Aden, the IMO has attempted to adopt the same cooperative mechanisms against piracy in the Horn of Africa. In 2005, the IMO began sponsoring consultation meetings on piracy in the Horn of Africa region, which developed into a draft of a cooperative framework agreement in early 2008. In January 2009, representatives of seventeen regional governments met at an IMO-sponsored meeting in Djibouti and adopted a Code of Conduct concerning the Repression of Piracy and Armed Robbery against Ships in the western Indian Ocean and the Gulf of Aden. By the end of January 2009, nine regional governments had signed the Code of Conduct, which remains open for signature by other parties (Essam, 2010)

The agreement established procedures for coordinating responses to piracy and sharing best practices among law enforcement and security personnel. Accordingly, three regional facilities the Maritime Rescue Coordination Centre in Mombasa, Kenya, the Sub-Regional Coordination Centre in Dar el Salaam, Tanzania, and a regional maritime information center that is to be established in Sana'a, Yemen are planned to support the information sharing components of the agreement. The parties also agreed to resolutions on technical cooperation and the establishment of a regional training center in Djibouti. In September 2009, Japan made a contribution of \$14 million in support for the IMO's Djibouti Code-related training and capacity building operations (ibid).

The importance of the Djibouti Code comes from addressing local concerns over sovereignty, territorial water rights, and the presence of foreign military forces in regional waters. It was a proactive initiative to engage regional countries in the international anti-piracy measures taking place off the coast of Somalia (ibid).

4.8 Somalia's Reactions to Piracy

While Somalia initially lauded the actions of the young men who challenged the large foreign vessels and fought against the pollution and over fishing of their oceans, it does appear that this enthusiasm has been dulled and muted by the realization that their country was internationally considered a failed state.

For a proud people from an ancient land with rich traditions and a vibrant culture, this realization must be like a bitter medicine to swallow. The pirates themselves were clearly not motivated solely by patriotic or environmentally protective impulses, or are groups of pirates composed mainly of angry fishermen, eager to save their way of life.

The huge ransoms collected have dynamically changed perceptions and reality in a number of ways. The monetary rewards of piracy have possibly corrupted and diluted the original motivation and, although pirates repeat their environmental justifications to any journalist willing to hear them, it is also true that the ransom money has not been generally utilized to improve conditions within Somalia. The unprecedented growth in Eyl city of the country which benefits more from the earnings of Somalia piracy cannot be deemed a serious boost for the overall Somalia economy.

Being in the immediate vicinity of the pirate havens, Somalia have realized that piracy has imperiled their country in a way they could not have imagined a few years ago. Easy and quick ransom money has drawn significant numbers of professional gangsters and former militiamen, whose activities cannot be considered motivated by good intentions. Because shipping company owners paid up vast ransoms without protest; they created a situation that was almost irresistible for criminal elements around the world.

The Deputy Director of Somalia's National Security Agency, Nur Mohamed Mohamoud, alleged that powerful criminal businessmen consider piracy a new business area and wants to participate and share in the profits.

Although the Somalia problem may not produce that drastic a consequence, there is the potential for considerable damage to the peaceful flow of trade across the world. Another reason why there is growing disenchantment within Somalia about piracy relates to the realization that as this type of activity continues and proliferates, the country itself could be doomed to a future of endless violence and anarchy.

Somalia has been urged to condemn piracy, even if it is well-intentioned, because it is the official authorities not individuals who should be implementing the law concerning illegal fishing activities or waste dumping. Despite this, the president of Puntland, Abdurahman Mohammed Farole, sought international help for an anti-piracy task force and denied any linkage between his officials and the pirates. In an apparent show of good faith the Puntland forces in May 2009 arrested some pirates and demonstrated that dozens of others had already been sentenced.

Somalia, being on the spot, has more detailed knowledge of the identities of the pirates and therefore has insisted on their right to deal with the problem, seeking only logistical support from the outside world. They are quite possibly right. A foreign naval crew would have no way of distinguishing between legitimate Somalia fishermen and criminally inclined pirate boats. Until they actually attempt to board a ship, pirates look and must legally be perceived as just civilian men in a boat.

4.9 Challenges and Weaknesses in the Somalia approach to Combating Piracy

Somalia basically lacks a functioning state apparatus capable of tackling the problem off its coast. However, in an article for the Konrad-Adenauer-Stiftung on the issue of maritime security, Marius Kahl suggests that there are local Somalia structures in place that international and regional anti-piracy forces could build upon.

The Puntland Coastguard stationed in northern Somalia has existed for some time now and supports the international maritime forces from the self-declared autonomous region of

Puntland. Although these troops should in theory form a part of Somalia's response to the pirates, the UN Security Council admits that this coastguard, set up in the year 2000 with the help of a British security firm and with an estimated 300 employees, may be somehow connected to the pirate network. If this is true, then it is not clear whether the coastguard is actually working for or against the pirates. Stirlé Hansen, an expert on Norwegian maritime affairs, talks of corrupt Puntland authorities, who have apparently accepted bribes from Puntland's own pirates, is one of the indicators of weakness in combating piracy (ibid).

The Somalia Transitional Federal Government (TFG) under Sheikh Sharif Ahmad is seen as a supporter, if not initiator, of the international efforts to combat piracy, even though the interests of local fishermen in relation to illegal fishing and environmental pollution are also part of the agenda. However, the TFG itself is also reliant on military support from the African Union Mission (AMISOM) in the capital Mogadishu and is hardly in a position to conduct a campaign on the high seas. According to a report by the news agency Al Jazeera, AMISOM troops have also recently been caught in the crossfire from Al Shabaab (ibid).

The well-known Somalia expert Ken Menkhaus also makes the point that a state Somalia coastguard based in Mogadishu was particularly helpful in combating piracy, because of the distance to the actual problem areas.

In addition to making accusations against the government in Puntland, critics also suggest that there may be cooperation between functionaries within the Somalia Transitional Federal Government and individual pirate groups. While regions such as Puntland and southern Somalia seem mostly unable to deal with the pirate problem, the Somaliland region appears to be something of an exception. Despite having a stretch of coastline that is similar in length to that of neighboring Puntland, this northern stretch of land appears to be free of pirate strongholds. Regional and international powers take the efforts and successes of the Somaliland government into account when planning their anti-piracy measures.

At the most basic level, piracy in East Africa is the result of the weakness of the Somalia and other regional governments and the absence of other significant economic opportunities. Improved cooperation and coordination are empty promises unless regional governments are able to effectively police their own territorial waters. Though Yemen has been

able to contribute a number of vessels to Coalition navies, the fact that Yemen remains the principal supplier of illegal arms to Somalia suggests that the Yemeni navy will be unable to meaningfully deter pirate activity without international support. More critically, the Somalia government and private actors have met with little success in establishing a maritime security force in the region.

An internationally supported force may prove more successful. No such program has been officially implemented to date, though on July 28, 2009, the European Union announced its intention to train a local Somalia anti-piracy force. It was also crucial that local governments take a leading role in the prosecution of pirates captured either by regional security forces or international fleets. To that end, Kenya had signed agreements with both the European Union and United States in early 2009 to receive pirates captured in East African waters (ibid).

Furthermore, the Djibouti Code of Conduct calls on signatories to ensure that local law provides an avenue for prosecuting suspected pirates. However, the sheer scale of the piracy problem in the region may overwhelm the local justice systems' financial and legal capabilities: the commander of CTF-151 recently reported that over one hundred pirates had been turned over to governments for prosecution since the force's inception. This suggests that international legal and financial assistance be necessary to strengthen local jurisdictions' prosecutorial capacity as well (ibid).

4.10 Difficulties of pirate prosecution Enforcement

Common difficulties are associated with the enforcement of international law in regards to piracy. Firstly, prosecuting pirates is a challenging task because pirate attacks occur outside the territorial waters of any state. The enforcement jurisdiction granted to all states to pursue pirate ships in international waters does not extend to the territorial sea of any state. In traditional cases of hot pursuit, pursuit must cease as soon as the ship pursued enters the territorial sea of its own flag state or a third state. Pirates' ability to escape pursuit by crossing into territorial waters remains a serious challenge to efforts to suppress piracy.

Prosecuting pirates was also a serious problem that pirates tend to seek a sanctuary in countries whose judicial system is ill equipped to prosecute them. Pirates seek refuge on remote

islands or in countries with weak governments. Most developing countries overlooking the sea are not well equipped to protect their waters which require well stationed naval forces with sufficient technical support. Therefore, rogue states waters are loosely governed. Consequently, the High Seas Convention and UNCLS lack enforcement in such instances. Actually, the UNCLS desperately calls on developed countries to provide assistance to developing countries in protecting their waters. However, those calls are met with silence. Thus, prosecuting pirates in such circumstances is a real challenge.

Another problem in prosecuting pirates is the absence of national legislation criminalizing piracy in most countries. Indeed, very few countries have ratified laws attacking the problem. Despite the fact that piracy is an internationally recognized crime, states' national legislation is a step behind. Internal laws do not fully incorporate the crime of piracy. Since there are no international tribunals for pirates, they are placed on trial in front of a national court. The absence of national laws on piracy constrains local courts' ability to prosecute pirates. Even countries which have legal grounds to prosecute pirates are not always keen and willing to do so (Ahmed, 2011:121).

The lack of evidence is another serious challenge in prosecuting pirates. Pirates tend to drop their weapons on the sea before their arrest which frustrate possible legal actions taken against them. Witnesses, on the other hand, are on the move and very reluctant to engage in a long journey of prosecution and subsequent trials. Another common problem of enforcement arises when piracy, although illegal, was sometimes socially accepted practice with a community. Indeed, piracy is an accepted aspect of the culture in Southeast Asia and Africa and other parts of the world. In this regard, piracy is a source of supplemental income and means of survival. Therefore, it was extremely difficult to prosecute an entire community. And individual arrest of pirates is of then pointless.

4.11 Challenges to Anti-Piracy Actions

There are significant obstacles to using international law to address the problem of Somalia piracy. The transitional federal government of Somalia lacks the means 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 recent increase in piracy in the Horn of Africa.

Furthermore, although the Security Council resolutions authorize the pursuit of pirates into Somalia waters, most nations have been reluctant to take pirates into custody for prosecution in their own domestic courts.

The NATO and EU anti-piracy undertakings also face serious challenges, including the coordination of anti-pirate activities among many different states and international organizations. In addition, very large and sophisticated naval vessels were not designed to engage small pirate vessels, and are therefore of limited use. The success of anti-piracy operations depends on such factors as the proximity of pirate vessels to target ships and the availability of military resources such as helicopters.

Military personnel are also reluctant to intervene in situations where vessels have already been boarded and are under the control of pirates due to serious and complicated safety concerns, especially for the hostages. Therefore, it is readily apparent that institutional, legal, and practical realities severely hamper efforts to effectively deal with maritime piracy in this region, and indeed, in other areas of the world. The net effect of these realities serves to sustain piracy activities at best, and at worst, likely encourages the continuation and expansion of these illegal acts.

4.12 Challenges of Maritime Security Governance

The problem of Somalia piracy has led to a fundamental re-evaluation of the importance of maritime security for the African continent, and indeed there is a strong international consensus to act and support regional actors to tackle maritime security challenges. In this sense, piracy has opened a window of opportunity to reorganize maritime security governance and build sustainable institutions.

According Murphy with the decline of Somalia piracy there is however also the risk that the momentum could get lost soon and that the window of opportunity closes. Starting in 2005 the year that Somalia piracy started to gain international attention a significant number of African institutional processes have started to address maritime security challenges.

Firstly, an impressive range of new meeting formats and forums to discuss issues of maritime security have been established. This includes the Sea Power for Africa Symposium (SPAS), the East Africa and Southwest Indian Ocean Maritime Security Conference (EASWIO), the Indian Ocean Naval Symposium (IONS) as well as a number of other conferences and expositions. Fora such as these provide important venues for coordination and planning maritime security strategies and their implementation.

Secondly, a number of information sharing platforms provide systems of surveillance and data collection on maritime movements as well analytical capacities. Such infrastructures include the data collection.

Thirdly, part of these processes is also to work towards the integration of international law, that is the basic provisions of UNCLOS, but also conventions such as SUA or the ISPS code, in national legal systems and to work towards compliance.

Fourthly, the regional strategies include also plans for joint procurements. This will centrally entail coast guarding equipment as well as naval military assets.

Many of these processes are however in an early stage, they are recent constructions or have not left the planning table yet. Ensuring that the existing processes are maintained constitutes a first challenge, notably in the light that international support will drop, with, for instance IMO support.

As Leijenaar highlights improving maritime security will not only entail major investments, but also significant coordination challenges on a national, transnational and international level. Functional coordination between specialized agencies, such as ministries of transport, of tourism, of fisheries, of interior, or of defense, police and intelligence services, coast guards and navies will be necessary. The political as well as functional level will have to be coordinated, since investments will be required and political support is needed.

What is required is nothing less than fundamental reforms of the maritime security sector on national and regional levels which acknowledge the aforementioned lessons. A mainstreaming of maritime security concerns in international donor policies will be needed. The continent will also require efficient maritime conflict resolution mechanisms in the light

of the vague character of maritime borders and future resource exploitations. If maritime insecurity breeds threats, then the long term goal has to work towards de-securitizing the maritime and building regional maritime security communities. This, in the end, might be the core paradox of current strategies: in order to achieve a de-securitization of the maritime in the long run, what is first required is a securitization, that is, recognition for the serious impact that maritime threats have on economies, livelihoods and national and international security interests (Christian, 2013).

Chapter Five

Summary and Concluding Remarks

The preceding chapters examine the role of the international community in curbing sea-piracy in Somali waters. The main focus of these chapters is to elucidate a complicated transnational problem revolving around Somalia based maritime piracy. After dealing the research procedure the second chapter reviews the related literature review. The third chapter packs on the actors, impacts and the factors contributing to the emergence of piracy off the coast of Somalia. In addition, the increasing cost of the piracy problem for the global community in general and Somalia in particular are broadly assessed. The costs and dangers show the scope of the Somalia piracy problem and explain the desperate need of the global community in eradicating the issues. It also explores and identifies the factors, causes and consequences which have contributed to the emergence of piracy in Somalia.

The fourth chapter accounts many anti-piracy actions against Somalia, initiated by the multiple players in the international arena. Several maritime initiatives of international organizations and countries and other actors are reviewed in detail. In addition, the regional and international cooperation and coordination mechanisms that play a substantial role in the restoration of Somalia peace and stability are assessed in detail.

This chapter presents a concise summary and concluding remarks of the study. Based on the findings of this research, piracy in Somalia has emerged because of complex factors in the region. Immediately after Dictator Said Barre was overthrown from power in 1991, the country had no effective central government. 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 piracy activity. It is also found that most of the pirates find their justification in protecting the illegal fishing and toxic wastage dumping in their waters. Consequently, Somalia piracy was a product of the Somalia tragedy and several socio-economic and geo-political factors pertaining in a country.

Given these factors, Somalia piracy continues to pose a threat to the security and freedom of international maritime navigation. More seriously, the incident of piracy affects Somalia population, because maritime piracy impedes the delivery of relief aid necessary to sustain and feed a substantial part of the population. Somalia piracy also imposed direct costs on the immediate victims of the attacks, the ships and their cargoes, and the shipping companies.

Although international community showed remarkable responses to Somalia piracy, a lot of people are not convinced and clear regarding the role of the international community. Even a lot of researches and books published so far were in favor of the weak side of the international community and international organizations. However as findings of this research indicate, the role of the international community takes a very substantial role in curbing the danger of Somalia piracy. Consequently the fact is that without the collaboration of the international community, which is described in detail under chapter four, the situation of piracy in Somalia will not be like the present situation which is almost addressed. Eventually the reality is not like what is theoretically studied and orally talked but like what happened practically. However it does not mean that the international community and the international organizations do not have weaknesses. They just come across over a lot of challenges and eventually achieved curbing the danger of Somalia piracy.

In light of the issues highlighted in this research, some concluding remarks can be advanced to make the future responses of the international community efficient and effective in preventing piracy and other transnational crimes more efficiently.

Maritime law enforcement against pirates should conform to the basic principles of international humanitarian law and human rights. The main goal should be to adopt, together with the UN special envoy targeted development policies. International organizations engaged in should consider investing in capacity building, assisting the Somalia government in rebuilding an effective coast guard. The international community should commit itself in bringing about a comprehensive political settlement and in establishing a genuinely functional and broad-based government in Somalia.

This research would like to conclude with a saying that transnational crimes are global problem and they seek global solution. Accordingly globalization could succeed and advance the interests of the world if it does not occur at the expense of, and to the detriment of any group or nation. Either we all pull together and succeed in tandem or we all falter and fail. Therefore the international community should strengthen its unity more than ever before in order to address common problems and to make collaboration with all countries of the world to prevent and eradicate such global issues as long as a problem shared is a problem halved.

References

- Ahmed Hirsi (2011). Somalia Sea-Piracy: Business Model or Resource Conflict?
- Andreas Graf, (2010). Countering Piracy and Maritime Terrorism in South East Asia and off the Horn of Africa – Applying the lessons learned from the Countermeasures against Maritime Violence in the Straits of Malacca to the Gulf of Aden).
- Benjamin-Tedla Hecker, (2012).Combating Piracy around the horn of Africa.
- Bradford S., Alfred (2007).A Brief History of Piracy. Westport Connecticut London: Praeger,
- Bruce A. Elleman, (2010). Andrew Forbes, and David Rosenberg. Piracy and Sea Crime Historical and Modern Case Studies.
- ChristianBueger, (2013). Learning from piracy: Future challenges of sea security governance.
- Dana Dillon. (2005). Sea Piracy: Defining the Problem.
- David F. Marley, (2011).Modern piracy.
- Diana Cronje. (2010). The Pirates of Somalia Sea bandits or warlords of the High Seas.
- Donna Nincic, (2013). Sea piracy in Africa: The humanitarian dimension.
- Eric Pardo Sauvageot, (2009). Piracy off Somalia and its challenges to maritime security: problems and solutions.
- Essam Mahmoud Badran, (2010). International and regional measures against Somalia piracy: Genuine but misguided.
- Farley, RM, and Yoav, Gortzak (2009). Journal of Strategic Security ‘Fighting Piracy:
- Gilpin, Raymond. (2007). Enhancing maritime security in the Gulf of Guinea, Strategic Insights.
- Gilpin, Raymond. (2009). Counting the Implication of Somalia Piracy. United States Institute of Governance.
- Hans-Georg Ehrhart ,(2013). Maritime security and piracy as challenges for the EU and Asia:
- Henry M. Jackson. (2012). The Challenges of Piracy in the Horn of Africa. University of Washington.
- House of Commons. (2012). Piracy off the coast of Somalia Tenth Report of Session.

James Kraska. (2011). Contemporary Sea Piracy International Law, Strategy, and Diplomacy at Sea.

Jennifer c. Bulkeley, (2003). Regional cooperation on maritime piracy: a prelude to greater multilateralism in Asia?

John Gibson. (2009). Sea security and international law in Africa.

John Norris and Bronwyn Bruton. (2011). Twenty Years of Collapse and Counting; The Cost of Kidist Mulugeta and Berouk Mesfin, (2009). Piracy off the Somalia Coast.
Lessons from EU experiences.

Mario Silva (2010). Somalia: State Failure, Piracy, and the Challenge to International Law

Michael Davet. (2010). A Pirate Looks at the Twenty-First Century: The Legal Status of Somalia
Pirates in an Age of Sovereign Seas and Human Rights.

Minale Gedamu. (2010). The Quest for peace.

Patrick Lennox, (2008).Contemporary Piracy off the Horn of Africa.
Peace, working research.

Ranee Kooshie Lal Panjabi (2010). The Pirates of Somalia: Opportunistic Predators or
Environmental Prey?

Raymond Gilpin, (2009). Counting the Costs of Somalia Piracy.

Robin Hook, (2011).The Developmental Effects of Somalia Piracy.

Sarah Percy. (2011). The Business of Piracy in Somalia.

Stephanie Smith. (2011). The Strengthening of Efforts to Eliminate Piracy.

Thean Pot gieter, (2009). The sea security quandary in the horn of Africa Region: causes,
consequences and responses.

W. Michael Reisman& Bradley T. Tennis. (2011). Combating Piracy in East Africa.

Public articles

United Nations Convention on the Law of the Sea (1988).Treaty or Protocol Text.

United Nation Security Council (2011).Report of the Secretary-General pursuant to Security Council resolution 1950 (2010).

Appendix 1 Map and pictures that show the situation of piracy in Somalia





