

From Protecting Crime to Protecting Legitimate Trade in Somalia

Dr. Anja Shortland, Reader in Political Economy, King's College

Most strategies to resolve piracy in Somalia have included attempts to build a professional coastguard. Enabling Somalis to guard their territorial waters and exclusive economic zones against foreign vessels engaged in illegal and unlicensed activity would remove any moral justification for piracy. However, in practice these attempts have not had satisfactory results. Either, well-trained coastguards turned to piracy when foreign funding ran out, or the maritime police forces were found engaged in battles on land in support of one political faction or another. This chapter argues that any policy to professionalize and legitimize coast guarding in Somalia needs to have a full understanding of the informal arrangements already in place to patrol Somalia's waters. Only then will it become possible to design interventions which build on existing structures of coast guarding or design policies with greater awareness of possible spoilers and points of resistance.

Although Somalia's successive governments have not had the means or the power to protect their coastline against foreign incursions, this fact does not mean that Somalia's coastal waters have been unprotected in practice. When we take a more detailed look at the International Maritime Bureau (IMB) data on maritime piracy from the 1990s onwards, it quickly becomes obvious that the reports actually cover two types of maritime crime.¹ On the one hand, there was high seas piracy as defined under the United Nations Convention on the Law of the Sea (UNCLOS). On the other hand there were a significant number of incidents in territorial waters, which could (and should) be interpreted through the lens of informal coast guarding.

For example, foreign fishing trawlers engaged in illegal and unlicensed fishing were brought in for questioning and held for ransoms similar to the fines demanded by official coastguards in West Africa. Or local traders' ships were held for a few hours or days while a fee for "safe passage" was negotiated. Sometimes pirates came off ships without

taking anything when they found that local businessmen had already paid protection money. Even the attacks on UN World Food Programme (WFP) transports can be seen as local elites probing the UN policy of never paying “bribes”, which locals would consider to be “taxes” or “protection money” for business carried out in their territory.

The incidents reported to the IMB are probably just the tip of the iceberg. They are nonetheless clear evidence that people along the whole Somali coast performed coast guarding functions. In a world without an official coastguard and customs authority, people have always had informal ways to raise revenue and protect their resources.² Informal governance and law enforcement tends to be localized. With overlapping and ill-defined areas of influence, informal governance is prone to errors and misunderstandings. But we would be ill-advised to discount or ignore it: local elites rely on the revenues generated from protecting trade and licensing businesses to exploit marine resources.

Most accounts of Somali piracy agree that high-seas hijacking developed in response to fishing trawlers forcibly resisting local demands for license money; unarmed merchant shipping provided richer pickings with lower risks. However, there is a very interesting geographic pattern of where pirates could take hijacked ships for ransoming. Only a few regions offered safe havens to pirates from which they could conduct their lengthy ransom negotiations. Pirate anchorages were never found near the main trade routes into Somalia and the wider Horn of Africa. Communities that had the option of taxing local and regional trade always chose to do so and actively undertook counter-piracy operations. If your harbor is your economic lifeline and provides a steady income, you do not want a piracy business in the vicinity.³

Pirates were only welcome where the local economy was weak, where trade infrastructure was lacking and where the elite was desperate to raise funds for territorial defense. In these areas, pirates received an excellent service - protection of the hijacked ships from rival gangs for several years and comprehensive security guarantees allowing them to move ships along the whole coast and into the high seas. No ships were re-hijacked after release.⁴ We are clearly dealing with specialists in protection – if only we could use them to protect legitimate trade.



With background information on informal governance of trade routes and marine resources in Somalia, it becomes easier to see why previous approaches to formalizing coast guarding backfired. Providing professional training for Somali coastguards in navigation, marksmanship, boarding and seizure operations (as in the HART deal⁵) is at best a waste of resources and at worst counter-productive. If customs and license revenue disappears into opaque channels and the men in the boats are unpaid or their contracts are cancelled, they are in an excellent position to take matters in their own hands. Similarly, funding a particular group to provide regional coast guarding services is likely to cause violent territorial conflict with other groups laying claim to revenues from part of that territory. Any attempt to form a single, coherent coast guarding unit needs to be aware that there is already a plethora of incumbents who have a clear financial incentive to resist such a move.

One counter-piracy policy option would be to explicitly recognize the existence of such local protectors and incentivize them to protect trade rather than crime. Infrastructure projects such as roads and harbors would enable currently remote coastal communities to trade. Once communities are integrated into the wider Indian Ocean and Horn of Africa economies, hosting pirates becomes unattractive. When examining the geography of piracy we found that simply changing economic incentives was sufficient to change a location from pro-pirate to anti-pirate.

However, purely informal coast guarding would most likely be somewhat chaotic, possibly quite violent and not necessarily in everybody's best interest. For example, when toxic waste dumping allegations were investigated, the evidence pointed to Somali warlords "licensing" organized criminal groups to dump waste in territorial waters – to the detriment of the local population. Similarly, the international community would prefer to prevent some lucrative types of cargo from crossing the Indian Ocean, Somali charcoal, illegal migrants, drugs and weapons being prime examples. Therefore we cannot rely on informal governance alone when designing a policy for guarding Somalia's long coastline.

To summarize, past foreign initiatives to enable Somalia to guard its territorial waters have failed at the implementation stage. Some ignored the existence of alternative informal protectors and diverted resources intended for maritime policing into violent

territorial disputes. Others failed because the designated providers of coastguard services were not able to benefit financially from their work. An effective policy needs to co-opt the various existing providers of informal governance in Somalia's coastal communities. Their support will depend on a fair sharing of revenues. Such a system already exists in Somaliland, where customs revenues from Berbera are a significant part of total government spending. The move from protecting crime to protecting trade therefore requires putting together a deal that makes coastal populations and coastguards better off– not just whoever is currently in power in a regional government. Moving from protecting trade to protecting only legitimate trade, i.e. curbing trade in illegal goods, may require additional foreign funding to incentivize local protectors to turn their back on lucrative illegal cargoes.

This article was commissioned by the Institute for Near East and Gulf Military Analysis (INEGMA) on behalf of the fourth United Arab Emirates Counter Piracy Conference, '**Securing State Recovery: Sustaining Momentum at Sea, Confronting Instability on Land**', organized by the UAE Ministry of Foreign Affairs in partnership with global ports operator DP World, held in Dubai on October 29-30, 2014. The opinions expressed in this paper are the views of the author only, and do not reflect the opinions or positions of the conference organizers. Content may have been edited for formatting purposes.

For more information, visit the conference website at www.counterpiracy.ae.

Endnotes

¹ Shortland A. and Varese F. (2014): The Protector's Choice. An Application of Protection Theory to Somali Piracy; *British Journal of Criminology* doi: 10.1093/bjc/azu046

² Jatin Dua (2013) A sea of trade and a sea of fish: piracy and protection in the Western Indian Ocean, *Journal of Eastern African Studies* Vol. 7, Issue 2

³ Shortland A. and Varese F. (2014)

⁴ Shortland A and Varese F (2012): The Business of Pirate Protection. Economics of Security Working Paper #75 https://www.diw.de/documents/publikationen/73/diw_01.c.408691.de/diw_econsec0075.pdf

⁵ A deal with a British private security company called Hart Security Maritime Services to train Somali coast-guards in 2000.