

Piracy, the Prevention of Maritime Threats and the Lessons from the Contact Group on Piracy off the Coast of Somalia

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Introduction: Understanding the Relations between Maritime Threats

Maritime threats are inter-connected. Different threats, such as trafficking, piracy and terrorism potentially re-enforce each other since they thrive in insecure waters in which violence is common and the law is not adequately enforced. In recent years, maritime piracy has received the majority of attention. Indeed, the maritime security agenda, especially in the Western Indian Ocean, has been dominated by the issue, and most resources have been devoted to curbing it.

The extensive measures of the international community have shown success. In the Western Indian Ocean maritime piracy has been contained to reasonable levels. But as the international community is gradually moving to the end of the fight against Somali piracy, it is becoming clear that sustaining this success implies widening the perspective and focus on the broader spectrum of maritime security challenges. Ensuring that the strategy of moving the responsibility for counter-piracy to the Indian Ocean littorals is successful implies maritime security sector reform and regional cooperative security. The goal of international capacity building is to build broader maritime security responses and it seems obvious that a coastguard, navy or maritime police force that would exclusively deal with piracy does not make much sense. Yet, this creates a conundrum for international and regional players. Part of the explanation of the success in the fight against piracy is that they targeted this specific form of crime and isolated it from other challenges. Results from the Lessons Learned Project of the Contact Group on Piracy off the Coast of Somalia (CGPCS) clearly point out that part of the success in fighting piracy is related to isolating piracy from other threats in the region¹. This contribution aims at addressing this conundrum. How can the lessons from fighting Somali piracy nonetheless be used to address the broader spectrum of maritime threats in

the region? This requires us to briefly revisit the root causes of piracy and how they are related to other maritime threats. In the next step the paper investigates how the lessons from fighting Somali piracy can inspire a new cooperative maritime security structure in the Western Indian Ocean which is capable of securing the waters in the region in the long run.

Understanding the Causes of Piracy

Studies on the root causes of piracy and on the regional variations of piracy operations have identified six triggers: Geography, weak law enforcement, maritime insecurity, economic dislocation, cultural acceptability and the prevalence of criminal entrepreneurs². Understanding these factors enables us to grasp how piracy is interwoven with other maritime security challenges.

1. *Geography* refers to the fact that regions with close proximity to major lanes of transportation and major ports render piracy more lucrative. Geography also refers to the existence of hideouts which are necessary for preparing a piracy operation and, in the case of ransom piracy, to anchor the vessel. Piracy dens require basic infrastructure, such as roads or nearby villages to ensure the logistics needed for an operation are available. In principle piracy operations can also be launched from ports, especially if they are weakly governed;
2. 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 and the sea are patrolled and under surveillance, to policing, intelligence and prosecution capabilities on land, as well as the efficiency of the judicial sector allowing for the prosecution of piracy. Official corruption is a major factor here, since pirates do not always operate outside the law but often in collaboration with corrupt law enforcement agencies. Also the quality of regional inter-state collaboration in maritime security matters has to be considered. Pirates operate across (maritime) 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

3. *Maritime insecurity* is a factor closely related to weak law enforcement and refers to the degree to which the maritime environment of a region is insecure and prone to violence. Piracy tends to occur in seas where there is a host of other illegal activity, such as trafficking, smuggling and illegal fishing. This is not only related to the question of coast guarding and law enforcement at sea, but also in how far violence and insecurity at sea is considered to be the norm. The more the maritime environment is securitized and it is, for instance, normal to carry weapons at sea, the higher the likelihood of piracy;
4. *Economic dislocation* refers to the fact that much of piracy is primarily economically motivated. While piracy promises considerable revenues, a direct causal link between poverty or lack of employment opportunities and piracy cannot be constructed. Rather than poverty per se, 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;
5. *Cultural acceptability and skills* is a factor that refers to the considerable cultural dimension of piracy. For piracy to prevail it requires some sense of legitimacy. Individuals have to be recruited and convinced to engage in piracy or support it through providing shelter, food and other supplies. In the case of Somalia, cultural acceptability has mainly been provided through the prevalence of a narrative which justifies piracy as a legitimate response to maritime insecurity. In this “coast guard narrative” piracy is projected as a legitimate, almost state-like practice of protecting coastal waters against outside threats such as illegal resource exploitation or environmental crime³. Another cultural dimension is the availability of the skills required for piracy among the populace. Such skills include navigation, boarding, weapon handling or negotiation skills. This includes the navigation skills of fishermen and dhow traders, or the negotiation skills acquired by societies governed by customary law and informal governance processes. Skills such as the handling of weapons have been learned in decades of civil war, others, such as the handling of navigation devices or boarding skills, are often the result of attempts to set up sea going law enforcement capabilities;

6. The *creative capacity* of criminally-minded entrepreneurs provides the last factor. To a certain degree piracy will always depend on individual actors who plan, prepare and invest in piracy operations; a business plan needs to be developed. Hence, a considerable driving force of piracy will always be criminal-minded 'entrepreneurs'.

Considering these factors first of all clarifies the strong linkages between piracy and other maritime crimes. If the specifics differ, on a general level these triggers potentially also cause other forms of maritime crime. Indeed the factor of maritime insecurity underlines how intimately they are related. Factors such as geography, weak law enforcement, economic dislocation, maritime insecurity, legitimacy and skills, and entrepreneurs are also relevant factors to explain the prevalence of crimes such as illegal trafficking by sea. If the Western Indian Ocean littorals want to address maritime insecurity more broadly they will have to address these dimensions and build capacities to do so. In consequence this implies:

- a. the surveillance of potential hideouts and ensuring that coastal villages are appropriately governed;
- b. improving law enforcement through seagoing police forces, an improved judicial sector, better regional cooperation in information sharing and joint operations and fighting corruption in the security sector;
- c. addressing economic marginalization by ensuring that all parts of a population benefit from economic growth;
- d. de-legitimizing narratives that intend to justify maritime crime once they arise and;
- e. closely monitoring and interrupting criminal gangs and their leaders from the moment they emerge.

Drawing on the Lessons of Somali Piracy to Improve Maritime Security Governance in the Western Indian Ocean

The rise of Somali piracy has led to significant investments in capacity building by the international community, with the Djibouti Code of Conduct (DCoC) led by the International Maritime Organization (IMO), the counter-piracy programme by the UN

Office of Drugs and Crime, and the European Union's operation EUCAP Nestor forming the "big three" of the capacity-building missions. All three put emphasis on strengthening law enforcement, with the partial exception of DCoC, which also foregrounds regional cooperation and information sharing. The first challenge in addressing maritime insecurity more broadly will hence lie in devising programs that tackle the above discussed five areas and go beyond law enforcement.

There is however a core problem of pursuing this direction. One of the core explanations of the success in curbing piracy is that actors agreed on a common definition of what the issue at stake was, and what was problematic about piracy⁴. For other maritime security challenges, such as trafficking or maritime terrorism, a basic problem definition is much more difficult to achieve. Definitions of such problems are much more contested and loaded with political conflict and divergent interests.⁵ In consequence, it will be more intricate to find strategic agreement, to identify measures to tackle such challenges, and attract donor investments. Yet, even in the absence of such consensus, the organization of the fight against piracy holds at least two important lessons.

Firstly is the importance of a multi-layered approach. Counter-piracy was organized in three layers: (1) a practitioner layer in which operational staff could engage with each other on an everyday basis free from larger political considerations (as provided for instance by the Mercury system or the Maritime Security Centre Horn of Africa, MSC-HoA), (2) a tactical layer in which practitioners could set tactical objectives and agree on basic operational measures (as provided by the Shared Awareness and Deconfliction mechanism, SHADE), and (3) a political-strategic layer in which larger strategic narratives could be aligned, mid-term objectives identified and networking opportunities between different actors established (as provided by the plenary of the CGPCS and its working group one). In this organizational design, notably the first layer can drive many pragmatic solutions forward and time is not lost in developing grand strategy with little resemblance to actual operational needs.

The second lesson is the importance of taking a process-oriented, experimental governance approach. Such an approach emphasizes informality, trying things out and reflexivity. It works by allowing for creative problem solutions which are developed in



an informal environment, putting these solutions into practice and then drawing up lessons from whether and how these worked or did not.

Conclusion

With the international community transferring more responsibility for maritime security in the Western Indian Ocean to the region and gradually preparing to disengage from the arena, a discussion is needed on how the broader set of maritime insecurity challenges can be addressed. Maritime threats are interlinked and piracy is only one of those threats. It will become difficult to agree on shared problem definitions and rally the same amount of support for tackling other challenges than piracy. Yet, the future maritime security regime in the region can learn much from the achievements of the CGPCS. At least two lessons will have to be learned: To work in a multi-layered approach that emphasizes the importance of everyday collaboration of operational practitioners, and to work in an experimental mode that allows for probing innovative solutions and reflecting on their improvement.

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

Endnotes

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- ¹ The results of the lessons learned project are available at <http://www.lessonsfrompiracy.net>
- ² Compare Bueger, Christian. 2015. Learning from piracy: lessons for maritime security governance. Global Affairs 1(1): forthcoming, available at <http://orca.cf.ac.uk/63753/1/Bueger%20%282014%29%20Learning%20from%20piracy%2C%20for%20Global%20Affairs.pdf> The following discussion draws on this analysis.
- ³ See Bueger, Christian. 2013. Practice, pirates and coastguards: The grand narrative of Somali piracy. Third World Quarterly 34(10): 1811-1827 .
- ⁴ See Bueger, Christian. 2014. Experimental Governance: Can the Lessons of the CGPCS be transferred to other policy fields?, in The Contact Group on Piracy off the Coast of Somalia (CGPCS). A Lessons Learnt Compendium, edited by Thierry Tardy, Paris: EUISS
- ⁵ See the discussion in Jacobi, Anja P. 2014. Global governance and transnational crime: Situating the CGPCS, Lessons Learned Working Paper, Cardiff: Cardiff University, available at <http://www.lessonsfrompiracy.net>