

Somali Piracy: A Dangerous Internal and External Threat

*Laura Hammond**

Theme: The recent dramatic increase in the successes of Somali pirates has resulted in international calls for tightened security in the Gulf of Aden. However, the problem cannot be solved through securitised measures alone and a greater emphasis must be placed on building a legitimate government inside Somalia to effectively manage the problem.

Summary: Somalia's pirates have recently captured larger and more valuable ships from waters farther from the troubled nation's coastline. This has prompted response measures from several of the world's mightiest navies. However, a combination of lack of clear international law governing the control of piracy, reluctance of shipping companies to arm themselves and of military vessels to intervene with ships already captured has led to a chorus of complaints that too little is being done. In fact, the problem is more complex than that, and security solutions alone cannot put a stop to piracy. Somalia, which has been at war for nearly two decades, lacks an effective state willing and able to control piracy. Only when such a state emerges will it be possible to effectively deal with the problem.

Analysis: The hijacking on 15 November of the *Sirius Star*, a 2 million barrel capacity – and nearly full – oil tanker, by Somali pirates off the coast of East Africa has thrust an issue that has long been simmering firmly into the international spotlight. In its efforts to put a stop to Somali piracy, however, the international community faces a challenge to respond not just by stepping up security on the high seas, but by addressing the factors that make piracy both desirable and possible in the current political context that Somalia now occupies. An over-securitised response is likely to exacerbate rather than relieve the situation.

Although piracy has been active off the coast of Somalia for more than 10 years, the recent escalation of activities, culminating with the tanker's seizure, is significant for several reasons.

First, there has clearly been a dramatic expansion in the capabilities of the pirates, in terms of the numbers of people involved in the practice and their level of preparedness. The large number of people who are involved and reap a profit from the piracy business include not only those who track and board the targeted vessels, but also those who finance the operations, provide food and essential resources to the hijackers and their hostages while negotiations are going on, and the negotiators themselves. The profits are distributed to regional leaders, sheikhs, clan leaders, and business people who cater to the needs and whims of the *nouveau-riche*.

* Senior Lecturer, Development Studies, School of Oriental and African Studies.

Pirates now use global positioning system (GPS) equipment and satellite phones, are better armed than ever before (using shoulder-fired rocket-propelled weapons) and have access to faster and more manoeuvrable boats. According to a report by Roger Middleton of the British think-tank Chatham House, these advances enable them to locate, reach and board targeted ships in as little as 15 minutes, thereby usually eluding detection until they have taken their hostages.

Secondly, their ability to intercept vessels has increased. The Sirius Star was taken 450 nautical miles south-east of the Kenyan port of Mombassa, far from the usual 'piracy corridors' around the entrance to the Red Sea/Gulf of Aden, and along the north-eastern coast of the Puntland region of Somalia. According to the US Military, this indicates that an area of 2.5 million square miles is affected, and effectively patrolling such a wide area is considered a logistical impossibility.

Third, with the capture in September of this year of the MV Faina, a Ukrainian ship laden with 33 tanks and ammunition, and the oil supertanker this week, the stakes have risen considerably. Although the pirates are not easily able to use or sell the cargo they have seized, they are able to charge much higher ransoms due to its strategic and commercial value.

Fourth, continued attacks on oil tankers promises to drive up global oil prices. Transporters may need to hire private security firms to protect them. They may also choose more lengthy routes (including around the Cape of Good Hope) to avoid coming under attack, and all must pay hefty ransoms and increased insurance charges. There are reports that some insurers have increased their rates tenfold over the last year to shippers operating in the area. In the case of the Sirius Star, the initial ransom set was for US\$25 million. The Faina's ransom was initially set at US\$20 million, but has reportedly dropped since then. Experts predict that the final settlement price for each of these vessels will be US\$5-10 million. More usual ransoms commonly run from US\$500,000 to US\$1 million. Given the increased risks and costs, at least one large Norwegian shipping company is said to have already directed its ships to sail around the Cape rather than risk passing through the Red Sea.

Finally, the conservative estimate of US\$30 million in ransom money paid so far in 2008 is clearly helping to fuel the conflict in Somalia, with revenues trickling out not only to the Transitional Federal Government (whose President, Abdillahi Yusuf, hails from Puntland), but the Islamist insurgent movements as well. Piracy threatens to further destabilise an already chronically unstable part of the world.

How Piracy Happens

Pirates require financial backing from investors –to procure boats, navigation and communications equipment, and weapons and to support them and their hostages through the often lengthy ransom negotiation process–. Some investors reportedly come from Somalia, as well as the Somali diaspora living in the Gulf States, Nairobi, the UK and Canada. The recent upsurge in the pirates' capacity has sparked concerns that they are receiving increased financial backing from other, non-Somali, supporters as well.

Pirates operate by travelling in small speed boats, often launched from larger fishing or cargo 'mother ships' so that they can reach distances further out at sea. Once they have located their target, they track the vessel –often travelling in its wake to avoid detection– and pull up alongside its hull. They then board the vessel using ropes and hooks: fully

laden ships are easier to target as they sit lower in the water and travel more slowly. Once they are aboard, they usually face little resistance, since crews are typically unarmed.

The piracy carried out in some other parts of the world –in the South Pacific Malacca Straits, for example– is often done with the intention of robbing the targeted ship; the Somali pirates' main aim is to collect ransom. Soon after taking control of the vessel, they make contact with the ship's owners and begin the negotiation process. This process might take several weeks or months and usually involves a gradual lowering of the ransom. While negotiations are progressing, it is in the pirates' interest to keep the crew alive and as healthy as possible. There have been no reports of serious abuse of hostages by the pirates thus far; the sole death reported, that of the *Faina's* captain, was apparently due to heart failure.

Captured ships are usually brought to a section of Somali coastline near the north-eastern town of Eyl. Previously a sleepy fishing village, the town has been transformed by the presence of pirates and their hostage ships. New villas are springing up, as are restaurants catering to the foreign tastes of the hostages. New Toyota Landcruisers abound and lavish weddings to pirates are reportedly becoming common and desirable. There are apparently around 20 captured vessels moored in the waters off Eyl, with a total of more than 220 hostages.

Despite the large ransoms demanded, pirates have found that ship owners are nearly all eventually willing to agree to the payment. According to Middleton, 'Shipping firms, and sometimes governments, are prepared to pay these sums since they are relatively small compared with the value of a ship, let alone the life of crew members'. Ransoms are paid in cash and are delivered to the hostage vessels. The delivery boats then leave the vessels while the pirates count and share out the money. The pirates then leave the ship, setting the crews, the cargo and the vessel itself, free.

Organised Crime or Protecting Somali Waters?

In an interview with the *New York Times* from aboard the *Faina*, a spokesman for the pirates, Sugule Ali, said: 'We don't consider ourselves sea bandits... We consider sea bandits those who illegally fish in our seas and dump waste in our seas and carry weapons in our seas. We are simply patrolling our seas. Think of us like a coast guard'.

While illegal fishing is a problem off the Somali coast –the waters are particularly rich in tuna and shark– and there have been confirmed reports of waste dumping off the coast, most analysts reject the notion that these are the primary motives of the pirates. According to Associated Press, the UN Special Representative for Somalia has said: 'I think Somalis are right to complain of illegal fishing, to complain of dumping of waste, but no individual has a right to police the Somali coast'. The long-time Somalia analyst Ken Menkhaus goes further: 'It's nonsense' –he told a reporter from the Carnegie Council's Policy Innovations–, 'Warlords on land are putting these guys on boats and sending them out to force sea trawlers to pay a licence. This is nothing more than a *mafioso* business'.

Responses So Far are Insufficient

For the most part, responses so far have been security-based interventions. Deciding which security measures to adopt to respond to piracy is complicated by legal restrictions, reluctance on the part of ship owners to carry weapons on board and an equal degree of reluctance on the part of most countries that have sent warships patrolling the region to take action once ships are taken. Most significantly, the inability to effectively deal with the

problem is linked to the absence of an effective state in Somalia.

Although United Nations Security Council Resolution 1838 (issued in 2007) authorises the use of 'necessary force' to stop piracy in international waters, it is not clear exactly what level of force that would involve and under what conditions it would be justified. The Law of the Sea Convention (1982) grants military ships in waters outside the territorial jurisdiction of a state the right to seize a pirated ship, but only after boarding and inspecting it; such an action in the context of Somali piracy is considered unfeasible. Recently, the Danish military arrested 10 Somali pirates only to set them free onshore when the legal conditions surrounding their detention were unclear.

Some countries, led by Russia, have called for an attack on the pirates' base at Eyl. Other countries are reluctant to agree to such a measure without a UN Security Council resolution, which is not likely to be forthcoming.

Patrols that are currently operating in the Gulf of Aden –including a small fleet under NATO command, as well as others from countries such as India and Malaysia– claim that their efforts to prevent piracy are paying off despite the high-profile captures. The area is extremely busy: 21,000 vessels pass through the Gulf of Aden every year. They also claim that many more attacks are thwarted than are successfully carried out.

Patrolling efforts are focused on intercepting pirates before they attack vessels and on keeping safe a shipping lane for the delivery of desperately-needed humanitarian food aid for the Somali people. Somalia is estimated to require emergency food aid for 3.2 million people –victims of war, drought and recent flooding–. Given the humanitarian imperative they have been sent to serve, they say that getting involved in trying to free captured vessels is both beyond their mandate and their capacity.

Despite this, there have been increased commitments to send patrols to the area. An EU-mandated fleet, to be called Operation Atalanta and led by the Royal Navy's HMS Northumberland, is currently being negotiated and could be formally agreed to by EU member states next month. The fleet could eventually include ships from 10 countries including Germany and Russia, and would have stipulated rules of engagement for the use of force against the pirates.

Suspected pirates who are captured cannot automatically be sent back to Somalia and handed to the authorities of the Transitional Federal Government, as there are no guarantees that the prisoners will not be subjected to torture and that they will receive a fair and full trial. So far, pirates captured at sea by the UK have been handed over to the Kenyan authorities. France staged a dramatic rescue of a French yacht, arresting six pirates and bringing them back to France to stand trial. Somaliland, the self-declared independent territory in the north-west, has also arrested and is currently detaining a group of pirates at its prison in Mandera.

Puntland is a region of Somalia with a semi-autonomous but very weak administration. Its officials have verbally expressed their willingness to try to stop piracy, but they lack the capacity to effectively do anything. Moreover, since it is more than likely that at least individual members of the Puntland administration are benefiting from the piracy business through tribute payments, there appears to be little incentive to actually put these promises into action.

What is to be Done?

It is clear that no solution that limits itself to security measures is going to successfully stop piracy in the Gulf of Aden. The ability of the pirates to carry out their captures is directly related to the absence of an effective Somali state. It is this aspect which must be dealt with if piracy is to be effectively reduced or eliminated.

Somalia has been at war for two decades, and without an effective government since 1991. Successive efforts by the international community to support a peace-building process and the formation of a new government have been thwarted by policies that seek to impose Western agendas –political, counter-terrorist and economic– on a country that has little use for them. Since December 2006, when the Ethiopian-backed Transitional Federal Government (TFG) ousted the Islamic Courts Union (ICU) from Mogadishu and most other areas of south-central Somalia, violence has escalated. According to the UN Secretary General, 870,000 people have been displaced since March 2007. Many of these are people who had not left their homes in the 17 years of violence that preceded the latest campaigns. The country is, together with Afghanistan and Sudan, among the deadliest places on earth for humanitarian aid workers, so most international organisations have either closed their operations entirely or work through their Somali staff. These staff members are now being targeted for assassination.

The TFG, whose President is Puntland's own Abdillahi Yusuf, is deeply unpopular with most Somalis, as is the international community that backs it and the Ethiopian government which provides it with military support. The Islamist al-Shabaab movement, with ties to various groups associated with the ICU and which controls large swathes of south-central Somalia excluding the capital city, Mogadishu, may not be much more popular. But people see it as being stronger in many instances, and they like the fact that it insists on Ethiopian withdrawal from Somali territory.

Puntland's security situation is marginally better than areas of the south and centre of the country –local administrative structures enjoy slightly more legitimacy–. But the Puntland administration lacks the financial resources to build itself up into a government that can stand up to the pirates. Puntland's budget is only US\$20 million, less than half of what the pirates can expect to bring in this year. It has no effective police force, let alone coast guard or navy. Its prisons are crowded and its judicial system for trying suspected pirates is rudimentary.

In the absence of funding from other sources, it would not be surprising if analysts are right in claiming that a portion of the ransom money collected is finding its way into the pockets of administration officials, and if these payments buy if not support then at least authorities willing to turn a blind eye to the problem. Similar treatment is secured from al-Shabaab through the additional sharing of resources.

In order to effectively deal with the piracy issue, the international community must expand its thinking about the causes and implications of piracy and engage with the Puntland and national authorities on the ground. While the challenges of supporting legitimate state-building activities in the current Somali context are enormous, neglecting the dynamics on the mainland in favour of a securitised response strategy will not only not stop the scourge of piracy but will exacerbate the conflict inside Somalia. Many Somalis would also be likely to see such a strategy as proof that the international community is not interested in solving Somalia's internal problems but rather is more concerned about its own interests. They already feel that the policy towards Somalia is too directed by counter-terrorist

concerns and a desire to impose Western-style democracy on a country where the model is unlikely to fit.

If a multi-pronged approach to dealing with piracy is not pursued, there is a real danger that the situation will escalate. The more risky piracy is, the higher ransoms are likely to be demanded. Failure to pay ransoms or serious threats to attack pirates are very likely to result in attacks on the hostages, something that has not yet been seen. Moreover, a ship sinking in the narrow passageway leading into the Red Sea could significantly disrupt international trade, and the spillage of cargo such as oil or chemicals could cause an environmental disaster in the region's waters.

Conclusion: If there is any prospect for peace in Somalia's future, it rests with the possibility of a coalition government that includes both voices from the TFG as well as the Islamists who currently oppose it. There is a need to widen the dialogue about Somalia's future and in the short term to consider what can be done through diplomacy and developmental support to stop piracy, to include stakeholders who have not until now had a place at the table. A peace agreement signed in Djibouti last summer between the TFG and the Alliance for the Re-Liberation of Somalia (ARS) seeks to provide this vehicle, but more needs to be done to bring to the negotiating table –both at the central level and in local areas, particularly in Puntland– those who remain opposed to the peace process. This may be done alongside security measures, but patrols and high-seas policing should not replace serious support for a just and sustainable settlement to Somalia's political problems.

Laura Hammond

Senior Lecturer, Development Studies, School of Oriental and African Studies

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