THE NOT-SO-JOLLY ROGER: DEALING WITH PIRACY OFF THE COAST OF SOMALIA AND IN THE GULF OF GUINEA

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The Priority

For several years, Africa has surpassed Southeast Asia as the world's number one hotspot of maritime piracy. Approximately one-half of the world's reported pirate attacks now take place either off the coast of Somalia or in the Gulf of Guinea, principally off the coast of Nigeria. Although during 2012 and 2013 the incidence of piracy off of the Horn of Africa declined considerably compared to the peak years of 2009 and 2010, the incidence of piracy in the Gulf of Guinea has continued to grow. Between 2010 and 2012, the number of Somali pirate attacks has dropped by 80 percent, with 851 seafarers fired upon in 2013, compared to 4,185 in 2010; and 1,090 taken hostage in 2010, with many fewer—349—taken hostage in 2012 (Hurlburt et al. 2013).

Nonetheless, Somali pirates have extended their reach beyond the Gulf of Aden and Somalia into the southern part of the Red Sea, the east coast of Oman, the Bab el Mandeb Straits, and increasingly deep into the Indian Ocean.

Moreover, incidences of piracy off the Somali coast have merely been suppressed, but the root causes of piracy—poor state control of land, the lack of legal economic opportunities and the absence of the rule of law—have not been resolved. Thus, piracy off the coast of Somalia could easily escalate again should the naval patrolling lessen.

Meanwhile, the incidence of piracy has been visibly increasing in the waters off of West Africa over the past three years. In 2012, pirates in the Gulf of Guinea attacked 966 sailors (Hurlburt et al. 2013). As of August 2013, 28 reported armed incidents took place off the coast of Nigeria, including two hijackings, compared with 10 armed incidents with two hijackings off the coast of Somalia (ICC 2013). Although often underreported, piracy in the waters of West Africa is now capturing attention and piracy in this region dates back decades. It exists in the context of widespread criminality, including oil theft on land in which poor local populations, militants, law enforcement and top-level politicians all participate.

Indeed, the expansion of maritime piracy off the coasts of West Africa and the Horn of Africa has been enabled by profound governance deficiencies on land. Although most West African countries have not experienced as profound a collapse of the central government as Somalia, the presence of the state in most coastal areas has been inadequate, failing to achieve a monopoly of violence. Local populations often experience state presence only as repression. For decades, governing elites in West Africa have underfunded, and systematically politicized and corrupted land and maritime law enforcement. Widespread corruption, deep involvement of elites in many criminal enterprises and illicit economies, and a general attitude that running a government is a key mechanism for personal enrichment rather than a public service have created a pervasive culture of the lack of rule of law.

Marginalization of large segments of the population, deep and persisting poverty and unemployment, lack of legal options for social mobility, social alienation, and threats to personal safety from rival tribal and clan groups, criminal gangs, and the state itself have produced great social acceptance of criminality and illicit economies, and widespread participation by both well-positioned elites and the marginalized population. To the extent that powerful actors have mobilized against piracy—such as some tribal elders in Puntland, Somalia—it is often only when young pirates wield enough economic and political power in their bases of operation on land that they threaten the preeminence of clan elders. Often, however, clan elders have been implicated in and often support and benefit from maritime piracy. At the same time, local populations often embrace the pirates who bring in otherwise-lacking money, increase consumption, grow local economic activity and even create job opportunities.

Why Is It Important?

Maritime piracy poses multiple threats to global and state security and human safety. The maritime domain—which includes defense, commerce, fishing, seabed mineral resources, laws governing navigation and sea-based transportation constitutes—is the backbone of the globalized world. Disruption of maritime transportation and access can reduce economic investment in particular regions, constrict energy flows, global trade, critical infrastructure, and the protection of marine resources as well as hamper security, law enforcement and humanitarian operations. Both the Gulf of Aden and the Gulf of Guinea lay on crucial energy transportation routes and the Gulf of Guinea is not only a large source of fossil fuels, but also the region's major consumer market. Via the Gulf of Guinea, West Africa also exports minerals (such as diamonds), timber and agricultural products (such as cacao and sorghum), which underlie its economic output. Crises in the maritime realm can also hamper access to undersea domains and resources, such as fiber optic cables, and energy and mineral reserves such as oil and gas.

Conceivably, profits from maritime piracy can also increase the physical resources of militant groups, international terrorists, and highly destabilizing and potent criminal groups. Although the extent to which Somalia's jihadist al-Shabab or Nigeria's Movement for the Emancipation of the Niger Delta, an insurgent group based in the south, have benefited from maritime piracy is frequently exaggerated, in both cases connections and linkages between pirates and militants appear to be somewhat on the increase. Not least, pirate attacks also critically endanger the human security of seafarers and cause psychological distress to their families.

What Should Be Done in 2014

Options for suppressing piracy in the Gulf of Guinea are more constrained than policy options available off of Somalia. Nonetheless, some important short-term measures are available and need to be deployed in conjunction with determined efforts to address some of the long-term and deeply rooted causes of piracy and the lack of rule of law off the coast of West Africa.

Several factors explain the drop in the incidence of piracy off the coast of Somalia. The expansion of international naval patrols, such as NATO's Operation Ocean Shield, the European Union's Operation Atalanta, and naval deployments by Russia, China, India and other countries have both increased situational awareness and radically shortened the response time of anti-pirate naval forces. The use of best management practices and layers of defenses, such as citadels and barriers against pirates boarding ships, makes attacks considerably more difficult. The highly controversial presence of armed guards on ships has further

increased the capacity of ships to resist attacks and have increased the deterrent effects of these various measures. European and U.S. naval deployments have also become more effective at collecting legal evidence on captured pirates, facilitating their effective prosecution in special courts established in the region and again enhancing deterrence. For a variety of reasons, actions by land forces against pirates—such as those by the Putland Maritime Force (PMF) or by Kenyan law enforcement units against pirates in hiding or enjoying recreation in Kenya—have been limited for the most part. As a result, many areas of safe haven and hiding remain. Moreover, the PMF now principally functions as a praetorian guard of the president of Puntland. Arresting and prosecuting pirate financiers and enablers in Kenya, the United Arab Emirates and among the Somali diaspora in Europe and other regions have also remained an elusive and largely unfulfilled promise.

The combination of the above factors has created an atmosphere of far greater fear among pirates that they will face punitive action. Many pirates have thus switched to working as protection guards for illegal fishing and other vessels off the coast of Somalia, which until recently would have been the targets for their attacks. But while the number of piracy incidences have dropped dramatically, the level of violence against hostages has increased considerably since pirates fear and resent military actions by armed guards and naval forces.[1]

Deploying some of these same methods in the Gulf of Guinea is not easy. First of all, there are finite resources that countries can devote to far-flung naval patrolling. Thus, redeploying international naval patrols from the Gulf of Aden to the Gulf of Guinea risks an escalation of pirate activity off the Horn, undermining whatever deterrent effect has been created among Somali pirates.

Nonetheless, expanding international naval presence in the Gulf of Guinea would help suppress the incidence of piracy off the coast of West Africa. For many of West Africa's trading partners outside the region, such as the United States and Western European countries, the economic benefits of unhampered trade may well justify the substantial costs of such an expensive, far-flung naval presence in the Gulf of

Guinea. The development of capable and uncorrupted naval patrol capacities among West African countries would ultimately be far more effective from both economic and security perspectives than foreign patrolling. However, while outside assistance to build up local naval assets should continue to be provided, all such efforts need to be undertaken very cautiously. Outside partners and donors need to expect that at least some of the units trained and equipped from outside will end up corrupt and rogue. Hence, diligent outside monitoring and rollback capacity need to be in place as a condition of any assistance.

Second and even more problematic is the fact that most piracy off the Horn has taken place in international waters where both international naval patrols and armed guards on ships are legally permitted to operate. In the Gulf of Guinea, in contrast, most pirate attacks take place within territorial waters, often close to harbor. Local laws and political and sovereignty sensitivities often prohibit or complicate the deployment of armed guards or international naval forces. Moreover, as the region is a major area of drug and human smuggling, wildlife trafficking and illegal arms shipping—often involving local law enforcement and top politicians and government officials—local governing elites will likely not welcome an intensive presence of international navies. The fear of exposure of corrupt practices and government complicity in criminality in the Gulf of Guinea is unlikely to be assuaged by the fact that, as a matter of policy, international naval forces off the Horn of Africa do not interfere with the trafficking of humans, drugs, charcoal, and wildlife or illegal fishing, and solely focus on anti-piracy efforts.

While entailing real costs in terms of deterrence, the inability of ships to deploy armed guards may also provide some benefits. Most notably, it may prevent a further escalation of violence against ship crews in the Gulf of Guinea, an escalation that has occurred off the coast of Somalia. Avoiding further triggers of violence against ship crews in the Gulf of Guinea is all the more important given that pirates off the coast of West Africa have not focused on hostage taking. They already place small value on crews' lives and exhibit little restraint in the use of violence against captured crews. The widespread established illicit transshipment networks used for bunkered crude and illegally refined oil have been

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[1] Author's interviews with captured pirates, Hergeisa, Somaliland, April 2013 and pirate interlocutors, Mombasa, Kenya, May 2013.

of great use to pirates. Thus, unlike off the Horn of Africa, the pirates' *modus operandi* in the Gulf of Guinea has been different, focusing less on long-term hostage taking and ransom seeking and more on theft of oil and other valuables. This dominant method has had complex implications for the safety of captured crews. On the one hand, hostages have rarely been held more than a few days. On the other hand, pirates have exhibited little restraint in the use of violence against captured crew members as they do not value their lives as a bargaining chip and source of income.

The significant rise of insurance costs for shipping companies, the recent capture of two U.S. sailors in the Gulf of Guinea, and the untrustworthiness of West African navies are all likely to generate strong international pressure on individual West African countries—particularly Nigeria, where most pirate attacks in the region emanate—to allow armed security guards. Just like off the Horn of Africa, the trade-off may once again be a reduced incidence of attacks but greater violence by pirates against their targets and hostages.

Just like building formal specialized drug interdiction units in West Africa, standing up anti-pirate militia forces on land—if at all permitted by local governments—carries great risks in the region. In the context of pervasive corruption, highly contested and unstable political systems, and weak institutions, such militia forces have a high chance of going rogue and preying on local communities and rival ethnic and tribal groups as well as falling into cahoots with particular pirate gangs.

The policy options most readily available to suppress piracy in the Gulf of Guinea thus include developing better situational awareness, more extensively employing best management practices learned from the Horn of Africa, and increasing ship defenses, particularly while ships are in or close to harbor. Enhancing situational awareness includes both encouraging intelligence sharing among West African countries (historically averse to such a practice) and with international partners as well as intensifying the use of automatic identification systems, which are used for live vessel position tracking. A potential side benefit of ships diligently and accurately deploying automatic identification systems could be a drop in illegal fishing in the region, as greater automatic identification system transparency would expose

such criminal behavior even as West African navies would still lack response capacities against illegal fishing. Currently, many ships in the Gulf of Guinea spoof automatic identification system databases or do not deploy automatic identification systems at all to avoid having their illegal fishing and smuggling ventures exposed.

Ultimately, policy responses to maritime piracy in the Gulf of Guinea will only be truly effective and lasting if West African countries undertake a determined, systematic effort to redress the profound deficiencies of state presence in their coastal territories and the marginalization of the peoples there. Carrying out this effort includes deploying effective, uncorrupt, non-abusive land police forces that are actually focused on crime suppression in those areas and not misused as political tools. Without the elimination of pirate safe havens on land, there are great constraints on what naval patrols can accomplish. But extending such a legitimate and effective state presence also requires expanding legal economic opportunities for the marginalized coastal populations in West Africa and building up their human capital. Both policy elements are ultimately dependent on the willingness and capacity of West African states and societies to purge pervasive corruption from their political systems and institutions and break the intense intermeshing of crime and state that for decades has characterized governance in West Africa.

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