

AIR COMMAND AND STAFF COLLEGE

AIR UNIVERSITY

**BLACKBEARD: POLITICIAN, PIRATE OR JIHADI -
The Relationship Between State Failure and Piracy in Somalia**

By

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A Research Report Submitted to the Faculty

In Partial Fulfillment of the Graduation Requirements

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Maxwell Air Force Base, Alabama

December 2011

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BLACKBEARD: POLITICIAN, PIRATE OR JIHADI:

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INTRODUCTION

Somalia has long been seen as a failed state and a haven for piracy that has refused any external assistance. This has suited many in the International Community (IC) as it has provided a plausible excuse for non-intervention; indeed the will to get involved has been almost non-existent since the US had its nose bloodied in 1993. However, the real situation within Somalia is not so clear-cut. First of all this paper examines what is meant by Somalia, which has never been a unified political entity;¹ in many respects it is 2 separate countries comprising 3 distinct regions. Somalia, as currently defined, is one of the largest ethnically, religiously and linguistically homogeneous areas in Africa.² Unfortunately, this has not led to peace and stability. as the regions of Somalia comprise a complicated and interwoven series of clans and sub-clans each with a distinct history, hierarchy and colonial experience. This has greatly affected how each clan regards itself and its neighbors. In fact, the colonies of British Somaliland and Italian Somaliland only combined as the country of Somalia as a result of pressure from African neighbors after independence in 1960, a decision later rescinded by one of the main constituent parts.³ This paper will examine and prove the following:

H1. State Failure is not a prerequisite for Piracy but it is a key element in a number of factors at play.

H2. Pirate networks prefer a weak rather than a failed state and that there is a correlation between political stability and piracy.

To prove these hypotheses this paper examines two related topics. Firstly, it reviews the conditions that led to the start of piracy in Somalia and then enabled it to flourish. It continues to investigate the importance of ethnicity, colonial history and governance before making a comparison to other countries with similar characteristics. Secondly, it examines the relationship between stability and piracy. Using the three regions of Somalia defined in the first section it examines how the different styles and levels of governance have affected levels of piracy and assesses the impact of the IC, particularly how piracy has had a destabilizing effect far beyond the borders of the region in which the Pirates operate. Having shown that a balance of geography, political, economic and social factors are all required to enable piracy, the paper offers some policy suggestions as to how piracy can be overcome. These policy recommendations could form the basis of a follow-on study in the second semester.

THE CIRCUMSTANCES IN SOMALIA THAT LED TO PIRACY AND THE EVENTS THAT THEN ENABLED IT TO FLOURISH

Before this essay can examine the relationship between state failure and piracy, it must address the many other issues that have affected Somalia's place in the world. This section addresses what is meant by the state of Somalia, what binds the Somali people together and what divides them. It details the causes of the rise of piracy before looking at the economic factors surrounding the issue.

Somalia Defined. Hesse points out that the idea of Somalia, as a nation state, is a myth⁴ artificially created by post-colonial Africa. Moreover, the situation is complex and there are a number of interwoven influences at work, including the following key elements:

Ethnicity. Unlike many troubled regions in Africa, Somalia is not riven by ethnic rivalry; the people living in the Horn of Africa are in "one of the largest ethnically, religiously

and linguistically homogeneous areas on the continent” of Africa.⁵ In the period immediately following the end of colonialism, there were some that aspired for an even “Greater Somalia”⁶ comprising all 5 regions in which Somalis lived; namely: British Somaliland and Italian Somaliland, Djibouti, Ogaden (Ethiopia), and the Northern Frontier District (Kenya); this was the inspiration for the 5-pointed star displayed in the Somalia flag.⁷ Nevertheless, it was British Somaliland and Italian Somaliland that were united in 1960 to give us the country we recognize today as Somalia, but the ethnic homogeneity of Somalia does not tell the whole story. Somalia is divided into 6 distinct clans: the Samaale clans (Darod, Dir, Hawiye and Isaq), which include approximately 75% of ethnic Somalis who are historically nomadic and the Dirgil and Rahanweyn who are historically settled agro-pastoralists and are perceived by the Samaale as an inferior caste.⁸ It is in this context that the later clash between the Transitional Federal Government (TFG) should be viewed: a clash of clans, not of ideologies.⁹ This new country of Somalia divided along clan lines, into 3 distinct regions: Somaliland, Puntland and South Somalia.

Colonial Experience. The regional division is heightened by the differing experience each clan had under colonial rule. In contrast to Italian Somaliland, which comprised the regions of Puntland and South Somalia, the British in British Somaliland, now known simply as Somaliland, “did not sanction state appropriation of economic assets” for fear of the social upheaval it would cause; they were also reluctant to enforce modernization for the same reason.¹⁰ This variance in colonial experience was exacerbated by different policies toward education. Italy adopted a policy of mass education, albeit of a low quality. Whereas Britain, thinking the nomadic culture was unsuited to mass education,

educated few Somalis but those it did educate, were educated to a high standard, up to and including places at British universities.¹¹ This differing experience better prepared some Somali clans to seize power at independence, which led to the perception that power was associated with clans rather than the state as a whole.

Levels of State Failure. The IC's two primary strategic objectives in Somalia have been defined as: "the reduction of the threat from radical Islamism and the suppression of Piracy".¹² Somaliland scores relatively well on both counts having little recorded piracy and having little to do with either Al-Shabab or Al-Qaeda on the Arab Peninsula (AQAP). Although Puntland has been relatively effective in controlling militant Islamism,¹³ it has been less successful at controlling piracy, partially because its political institutions are less mature but mainly because those institutions that do exist are complicit with the pirates, particularly in Eyl and Garaad.¹⁴ Some commentators have likened Puntland to "the pirate version of a narco-state".¹⁵ UN Secretary General, Ban Ki-Moon, put it less emotively in a report when he stated that there was evidence of "complicity by members of ... Puntland administration".¹⁶ Southern Somalia has little in the way of governance outside the small area of Mogadishu, where control is conferred by African Union (AU) peacekeeping troops. It is in this area that Al-Shabab has its strongholds, though there is evidence that Al Qaeda (AQ) found Somalis untrustworthy and the Somali clan loyalty too strong to break, even with the substantial funding made available to them.¹⁷ It is also argued convincingly that the clan loyalty may be the only thing that stops Somalia from "descending into a Rwanda or DRC".¹⁸

Other Factors. Overlaid on this complex tapestry of governance, clan loyalty and historical experience, is the fact that other states with piracy problems do not necessarily

suffer from the lack of governance seen in Somalia; For example, Indonesian waters were the most Piracy prone in the world between 1991 and 2006¹⁹ yet it is a not a failed state. Conversely, states listed as failed in the 2011 Failed States Index such as Cote d'Ivoire and Guinea have not had a piracy problem until recently;²⁰ this is despite their location adjacent to the Gulf of Guinea, which suffers from considerable piracy, mostly originating in the Niger Delta.²¹ However, instability resulting from Nigeria's oil wealth has led to piracy in the Gulf of Guinea and black market oil is being sold in "several West African ports, possibly including Abidjan in Cote d'Ivoire and Port Gentil in Gabon."²², which suggests that Nigeria's instability is having a regional impact.

Piracy: Definition and Causes. If the levels of state failure vary across Somalia and do not provide a single cause for the degrees of Piracy, then perhaps something is different about the type of Piracy seen in Somalia that would explain its proliferation. This section briefly outlines the reason why Piracy began in Somalia and then shows why it became so widespread in this particular region.

Piracy in Somalia can be grouped into 2 distinct types: Defensive and Predatory.²³ While examples of both types have been seen since Somalia's foundation, defensive piracy was originally more prolific, is more understandable and even justifiable. Somali fishermen sought to defend their meager livelihoods, as unscrupulous foreign fishing vessels took unsustainable levels of fish following the collapse of the Barre regime in 1991.²⁴ Dumped toxic waste, including low-level nuclear waste, washed ashore between 1992 and 1996,²⁵ compounding the impact of overfishing.²⁶ Thus, defensive piracy was an act of self-defense, used by the fishermen to protect their livelihoods. It was circa 1996 that fishermen began to realize that ransoming fishing vessels was more profitable than the fishing they

originally set out to protect; this is when, as one Somali diplomat put it, “the pirates ... got greedy”²⁷ and predatory piracy really escalated.²⁸ One pirate, Afweyne, was notable in his entrepreneurial approach to this new venture as he set about raising venture capital “as if he were launching a Wall Street IPO”.²⁹ Predatory piracy has three forms: attacks by small, fast-moving craft on the main shipping lanes parallel to the Yemen coast; migrants operating from the Yemeni port of Balhaf carrying out opportunistic attacks on traditional North/South smuggling routes and finally the ‘drive-by’ shooting of a vessel with no attempt to board (a continuation of the defensive form of Piracy mentioned earlier).³⁰ Most of this piracy is based in Puntland. One notable exception is the Haradheere (South Somalia) based ‘Somali Marines’, a professionally run, hierarchical organization. The timing of the emergence of this group has led to speculation that the TFG, under President Abdullahi Yusuf’s leadership, must have offered some kind of political protection to the group.³¹ Interestingly, there is evidence that the local population did not support their activities, which they found “shaming”³² and this may provide one reason why Piracy does not flourish in South Somalia.

Piracy Flourishes. Given the root causes of piracy in Somalia detailed above, three features that combine to form the ‘perfect storm’, explain piracy’s further development: geography, social structure and politics.³³ Firstly, geography refers to a suitable location that is required for piracy to be workable “Piracy is sustainable in places that offer a combination of rewarding hunting grounds, acceptable levels of risk and safe havens”³⁴. It was the availability of safe havens that made Somalia unique and pushed Somali piracy from a local nuisance into a multi-million dollar business.³⁵ Secondly, the social structure, based as it is on closely interwoven clans, makes it impossible to carry out pirate operations without the knowledge and tacit agreement of local people.³⁶ As the support and management of piracy ashore became normalized, the pirates used

increasingly sophisticated techniques to ensure the support of the local people; for example, the use of Somali nationalism and the “clever use of public relations” to sway public opinion both in Somalia and in nearby Kenya.³⁷ Finally, with regards to politics, the Darood Harti clan elders formed a regional administration in 1998, around the time the piracy business became centered in Puntland.³⁸ Named by the International Experts Group as “the epicenter of Piracy”, it became obvious that the effects of piracy penetrated all levels of the Puntland Government.³⁹ This was compounded when the Puntland government ran out of money and former members of the military and police found alternative employment in piracy,⁴⁰ the only realistic option for the disaffected and uneducated youth.

Economic Issues. If the situation above described a ‘perfect storm’ in terms of an environment for piracy, then the massive pay-outs that can be achieved provide the motivation.⁴¹ This is brought very sharply into focus when the estimated income from piracy in Puntland in 2010 was \$82M compared to its budget of \$17.6M;⁴² it is not surprising that powerful people in Puntland politics became involved in, and highly protective of, the piracy industry. These issues are compounded by ongoing conflict, lack of a functional government, drought and a population with little or no economic prospects. Other ‘pull’ factors that encourage the people of Puntland to either support or at least overlook piracy, involve the strategic distribution of wealth by the pirates. Much of the money earned remains within Puntland’s economy, so that even those not directly involved in the business of piracy benefit from its trickle-down effect, resulting in “widespread social buy-in”.⁴³ The formula to split the proceeds is well designed and one pirate was quoted as stating his gang of 50 pirates split the proceeds as follows: 50% went to the 15 attackers, 30% went to the investors and the remaining 20% went to those holding the hostages.⁴⁴ Linked to social cooptation, some pirate gangs even set up “exchanges where

individuals may invest ... providing cash, weapons or other useful materials”.⁴⁵ This large influx of money has fuelled a property boom, not only in the pirate towns of Haradheere and Eyl but also across the border in the Eastleigh district of Nairobi.⁴⁶ This thriving industry comes at a high cost to both Somalia and its neighbors; a recent report (on global piracy but focused on Somalia) puts the annual cost of piracy in 2010 (whole costs, not just cost of ransom) at between \$7bn and \$12bn per year.⁴⁷ To those who have managed to resist all the ‘pull’ factors associated with piracy this is the final ‘kicker’. The vast influx of money into the economy of this impoverished region has had the effect of creating high inflation, so the few goods that are available, now cost far more, “stressing further those families not plugged into the pirate economy”.⁴⁸

So, while state failure is not a sole prerequisite for Piracy, governance is a key factor; the relationship between governance and stability varies by region and will be examined further in the following section.

PIRACY DECREASES WITH INCREASED STABILITY

This section examines in greater detail the different levels of stability across the three regions and how the level of stability has influenced piracy. It outlines the impact of the IC and concludes with a brief review of the destabilizing effect Somali piracy has had on the region.

Somaliland. Somalia is not an unmitigated failure. There are some success stories and Somaliland is one of them, being a relatively stable state. The Somaliland region contains almost half of the population (3 million of the approximately 8 million) and has held a series of elections since its unilateral secession in 1991. These elections took place with little intimidation or fraud,⁴⁹ no mean feat considering the experiences of Somalia’s nearest neighbors and that Somaliland’s population is 80% illiterate with up to 50% who are nomadic.⁵⁰ A democratic style

of governance has fused “Western style institutions ... with traditional forms of Somali social and political organization”.⁵¹ The success of this approach was reconfirmed when the concerns expressed by the IC before the recent 2010 elections proved baseless.⁵² In addition to free and fair elections, Somaliland has also managed to demobilize rival militias, clear mines, repatriate refugees while rebuilding infrastructure such as universities and hospitals.⁵³ All of this is even more impressive considering that they have done this without international recognition and access to International Monetary Fund (IMF) and World Bank (WB) funding and support. Perhaps the most significant accomplishment has been the creation of a central bank that has maintained a relatively stable currency, coupled with a non-interventionist approach to business that has facilitated private investment from the extensive Somaliland diaspora. The ability to transcend clan loyalty has made this possible, as exemplified by the election of President Kahin from the minority Dir clan. With this evidence of success in such a complex region, it is difficult to understand why the IC is so reluctant to recognize its independence. *The Economist* attributes it to the reluctance of the African Union (AU) to change African borders,⁵⁴ which effectively blocks any attempt by those outside the continent. However, in the light of South Sudan’s recent independence, perhaps this position is becoming less tenable. Mogadishu’s inability to hold a referendum should not restrict Somaliland’s growth into a productive and valued member of the IC.

It is worth identifying the features that have enabled Somaliland to create this viable state amid the chaos of Somalia. Colonialism was only a minor factor and should not be overstated, a far more relevant feature has been Somaliland's experience since independence from Britain and even more relevant, their experience under General Ziad Barre’s regime. His policies resulted in an influx of armed Ethiopian refugees fixed on taking Somaliland’s aid and land.⁵⁵ The resulting

Somaliland resistance movement created a sense of nationalism in Somaliland that transcended clans; this was a major step forward for the burgeoning state. The IC's refusal to recognize Somaliland meant that they had to become self-sufficient, relying on remittances from the Somaliland diaspora (estimated as 100,000 people in the UK alone).⁵⁶ Somalia as whole is heavily reliant on remittances and "it is now estimated that between US\$750 million and US\$1bn enters Somalia each year".⁵⁷ Somaliland's successes have been a unifying source of pride, particularly when compared to the international opinion of their Somali neighbors. This sense of nationhood is one of the key differences that has enabled Somaliland to move forward and should be considered when evaluating Somalia's two other less successful regions. It is evident that good governance in Somaliland precludes piracy operations, as Dr. Mohamed Abdullahi Omar Minister of Foreign Affairs and a member of the committee in the fight against piracy stated, "the responsibility of the committee is to look back and examine the possibilities on how Somaliland can co-operate with the international committees as well as taking part in playing a vital role in the fight against piracy. I'm hoping that this endeavor will contribute to the peace and stability of Somaliland."⁵⁸

Somaliland's commitment to fighting piracy "with a ragtag coast guard and a new prison" has only been possible because it has a functioning government that has been willing to sacrifice short-term easy money for longer-term prosperity.⁵⁹ The significant income (estimated as up to 20% of Somalia GDP) gained from remittances has a stabilizing effect, as "money sent by the Diaspora is both more stable and less volatile than private capital flows and is spread more evenly amongst the population in developing countries."; ⁶⁰ this allows a longer-term view to be taken.

Puntland. The story of Puntland is unfortunately less optimistic. While its political institutions have not reached the same level of development seen in Somaliland, those that do exist are staffed with officials said to be “abetting piracy networks”.⁶¹ A number of competing agendas within the majority Darod clan and a myriad of plans for the region’s future exist: some want Puntland to be an “autonomous part of a federal Somalia”;⁶² others seek independence similar to Somaliland; while a significant number are happy with the status quo, as it provides a haven for “trafficking drugs, weapons ... [and] as a place for piracy”.⁶³ The UNSC committee chairman noted that:

[The UN] Monitoring Group considers Somali-based piracy to be a fundamentally criminal activity attributable to specific militia groups and “families”. In central Somalia, the Afweyne family has succeeded in co-opting elements of the local community, mainly from the Habar Gidir Saleebaan sub-clan, through the distribution of wealth. In north-eastern Somalia, pirate leaders have compromised State institutions at both the local and central levels by co-opting and corrupting government officials.⁶⁴

There is also evidence that there is collusion between the vessel owners and the pirates, who were paid to take “ships that were insured for far more than they were worth”.⁶⁵ Numerous authors indicate that the strong Islamic state, represented by the Islamic Courts Union (ICU) in 2006, had a positive effect in reducing piracy. However, this is not supported by the data; there is evidence that the reduction in pirate attacks between the first quarter of 2006 and the remainder of the year had more to do with the monsoon than any anti-pirate activity carried out by the ICU.⁶⁶ Furthermore, the ICU carried out only 1 anti-piracy operation and that was to retake an Islamic owned boat.⁶⁷ However, Puntland has rarely been consistent in its approach to piracy. Early in Presidents Farole’s term, he “selectively applied soft power to counter some Puntland based pirates”,⁶⁸ which morphed into using “hard power” in 2010 resulting in the number of pirate attacks plummeting from 61 in the 1st quarter of 2009 to 35 for the same period in 2010.⁶⁹

This was a very positive development in the traditional heartland of Somalian piracy. However, Puntland has limited and corrupt governance, as well as the infrastructure and logistics that piracy requires but without the accompanying rule of law that could impede operations. The clans are just coherent enough to facilitate the business of Piracy without descending into full-blown anarchy and civil war. Roger Middleton, a Horn of Africa expert at Chatham House, précised the situation, “Puntland was the perfect area for pirates because it is just stable enough, but also ungoverned enough”.⁷⁰

South Somalia. The government in Mogadishu “owes its survival to the small AU peace support operation, AMISOM, rather than to its own troops”.⁷¹ It is somewhat surprising that more evidence does not exist to explain why piracy is less prevalent south of the port of Haradheere in the disputed border region of Galmudug, South of Puntland; although the pirates are willing to “anchor their seized boats near the ungoverned south Somali coast and wait for the ships' owners to pay increasingly lucrative ransoms”⁷² The UNSC Committee Chairman noted that, “Piracy operations continue to be anchored in two principal locations: the coast of Puntland and the central Somalia littoral east of Haradheere and Hobyo. These areas are unique neither in their proximity to shipping channels nor in the poverty of their communities.”⁷³

Anecdotal evidence indicates that the region south of Mogadishu does not have enough coherence within its clan base to enable pirate operations, resulting in an environment too unstable for piracy to operate. Some piracy does take place here but the victims are usually moved on quickly to Puntland where infrastructure exists. For example, the recent kidnapping of British tourist, Judith Tebbutt, who was taken from Lamu in neighboring Kenya and then ‘sold’ to Puntland based pirates for a reported £200,000.⁷⁴

International Community. In addition to domestic governance, there has also been significant influence exerted from the IC. Not all of this influence has been intentional but it has demonstrated some of the levers that are available should the issue of piracy attract serious, concerted attention. A second order and unintended consequence of the United States' Global War on Terror (GWOT) was the deployment of a significant military force to Djibouti, Somalia's neighbor to the northwest. Pirate attacks dropped to a "low of ten" in 2004,⁷⁵ though this drop was only brief, as the pirate networks quickly realized that they were not the targets of the US deployment. Another unintended consequence of GWOT was seen in the movement of funds through the pirate networks. Hawala is a traditional trust based remittance system that originated in the India, which is used to transfer money without actually moving it, through the use of connections such as family relationships or regional affiliations.⁷⁶ This system was paralyzed when the US froze the assets of the Al-Barakaat group of companies⁷⁷ and meant that some large ransom payments could not be made and required the movement of large sums of cash via couriers, resulting in a severe degradation in the system. By themselves these two effects were not significant but they are indicative of the levers that could be used by the IC if the will to implement them were forthcoming. There are two other levers that the IC has employed with varying degrees of success: naval power and the rule of law:

Naval Power. The navies of the IC are undoubtedly having an impact on piracy; however, without clear political aims, coordination and legal authority ashore, any military intervention is likely to prove to be an irritant to the pirates rather than dealing them a killer blow. The pirates have proven themselves to be resilient to external interference in their operations. For example, the deployment of an EU naval force in March 2010 seems likely to have increased operating costs for the pirates but it did not hamper their

operations; they seemed to have coped with the additional costs incurred by the EU effort by simply raising the price of the ransoms for the ship they were able to capture.⁷⁸

Nevertheless, the combined effect of the EU, NATO and US naval deployments in 2009/10 appear to have reduced the ratio of hijacked ships from 1:3 to 1:11, a significant improvement.⁷⁹ The US Navy (USN), the de-facto guarantor of global maritime security, has historically focused on war-fighting and is ill equipped to meet the role of a maritime police force. It has attempted to redress this imbalance with the creation of “a unified maritime strategy”⁸⁰, which focused on cooperation with its allies, vital in an era of declining military budgets. This strategy, if adopted and adequately funded, may offer the framework for a coordinated approach to the naval response. In the short term, the naval response will continue to come from the usual entities: the US, the EU and the UK, these are the only entities that can field blue-water navies; though China, India and South Africa are building capabilities in the Indian Ocean.⁸¹

However, there cannot be a military-only solution; even with the best coordinated naval response, without resolution of the shore-based issues piracy will continue to thrive. The pirates have demonstrated they are not easily intimidated, as exemplified when “two or three skiffs ... armed with rifles and RPGs reportedly fired upon the US warships, the USS Cape St George and the USS Gonzalez.”⁸² There are also second order effects associated with a stronger military response that should not be overlooked. Any maritime raids ashore are likely to place hostages at greater risk and may further unite Somalis against foreign intervention; this could have the effect of making Somalia a safe-haven for “an enemy that is much more dangerous than mere pirates”.⁸³ Somalia was once Al-Qaida’s “hub in the Horn” of Africa but significant success was not achieved

by US SOF operations. The Army Times has stated that the AQ cell “was certainly degraded, perhaps eviscerated”⁸⁴; this good work should not be undone.

Rule of Law. The final issue that this paper addresses regarding the IC is that of judicial due process. Without a working judicial system in Somalia, some way must be found to apply the rule of law to those involved in piracy. The ICC at the Hague is not structured to handle this level of criminal activity; although it might be used to prosecute some of the high profile ‘bosses’. What is required is a lower-level court that is able to deal with those engaged in the seizure of the ships. This would enable the IC navies to have a significant impact and avoid the embarrassing situation the US Navy found itself in when it had to release 10 pirates in 2010 as no country was willing to prosecute them⁸⁵. A similar case occurred when the Royal Netherlands Navy had to release 13 Somali pirates because the EU was unable to bring charges against them.⁸⁶ Kenya had hosted ad hoc trials for pirates captured by the USS Winston D. Churchill in 2006 and HMS Cumberland in 2008⁸⁷ and even signed an agreement with the UK, US and the EU to try more suspected pirates. However, Kenya was forced to abandon the policy when it faced domestic unrest from its Somali population.⁸⁸ This destabilizing effect of piracy is dealt with in greater detail below.

Regional Destabilization. As demonstrated when examining Somaliland, stability and governance reduce the prevalence of piracy. However, the opposite is also true, as the presence of piracy places stress on governance that reduces stability if the government is not sufficiently strong; this is seen in the Kenyan example cited earlier. There has always been some cross border tension between Somalia and Kenya but it has traditionally been limited to cross-border ‘banditry’ by the ‘Shifita’. ‘Shifita’ is the Somali word for ‘bandit’ and was first used by the

Kenyan government to describe the Somali secessionists in the Northwest Frontier District (NFD) of Kenya but now more commonly used to describe cross-border incursions by Somali cattle-rustlers.⁸⁹ Incursions have generally resulted from failing rains and nomadic Somali cattle herders simply following the rains and pasturage, over what has traditionally been an extremely porous border.⁹⁰ However, there has been a sea-change in the composition of the Somali diaspora since the fall of the Barre regime in 1991. It is estimated that “125,000 to over 300,000” Somali refugees have arrived in Kenya since 1991, many of whom have strayed from their traditional enclave in northeast Kenya to reside in the Nairobi suburb of Eastleigh.⁹¹ These migrants added to an existing Somali neighborhood that was already engaged in several nefarious activities such as the export of ‘khat’, an illegal leaf chewed as a stimulant; thus contributing to a criminal network that was valued at “between 120 and \$180 million” in 1999. This economic infrastructure has enabled piracy to flourish; the communications network allowed the ‘Hawala’ banking system to move funds, in a way that was almost invisible to the authorities. Kenya also provided a safe haven for expatriate Somalis who travelled to fight with the ICU and Al-Shabab “in late 2006 and early 2007”.⁹² The negative impact on the Kenyan tourist industry caused by the kidnaping of Kenyan citizens and foreign nationals and threats from Al-Shabab to annex parts of Northern Kenya inevitably caused Kenya to react;^{93, 94} this reaction escalated from the training of a Kenyan Somali militia in 2009 for a TFG assault on Al-Shabab to establishing a buffer zone between Kenya and Somalia: “In December 2009, the Kenyan Minister of Security, George Saitoti, reportedly confirmed to foreign diplomats the existence of a ‘Jubaland policy’ intended to establish a ‘buffer zone’ bordering Kenya in the Juba Valley.”⁹⁵ The Kenyan intent to establish a Jubazone was confirmed by its invasion of southern Somalia in October 2011,⁹⁶ an act that will not help Kenya attract tourists nor will it help solve

its internal issues, still fulminating following its electoral problems in 2008. Indeed, Al-Shabab has already responded, as demonstrated by the recent grenade attacks in Nairobi on 24 October 2011, which in turn has resulted in the harassment of Kenyan Somalis.⁹⁷ Kenya can little afford this internal strife. The destabilizing effect is by no means confined to Somalia's immediate neighbors. A flourishing 'entrepreneurial' activity exists in the large Somali community in South London, where revenues in excess of \$1 million were generated at its peak in 1996-1998 through the sale of unofficial fishing licenses; this lucrative practice began to decline when the TFG started to issue its own licenses in 2004, though this could also be seen as another sign that increased governance reduces unlawful activity.⁹⁸

CONCLUSION

This paper has proven its two hypotheses: namely that state failure is not a prerequisite for Piracy but it is a key factor among a number of factors at play. It also proved that pirate networks prefer a weak state to a failed state and that there is a relationship between political stability and piracy.

The first section investigated the first hypothesis: that State Failure is not the sole prerequisite for Piracy. Cote d'Ivoire and Guinea are failed states that have not had piracy problems in the past, though Nigeria's oil wealth is now causing piracy, which appears to be spreading.⁹⁹ Indonesia is far from being a failed state but has a significant issue with piracy. Ethnicity, colonial experience, radical Islam and clan loyalty all play a role but governance is the major factor; the confluence of geography, social, economic and political factors combined with the right level of state failure results in widespread piracy.

The second section investigated the relationship between stability and piracy and proved that Somaliland, the most stable region in Somalia, has effectively prevented piracy. It showed

that the ‘failed’ region of southern Somalia was largely too unstable to support piracy as it lacked the infrastructure and the support-base required by modern predatory piracy. It then demonstrated that the ‘weak’ region of Puntland provided the ideal balance of lawlessness and stability that is required to enable piracy and outlined how the pirate networks have infiltrated the Puntland political establishment. Finally, it demonstrated that the IC can have an impact but that it is currently insufficiently coordinated to realize the second and third order effects of its actions. For example, IC anti-hostage operations may unite Somali popular opinion in favor of the pirates. International navies certainly impede piracy but to be really effective they must be empowered at sea and supported by an effective legal system on land. The section ended with evidence that Stability and Piracy is a reciprocal relationship; that is, increases in piracy reduce regional stability.

POLICY RECOMENDATIONS ON HOW TO DEFEAT PIRACY

Given the examination of the multiple factors required for successful pirate operations and the deleterious impact they have had on regional stability, this section looks at how to reduce or even eradicate piracy in the region. Firstly, it is important to acknowledge that the current plethora of policies is not working; while there are numerous positive initiatives both within Somalia and the IC, none has thus far provided a comprehensive solution to the problem. Therefore, there is scope for a new approach. The intent is that these recommendations will form the basis for a subsequent research paper in the Spring Term.

1. Disrupt the Funding Network. This strategy has been used effectively to target Al Qaida and its affiliate in the counter terrorism initiatives.¹⁰⁰ The US should leverage its capability, in conjunction with the rest of the IC, to ‘follow the money’ that is used to support and develop

piracy. If the practice ceases to be profitable, then much of the incentive for piracy will disappear.

2. Address the Root Cause. As per contemporary counter-insurgency doctrine, if the link between the root causes of piracy can be disassociated from the practice of piracy another motivating factor will be eliminated. In this case, the origin can be attributed to illegal over-fishing and the dumping of toxic waste. International navies could have a greater impact against this root cause; armed with appropriate international maritime laws, the navies of the world could prevent these illegal activities, or at least make its practice so onerous and costly that it eliminates the profit incentive from piracy.

3. Enforcing the Rule Of Law. A viable lower-level solution about what to do with the pirates once they are captured must be found. The UN has introduced laws¹⁰¹ to close the legal loopholes that have thus far been exploited by the pirates: “the drafters [of UNCLOS – the UN Charter on the Laws of the Sea] ... appear never to have conceived that a recognized state with recognized territorial waters would exist without the capacity to police those waters”.¹⁰² This will require coordination between international and regional organizations, states and their national laws. However, until a viable solution is found to deal with these ‘Persons under Control’¹⁰³, international navies will be reluctant to intervene. While it may be possible to try the high-level ‘bosses’ in the ICC at the Hague, this would be too costly, time consuming and unwieldy for the majority of the pirates that are captured so, a swifter, local solution that is more appropriate must be found either in Kenya or in another nearby capable but disinterested nation.

4. Allow Somalia to Heal Itself. The single most important act to enable this would be the UN recognizing Somaliland and positive signs indicate that the UN may be moving in this direction: “Since the election we have been informed that there are plans to open a UN office in

Somaliland, and that other UN offices may move from Nairobi to Hargeisa”.¹⁰⁴ Somaliland independence would enable international investment by the World Bank and International Monetary Fund, which is only able to invest in nation states. The international pressures that enabled the independence of South Sudan could potentially mean that the AU is now more likely to facilitate Somaliland independence than it has been for many years. Not only would Somaliland provide a template that Puntland could look at for inspiration, it would also consolidate a bulwark against the zone of radical Islamic instability that “stretches from Yemen to the Kenyan border”.¹⁰⁵ Of course, this is also the right thing to do for the people of Somaliland who have been patiently waiting for decades to achieve their independence.

5. Puntland. The recognition of Somaliland would begin to deconstruct the problem of Somalia into manageable parts; with Somaliland beginning to develop positively, Puntland should be the next region to be addressed. Puntland has demonstrated that it is able to resist radical Islam and is part of the bulwark against radical Islam, however, it fares less well on the second of the IC’s strategic objectives: piracy. Puntland has shown that it is able to wield both hard and soft power against piracy,¹⁰⁶ which is a positive indicator that at least some levers exist that can be used. Aid is not the solution for Puntland, for foreign aid will never be as large or as reliable as the money delivered from piracy. Humanitarian assistance is inevitably a temporary measure that cannot address the underlying problems, which must be resolved for Puntland to thrive independently. The solution is to harness the entrepreneurial spirit that lives demonstrably the people of Puntland. If one accepts that piracy is an example of how Somalis can engage in capitalist activity successfully, the IC should work with clan leaders to encourage entrepreneurship, albeit more ethically; to “direct foreign investment and induce the members of the large Somali diaspora to seek out business opportunities in their homeland”.¹⁰⁷ A fraction of

the reported \$750 million remittance money, properly invested, would significantly strengthen Puntland. As noted in Section 2, some public demand exists for greater autonomy for Puntland and not all the population wish to continue its weak-state status quo.¹⁰⁸ Therefore, this demand can be harnessed. The Garowe Declaration, Puntland Charter and later Puntland Constitution have all shown a tangible desire for a stronger form of government.¹⁰⁹ Any subsequent research should investigate how the IC could influence the content of the final document and foster its acceptability to the people of Puntland.

6. Southern Somalia. Southern Somalia provides the most challenging issues to be addressed, not least because the situation there is so dynamic. At this time, the Kenyan military had recently invaded southern Somalia, no doubt following its stated policy of creating a buffer in 'Jubazone'. This may stabilize the region initially but its longer-term impact is yet to be seen. The subsequent research study should assess the impact of the Kenyan and Ethiopian invasion, as well as investigate how a successful Somaliland and a developing Puntland can act as role models for leading southern Somalia out of chaos.

7. Stop Piracy Spreading. Evidence should be sought to establish why piracy has not spread further south than Harardheere; if anecdotal evidence is correct and a lack of clan coherence is the reason, then that area should be monitored very closely. Positive development in Somaliland and Puntland may improve conditions in Southern Somalia sufficiently to enable piracy operations to flourish, just as the problem is solved in the traditional regions further north.

8. Spread of Al-Shabab. Finally, the role and impact of international intervention should also be investigated. There is evidence linking the Ugandan commitment to the AU stabilization force to Al-Shabab attacks in Kampala, the first Al-Shabab attacks outside of Somalia. The results of this investigation should inform future operations.

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²⁷ Ibid. Somalia: The New Barbary? page 24

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³⁰ Ibid. Somalia: The New Barbary? page 30

³¹ Ibid. Somalia: The New Barbary? page 58

³² Ibid. Somalia: The New Barbary? page 32

³³ Ibid. Somalia: State Collapse, Terrorism and Piracy – page 82

³⁴ Ibid. Somalia: State Collapse, Terrorism and Piracy – page 82

³⁵ Ibid. Somalia: The New Barbary? page 33

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³⁷ Ibid. Somalia: State Collapse, Terrorism and Piracy – page 84

³⁸ Ibid. Somalia: The New Barbary? page 55

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⁴⁰ Ibid. The Pirates of Somalia – page 35

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⁸³ Ibid. Somalia: The New Barbary? Page 168

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ANNEX A TO
SOMALI PIRACY
DATED SEP 11

SOMALIA – Timeline

1990s	Islamic courts began to emerge in parts of the country, especially in the capital of Mogadishu. Formed the Sharia (Islamic law) Implementation Club (SIC) in 1996
2002	The Inter-Governmental Authority for Development (IGAD) launched a peace process designed to end factional fighting in Somalia, led by the government of Kenya.
2003	The parties agreed on a Transitional National Charter (TNC).
2004	A 275-member Transitional Parliament was inaugurated in Kenya.
2004	Parliament elected Abdullahi Yusuf Ahmed as the new president of Somalia.
2006	The forces of the Islamic Courts Union (ICU) took control of the MOG During the 6 month rule by the ICU, MOG became relatively peaceful, efforts to bring peace did not lead to a major breakthrough.
2006	Ethiopian troops captured MOG with little resistance from the ICU. The Ethiopian intervention led to more chaos and instability in Somalia. Leadership of the Islamic Courts moved to Eritrea UNSC passed Resolution 1725, “reiterating its commitment to a comprehensive and lasting settlement of the situation in Somalia through the Transitional Federal Charter
2007	The Transitional Federal Government (TFG) came to MOG, from Baidoa after the ouster of the ICU. the true leaders of Al-Shabaab emerged and the ties with Al-Qaeda became clear (AMISOM) At the African Union Summit in late January 2007, several African countries pledged to contribute troops for a peacekeeping mission in Somalia. Ghana, Nigeria, Burundi, Uganda, and Malawi have pledged troops
	Humanitarian, political, and security conditions continue to deteriorate across south-central Somalia. In the past two years, more than 22,000 civilians have been killed, an estimated 1.1 million people displaced, and 476,000 Somalis have fled to neighboring countries.
2008	Fighting between insurgent groups and Ethiopian-TFG forces intensified
2008	The TFG had lost control of most of south-central Somalia to insurgent groups.
2009	Ethiopian forces completed their withdrawal from Somalia. In late December
2008	President Yusuf resigned from office and left for Yemen.
2008	The TFG and the Alliance for the Re-Liberation of Somalia (ARS), a group dominated by members of the ICU, signed an agreement in Djibouti mediated by then-United Nations Special Envoy Ahmedou Ould-Abdullah. The parties agreed to a cease-fire, the withdrawal of Ethiopian forces, and the deployment of a United Nations peacekeeping force. A number of towns, including the third-largest town, Kismaayo, are now under the control of Al-Shabaab, a group opposed to the TFG.
2008	Then-Secretary of State Condoleezza Rice designated Al-Shabaab as a Foreign Terrorist Org But Al-Shabaab was not active and did not control any territory in Somalia until 2007-2008.
2009	The Somali Parliament elected the leader of the ARS, Sheikh Sharif Sheikh Ahmad, as president

2009	President Ahmad appointed Omar Abdirashid Ali Sharmarke as prime minister. December 2009 suicide bombing during a graduation ceremony for medical students at a hotel in MOG further eroded Al-Shabaab's popularity.
2010	President Ahmad appointed Mohamed A. Mohamed as prime minister shortly after Sharmarke resigned. In November 2010, Prime Minister Mohamed formed an 18-member cabinet. The previous government had 36 ministers.
	The Obama Administration is actively engaged in support of the TFG and in an effort to contain terrorist groups in Somalia and the region. The U.S. Congress has passed a number of resolutions and has conducted multiple hearings on Somalia. The United States provided an estimated \$403.8 million in assistance to Somalia in FY2009. In FY2010, Somalia received \$152.1 million. The Obama Administration has requested \$84.9 million for FY2011 and \$82.3 for FY2012. The United States also provides material support to TFG forces.
2010	Al-Shabaab carried out multiple suicide bombings in Kampala, Uganda. An estimated 76 people, including one American, were killed and more than 80 injured. Al-Shabaab launched a series of attacks against African Union and TFG forces in Mogadishu. In late September 2010, Al-Shabaab lost many fighters infighting and retreated from some areas it had firm control in the past
2010	President Museveni visited MOG and met with Somali officials and AMISOM forces.

