Piracy as Threat to Africa's Security and Economic Development

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Idowu Johnson
University of Ibadan
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Piracy as Threat to Africa's Security and Economic Development

Idowu Johnson, PhD

Department of Political Science
University of Ibadan, Nigeria.
ibidjohnson@yahoo.com

Abstract: The paper explores the links between piracy, security and economic dilemma in Africa. The phenomenal increase in the activities of pirates in the coastal region of Africa in the 1990s brought out more forcefully the need to address the causes and consequences. The paper argues that the significant dependence of African countries on global trade makes maritime transport a crucial factor in Africa's economic development. However, the scale and sophistication of piracy on the continent threatens the global flows of goods and services across the world's shipping lines. Thus, the consequences of African piracy manifest themselves locally and globally. The central argument of this paper is that until there is a proper understanding of the geostrategic importance of Africa's maritime domain, piracy will continue to pose a threat not only to Africa but also to global security and maritime trade. The argument summits that an effective strategy to combat piracy along the coastal region of Africa will require the international community to trace and address the principal cause of the menace.

Keywords: Economic Development, Global Trade, Maritime Domain, Piracy, Security

Introduction

The history of piracy can be traced back to 2000 years ago in Europe, in ancient Greece, when sea robbers threatened the trading routes of Greece. During the period between 1620 and 1720, piracy flourished and this period was known as the golden age of piracy, during which there were different types of pirates, namely, privateers, buccaneers, and corsairs (Talha, 2013). Talha (2013: 5) also identified and categorized them thus:

i. *Privateers* were lawful pirates who were authorized by their government to attack and pillage ships of enemy nations. They shared their profits with the government.

ii. ***Buccaneers*** were pirates and privateers who operated from bases in the West Indies, and attacked Spanish shipping in the Caribbean.

iii. ***Corsairs*** were Muslim or Christian pirates who were active in the Mediterranean from the sixteenth to the nineteenth centuries.

From the sixteenth to the nineteenth centuries, European countries extended their territories around the world. Due to the subsequent growth of maritime trade, piracy again became a real profession. Barbarossa (Redbeard), Edward Teach (Blackbeard) and Henry Morgan were real and ruthless pirates of that time, who centuries later morphed into almost likable fictional villains (Remondus Vander Meijden, 2008:10). Recorded history shows that at least since the days of ancient Greece and the Roman Empire, piracy has been a constant hurdle to maritime trade, affecting at different times every maritime region of the world, from the Mediterranean and Northern European Seas, to Asia, the Middle East and Africa and, of course, the America.

Specifically, between 1970 and 1980, piracy revived as a serious threat to commercial shipping. This prompted the International Maritime Bureau (IMB) to set up piracy reports in 1981. During the following years, a growing number of cases were reported. In a very short time, piracy changed from a peripheral annoyance to a crucial threat to world commerce. Today's pirates as observed by Remondus Vander Meijden, (2008) are trained fighters and drugged teenagers aboard speedboats, equipped with satellite phones and global positioning systems, armed with automatic weapons and rocket propelled grenades.

Quite obviously, global piracy remains an ongoing threat to international trade and other maritime economic opportunities. Over the past decade, piracy operations have grown in scope, daring, range, and sophistication. From Latin America to the Caribbean, Southeast Asia, Gulf of Guinea and Gulf of Aden, the growing nature of piracy poses a great threat to regional stability and global security. In the same vein, piracy occurs in widely varying forms across the world, with differences in the place of attack (ports, coastal waters, high seas), the objectives of the attackers and the type and severity of violence used. Such differences are decisive both for the impact on the international system and for the response options available to potential victims and the international community (Mair, 2011:12).

The continuous attacks by pirates in the coastal region of Africa have attracted immense interest from the international community. To be sure, African waters harbour important seaways of growing maritime concerns, namely the Coast of the Horn of Africa (HoA) and the Gulf of Aden (GoA); East Coast of Africa, and the Gulf of Guinea (GoD); West Coast of Africa (Essien & Adongoi, 2015). However, the lack of maritime security causes a great deal of concern as it not only threatens commence, but also peace and regional stability, international trade and global energy flows (Venter, 2017: 136). This paper examines the causes and consequences of piracy in Africa; and possible measures put in place in addressing the menace.

Definitions of Piracy

The word piracy is yet to have a universally definition. Consequently, scholars and practitioners in the field of

peace and security tend to give the concept a rather dynamic and sometimes amorphous interpretation. However, the first legal definition of piracy was inscribed in Roman law. Pirates were *hostishumani generis*, enemies of the human race (Burgess, 2013:33). Thus, for both practical and theoretical reasons, any state may, "in the interest of all", take appropriate action against that perpetrator. However, defining exactly what constitutes a "practical act" has never been easy, and it was centuries before a single definition was accepted (Campbell, 2010:21).

In 1927, a subcommittee report of the League of Nations found that the unsettled state of the concept of piracy was due to failure to distinguish between piracy in its international legal sense and piracy as prescribed under the municipal laws and statutes of individual states. For the League of Nations' such committee report therefore, piracy:

> Consists in sailing the sea for private ends without authorization from the Government of any states with the object of committing depredations upon property or acts of violence against persons (League of Nations subcommittee report, quoted in Campbell, 2010:22).

Similarly, the 1932 Harvard Draft provides an excellent snapshot of the concept of piracy. Article 3 of the draft is as follows:

Piracy is any of the following acts, committed in a place not within the territorial jurisdiction of any state

1. Any act of violence or of depredation committed with intent to rob, rape, wound, enslave, imprison, or kill a person or with intent to steal or destroy property, for private ends without *bonafide*

purposes of asserting a claim of right, provided that the act is committed with an attack on or from the sea or in or from the air. If the act is connected with an attack which starts from on board ship, either that ship or another ship which is involved must be a pirate ship or a ship without national character.

2. Any act or voluntary participation in the operation of a ship with knowledge of facts which make it a pirate ship.

3. Any act of instigation or of intentional facilitation of an act described in paragraph 1 or paragraph 2 of this article (Part IV: Piracy, Research in International Law1932 Harvard Draft, quoted in Campbell, 2010:24).

It is imperative to note that there are some important elements in the above definition of piracy. First, an intention to rob (*animus furandi*) is not an essential element of the offence. However, if an act at sea is to constitute piracy, it must involve some element of violence or depredation. Second, an act of violence at sea can only be considered to be piracy if it is committed for "private ends". "Private ends" is usually interpreted to distinguish piracy from state-sponsored violence or from terrorism, which is considered to have ideological, not private ends. Thirdly, and perhaps most important in the current geopolitical environment, under this legal definition piracy can only occur on the high seas (Campbell, 2010).

More importantly, Article 101 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) defines piracy as consisting of the following acts:

a. Any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

i. On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft.

ii. Against a ship, aircraft, persons or property in a place outside the jurisdiction of any state.

b. Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft.

c. Any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b) (United Nations Convention on the Law of the Sea).

The UNCLOS definition of piracy has been incorporated into international law and International Maritime Organization (IMO) has recognized and accepted this definition. Therefore, according to international law, an illegal act of violence or detention committed within a state's territorial waters is not piracy. It is only classified as piracy if that nation's penal code criminalizes it as such. Unlawful acts of violence or detention or acts of depredation at anchor, off ports or when underway through a coastal state's territorial waters are defined by IMO as armed robbery against ships (Tepp, 2012: 185).

To overcome the distinctions between piracy and armed robbery at sea, the IMO has combined the two terms in a single definition:

> An act of boarding or attempting to board any ship with the apparent intent or capability to use force in the furtherance of that act (Burgess, 2010: 111)

Consequently, the IMO definition avoids the distinction made by the UNCLOS that an act of piracy takes place only on the high seas; it draws an equal sign between piracy and armed robbery against ships, taking into account the purpose, not the place (Tepp, 2012). Thus, this paper prefers the definition instituted by IMO, which sees piracy as encompassing acts of piracy as well as armed robbery unless otherwise specified.

Factors Responsible for the Emergence of Piracy

The factors accounting for the emergence of piracy in the contemporary era are complex and multi-faceted. Thus, no universally acknowledged list of factors which has driven the phenomenon of piracy. However, the following reasons can be the salient contributory factors.

First, a country that suffers of high unemployment rate and high poverty rate tend to have high crime rate. Piracy as a kind of organized crime is considered an attractive destination; so that people prefer to head into anticipation of maximizing their payoffs by engaging into such activity.

Second, the general difficulties associated with maritime surveillance have been significantly heightened as a result of September 11 2001 terrorist attack in USA, and the concomitant pressure exerted on many governments to invest in expensive land-based homeland security initiatives (Chalk, 2009). This has further reduced what in many cases are already limited resources for monitoring territorial waters.

Third, is favourable geography for piracy. Piracy can only exist in places

that offers a combination of advantageous hunting grounds, reasonable risk levels and nearby hideaways. Stationary vessels are ideal targets. Attacks on moving ships usually occur in the narrow seas, but the best places are straits, bays, estuaries and archipelagos, where, due to navigational or commercial reasons, vessels are forced to sail slower and close to the coast. Slow-moving ships are also easier to board and less likely to take evasive action (Murphy, 2010:30).

Fourth, lax coastal and port-side security have played an important role in enabling low-level pirate activity, especially harbor thefts against ships at anchor. Problems of this sort have been particularly evident in Brazil, East Africa and across Southeast Asia. In many cases there is either no functioning maritime police presence at all or the units in place are devoid of adequate staff, boats, equipment and training (Chalk, 2009: 3). Nigeria is a good example of underfunded and inadequate security. The failure to fund and train coast guards, navies and police has created a situation where the readiness of the Nigerian Navy (NN) is low, the coast guard is ineffective and the vast network of river transportation route is poorly policed, all of which contributes to the opportunity for pirates to operate freely (Tepp, 2012).

Fifth, the endemic anarchic situation and growing conflict and disorder in some countries in Africa has directly contributed to the rampart scale of piracy. For instance Somalia with no sovereign government in place, gangs have virtual free-run of the area, enjoying widespread latitude to enforce "rules" that further and protect their own vested interests (Chalk, 2009: 3).

In the same vein, piracy in the Gulf of Guinea is partly an outcome of the decades – long insurgency in the Niger Delta region of Nigeria. Militants first raised their heads in 1966 when ethnic Ijaws declared the independence of the resource-rich but poverty-stricken Niger Delta region, Biafra. The armed revolt was ruthlessly suppressed but the quest for "resource control" has since been the focus of an enduring conflict between the government, the population of the Delta and the militants. Thus, the internal strife has bequeathed the Niger Delta thousands of young veterans who are proficient in the use of firearms and as such potential recruits for piracy (Hanson, 2007).

Sixth, corruption and easily compromised judicial structures have encouraged official complicity in high-level pirate rings. The nature of this involvement has been extensive, ranging from providing intelligence on ship movements and locations to helping with the rapid discharge of stolen cargoes. Also, incapable governments encourage inadequate law enforcement and allocate far too few resources to combat piracy. This increases crime and draw attention to areas with insufficient security and abundant targets, also threatening the stability of surrounding countries (Riggs, 2009: 9 – 10). As seen in all regions where piracy thrives, government officials, politicians, bureaucrats, and private sector employees have all been implicated in connection to this crime. In some cases, officials are thought to turn a blind eye to pirate activities in their jurisdiction in exchange for a share of the plunder. In Southeast Asia, for example, the complicity of Chinese port authorities enabled piracy to flourish in the "HLH

Triangle" between 1993 and 1995, prior to a crackdown by Chinese government. In other cases, these officials have become directly involved in pirate activities, and have provided the financing or organizational support needed to carry out these crimes (Whitman & Suarez, 2012:97). In Nigeria, pirate gangs involved in large-scale oil bunkering often require forged bills of lading, which must certainly come from the government officials or oil company employees who issue these contracts (Raidt & Smith, 2010: 24). Thus, corruption and organized piracy are often inseparable.

Seventh, the global proliferation of small arms has provided pirates (as well as terrorists and other criminal elements) with an enhanced means to operate on a more destructive and sophisticated level. Originating from a variety of sources in Africa, Asia and Europe, these ammunitions include everything from pistols, light/heavy caliber machine guns and automatic assault rifles to anti-ship mines, hard-held mortars and rocket-propelled grenades (Chalk, 2009). To be sure, the availability of weapons such as these, most of which are readily transportable, easy to handle, cheap and durable, is one of the main underlying causes that has contributed to the growing level of violence that has come to typify piracy in recent years.

Finally, disputes over territorial and maritime boundaries have both facilitated activities of pirates and hindered multilateral cooperation. In Southeast Asia, for instance, China, Taiwan, Vietnam, Malaysia, Brunei, and the Philippines have all made territorial claims over the Spratly Islands, and the Paracels Archipelago, and continue to dispute their respective maritime boundaries across much of this region. Similar tensions among several states among the Gulf of Guinea, have equally limited multilateral cooperation on piracy (Whitman & Suarez, 2012: 100). As pirates are not confined to national boundaries they are able to cross these disputed borders, thereby preventing naval vessels from continuing pursuit into the exclusive economic zones of neighbouring countries and enabling their escape. Thus, the gaps in the rule of law produced by these regional disputes serve as *de facto* safe zones for pirates.

Consequences of Piracy in Africa

The phenomenal growth of piracy poses a threat not only as a regional nuisance, but also as a menacing influence to the global economy. At the most basic level, attacks constitute a direct threat to the lives and welfare of the citizens of a variety of flag states. Apart from the risk of death or injury, many who have been subjected to a pirate attack suffer considerable mental trauma and may never go to sea again. These attacks have been aimed at oil tankers, cargo vessels, fishing trawlers and speed boats conveying passengers from one destination to another Onuoha, 2009).

Similarly, piracy has a direct economic impact in terms of fraud, stolen cargos and delay trips and could undermine a maritime state's trading ability. The 2010 and 2011 annual IMO reports on piracy and armed robbery attacks against ships clearly show that the majority of all reported piracy attacks are aimed at cargo vessels, once again illustrating the difficulties with self-reporting of pirate attacks. Successful pirate attacks in which the vessel is hijacked can have serious financial impacts on the ship owner or operator.

To be sure, pirate intend to demand a ransom payment or the vessel and/or steal the cargo of the vessel (IMO, 2011). Today, the overall annual cost of piracy to the maritime industry is estimated to be anywhere between $1billion and $16billion. The true figure could be far higher, especially once expenses incurred from implementing mitigation efforts are factored in (Chalk, 2009: 4).Maritime Piracy also imposes significant costs on local economies. According to IMO, pirates attacked tuna vessels at least three times in 2009 as they fished 650 to 800 kilometres beyond Somali territorial waters. The threat of Piracy has also led to reduced cruise ships which contribute to tourism in the Island countries of Mauritius and Seychelles. The Kenyan Cruise ship industry has also suffered from the effects of piracy and fewer ships dock in Mombasa (Mbekeani & Ncube, 2011: 6). In the same vein, the Nigerian Trawlers Owners Association (NITOA) has also been quite vocal on this issue and claim that between 2003 and 2008, pirates attacks took place on Nigerian fishing trawlers. The Association stated that in the first month of 2011 alone there were already 30 attacks on fishing vessels (Whitman & Suarez, 2012). Thus, Nigeria stands to lose up to US$600 million in export earnings due to piracy threats to its fisheries (Mbekeani & Ncube, 2011:6).

Children and youths are vulnerable and easily manipulated to take part in criminal activities. The evidence that does exist with respect to the use of children and youth in piracy activity indicates that the socio-economic factors (poverty, armed violence, lack of educational or employment opportunities, orphans, displacement, and exposure to disease) that make children vulnerable for use by armed groups exists in each of the major areas in why piracy is currently reported (Whitman & Suarez, 2012). Nigeria and Somalia as a case study reinforce this point.

In addition, piracy poses a threat not only as a regional nuisance, but also as a menacing influence to the global economy. As offshore oil and gas exploration and production evolves along Africa's east coast from Mozambique northwards to Somalia, improved private and government maritime security have to be put in place, especially in the coastal waters of northern Mozambique, Tanzania and Kenya. And as offshore industries expand, infrastructure, port facilities, and support shipping will likely be tempting targets for armed robbery, kidnappings, and sabotage for a range of actors, including organized criminal gangs, terrorists, and insurgent groups (Venter, 2017: 154). The impact of piracy on the oil industry of the Niger Delta can affect the very volatile fuel market sensitive to the fluctuation of supply and demand. Rising fuel costs rope in all other prices and thus affect virtually every individual on the earth who buys anything the production or transport of which requires petroleum products (Tepp, 2012).

Furthermore, piracy has the potential to trigger a major environmental catastrophe, especially if an attacked vessel is left to drift in a congested sea lane of communication. The "nightmare" scenario is a mid-sea collision involving a heavily-laden oil tanker. Not only would the resulting discharge of petroleum cause irreparable damage to off-shore resources and marine life, but it would

also seriously degrade long stretches of fertile coastal lowlands if the oil were left to drift (Chalk, 2009: 4). This would pose significant difficulties to any state that relies on the oceans as primary source of food, either for domestic consumption or regional/international export.

Measures for Combating Piracy

Piracy is a threat not only to Africa but also to global security and maritime trade; because of its deepening ties to international criminal networks (such as smuggling of hazardous cargoes, terrorism and disruption of vital maritime trade and commerce). Rather than seeing in isolation, each of the different types of maritime crime as examined in the paper should be addressed within the root of its causes. Thus, a holistic measures to combat piracy is very important.

Firstly, the increase in acts of piracy has led to enhance cooperation at international and regional levels. Joint efforts are being made in various forums to find adequate solutions to piracy. There is a growing awareness of the need for comprehensiveness and local cooperation. Local counter-piracy efforts are supported by the actions of major powers like the United States and China, as well as several European countries both individually and through the European Union; and major organizations such as the United Nations and NATO. For instance, it is acknowledged that the maritime security forces of the Gulf of Guinea states, individually as well as collectively, lack the funding, vessels, training and discipline, as well as unity and cohesion necessary for providing viable surveillance and security in their water's. Recognizing the importance of energetic security and safety of

maritime trade routes in its new strategic concept, NATO is taking steps toward establishing a robust operation off the Gulf of Guinea in order to preclude the possibility of an energy supply crisis resulting from pirate attacks on oil tankers and platforms (Tepp, 2012: 196).

Secondly, in 2009 the IMO's Maritime safety Committee approved revised guidance to operators: "Recommendations to Government for preventing and suppressing piracy and armed robbery against ships' and "Guidance to ship owners and ship operators, shipmasters and crews on preventing and suppressing acts of piracy and armed robbery against ships" (Mbekeani and Ncube, 2011:7). The committee also agreed that a specific "Guidance on piracy and armed robbery against ships in waters off the coast of Somalia" should include "Best management practices to deter piracy in the Gulf of Aden and off the coast of Somalia" which was developed by industry organizations (Mbekeani and Ncube, 2011). As part of its technical cooperation programme, IMO is assisting countries to build capacity, so that they can effectively contribute to overall efforts to combat piracy, including through relevant national legislations.

Thirdly, the rapid escalation of armed attacks off the Horn of Africa has prompted unprecedented counter-piracy action by the international community. In January 2009, the United States announced the formation of a new Combined Task force (CTF) 151 to monitor and patrol defined maritime corridors in the Gulf of Aden. This will supplement European Union (EU) naval flotilla which was developed in 2008, with contributions from the United

Kingdom, France, Spain, Germany and Greece. Several other states have also sent ships to the region, including India, China,, Russia, Malaysia, Saudi Arabia, South Korea, Australia and the United Arab Emirates (Chalk, 2009). In addition, the UN Security Council has now sanctioned "cooperating" states to enter Somalia's territorial waters and attack pirates dens on land, passing UNSC Resolutions 1816, 1846 and 1851 between June and December 2008 (Chalk, 2009: 5). In the same vein, the EU launched the Critical Maritime Routes programme (CRIMGO) in 2013 to reinforce regional and international initiatives against piracy and armed robbery at sea in the Gulf of Guinea (Germon, 2015).

In addition, the use of private security companies (PSC) to combat piracy has been a global phenomenon. Although it may be argued that the activities of PSCS are of military rather than non-military nature, their functions however is not part of a country's armed forces. Services offered by PSCs range from advice and training to active on board defense, escort protection, hostage release and maritime capacity (Chalk, 2012:10). While many find the idea of employing armed private security forces on board unacceptable, it has become not only a viable option, but a necessity for shipping companies seeking to avoid the threats posed by pirates to their vessels, crews and cargo. In fact, PSCs offer several advantages not only to shipping and insurance companies, but also maritime states, including avoidance of loss of life and property, reduction of insurance premiums, reinforcement of regional stability and possibly even reduction of consumer prices resulting from the global decrease of piracy (Tepp, 2009: 201).

There is also regional cooperation as a measure to combat the growing nature of piracy. In 2009 a high-level meeting of 17 countries from the Western Indian Ocean, Gulf of Aden and Red Sea areas met in Djibouti and adopted a "Code of conduct concerning the repression of piracy and armed robbery against ships in the Western Indian Ocean and the Gulf of Aden". Signatories to the code of conduct to undertake wide-ranging commitments to cooperate in seizing, investigating and prosecuting pirates in the region, and to review their relevant national laws (Mbekeani and Ncube, 2011:7). The code of conduct allows authorized officials to board the patrol ships or aircraft of another signatory. Nine countries have so far signed the code of conduct. These include: Djibouti, Ethiopia, Kenya, Madagascar, the Maldives, the Seychelles, Somalia, Tanzania, and Yemen (Mbekeani and Ncube, 2011).

Given the fact that piracy in the Horn of Africa is essentially an extension of the land-based violence, corruption, and lawlessness that has plagued Somalia since the collapse of the Barre dictatorship in 1991, greater effort must be devoted to restoring a semblance of stability to this war-torn country. Until this void in regional governance is decisively filled, the waters off the Horn of Africa/Arabian Peninsula will remain a highly attractive theatre for armed maritime crime given their expanse, the lack of regulation, and their importance as a vital maritime corridor linking the Mediterranean with the Indian Ocean (Chalk, 2009: 6).

Finally, in combating piracy in the Horn of Africa the role of African Development Bank (ADB) is very

crucial. The impact of piracy on seaborne trade and maritime economic opportunities pose serious challenge to Africa's development agenda. Therefore, the Bank should support the African Union (AU) in the development of an integrated maritime strategies to serve as a long-term multi-layered common vision to addressing seaborne challenges and sustain more wealth creation from the oceans and seas (Mbekeani and Ncube, 2011). The long term solution to the problem of piracy off the coast of Somalia is through the creation of economic opportunities so that the youth could be meaningfully employed.

Conclusion

This paper provides an insight for examining the causes and consequences of piracy in Africa. The face of piracy may be different but today's pirates are similar to their historical predecessors in that many are motivated by economic factors and encouraged by a lack of law enforcement. The historical record gives context to the act of piracy and

provides a set of invariables to help define the crime. Although the issue of piracy recently rather dropped out of the top headlines, the world's oceans have certainly not become any safer. On the contrary, the level of risk remains high, especially around the Horn of Africa. The International Maritime Organisation has rated the coastal water ways of Africa as one of the most piracy attack-prone areas of the world. This has adversely affected the global flow of goods and services along the maritime coastal region of the continent. Piracy attacks may differ in location, method and impact, they however become a threat to global maritime security. The international community has made appreciable progress to fight global piracy; through regional cooperation and domestic legislation. But an effective strategy to combat piracy in the long term will require the international community to trace and address the principal cause of piracy in Africa.

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