On Ever-Higher Seas and at Bay

Why maritime piracy soars in the Gulf of Guinea and plunges in Somalia

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"What do you want to be a sailor for? There are greater storms in politics than you will ever find at sea. Piracy, broadsides, blood on the decks. You will find them all in politics."

– David Lloyd George

Introduction

In April 2009, captain Richard Phillips of the freighter *Maersk Alabama* was taken hostage by pirates off the Somali coast. In an operation authorized by president Obama himself, US Navy Seals rescued captain Phillips, killing three pirates. Although the *Maersk Alabama* was far from the first ship to be hijacked by Somali pirates, the event was significant in that it generated a lot of attention from the media, the public, scholars and politicians as high up as president Obama (McFadden & Shane, 2009). In 2013, the Hollywood film *Captain Phillips* acquainted people worldwide with the issue of maritime piracy off the Somali coast in a much more vivid way than any media report could have achieved. By the time the film played in cinemas however, piracy off the coast of Somalia had declined significantly while piracy in the Gulf of Guinea was on the rise.

This thesis will argue that piracy in the Gulf of Guinea and Somalia has risen as a result of (a lack of) institutional pressures on pirates' behavior. These institutions are similar in both cases and reside in the legal, political, economic, cultural and operational spheres. The recent decline in Somali piracy then, is explained by the difference in institutional pressure in the legal and operational contexts: as opposed to their West African counterparts, Somali pirates have been confronted with UNSC Resolution 1816, piracy courts and counterpiracy initiatives ranging from naval missions to armed guards on board and Best Management Practices.

Piracy in African waters: facts and figures on Somalia and the Gulf of Guinea

Modern Somali piracy emerged shortly after the fall of the Barre regime in 1989 and mainly consists of pirates hijacking ships for ransom in the Gulf of Aden and Puntland regions in particular. Whereas until roughly 2005 predominantly smaller ships were attacked in territorial waters, the later 2000s saw an increase in both the size of the vessels targeted as well as pirates' operational range (Oceans Beyond, 2016). Piracy reached an absolute high of 176 attacks in 2011, compared to 24 attacks in 2008 (EU Naval Force Somalia, 2016). Approximately 7% of all oil supply and 30% of Europe's oil supply passes through the Gulf of Aden. Moreover, the Gulf of Aden and the Suez Canal are the primary trade routes for dry commodities and manufactured goods between Europe, Asia and the Americas, which highlights the economic importance of the shipping corridor off Somalia's coast (Reuters, 2009). This, combined with the fact that Somalia failed to adequately address the security and economic threats posed by piracy in its waters prompted the international community to deploy counterpiracy initiatives

such as naval patrols and armed guards on board ships. As a result, the number of successful hijackings decreased to five in 2015 (Oceans Beyond Piracy, 2016). Besides, Oceans Beyond Piracy's estimates show that the cost of piracy off the Horn of Africa declined from $6.6-6.9 billion in 2011 to $1.4 billion in 2015 (Oceans Beyond Piracy, 2011a, 2016). Finally, the number of sailors held hostage dropped from 435 in 2010 to 26 in January 2016 (EU Naval Force Somalia, 2016).

While Somali piracy experienced this downturn however, piracy soared in the Gulf of Guinea. Although the Gulf of Guinea stretches from Côte d'Ivoire to the Democratic Republic of the Congo (DRC), most incidents occur off Nigeria's coast. Oceans Beyond Piracy reported 54 incidents in 2015 compared to 8 in 2011 and none in 2010. Pirates' tactics range from hijacking for ransom to robbery and cargo theft. The seriousness of the problem is underlined by the fact that many incidents go unreported, as a result of which the real number of attacks may be even higher[1] Whereas no estimation was made of the economic cost of piracy in this West African region in 2011, costs amount to $719.6 million over 2015 More importantly, piracy in the Gulf of Guinea tends to be very violent, as 23 sailors were killed in last year (Oceans Beyond Piracy, 2011a; 2011b; 2016). Loic Moudouma, executive maritime security expert of the Economic Community of Central African States (ECCAS) and commander in the Gabonese Navy, even designates the Gulf of Guinea as "the most insecure waterway, globally" (Turse, 2014).

Literature review
The review of existing literature on the research topic is structured according to the two cases, allowing for a comparison in an early stage.

Somalia
As in the case of the Gulf of Guinea, academic literature suggests a range of causes of piracy in Somalia, which are summed up in Table 2.

A large number of studies take the sharp increase in piracy off the Horn of Africa that began around 2007 as a starting point.[2] Several scholars investigate piracy through a security lens, asserting that although the international community's response to pirates in the form of

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[1] Steffen (2015) rightly points out that quantifying piracy incidents in the Gulf of Guinea is not only complicated due to definition problems and geographical scope, but is also considerably shaped by stakeholders' commercial stakes regarding how maritime crime is reported. In an essay on this matter, Steffen (2015) compares seven intelligence providers and finds that for 2014 the number of maritime security incidents in the Gulf of Guinea ranges from 40 to 120. For this thesis however, what matters most is that six out of seven intelligence providers' figures demonstrate an increase in incidents over the past five years (Steffen, 2015).
[2] Parts of this literature review appear in a modified way in an earlier written research proposal as well and may therefore bear resemblance to that writing.

multinational naval operations and private military guards is starting to bear fruit, piracy off Somalia's coast is not to be considered eradicated since Somali pirates have demonstrated the capability to successfully adjust their tactics to changing environments (Sörenson & Widen, 2014; Sloan, 2013; Chalk, 2012, p. 556). Gottlieb (2013) stresses the need for more extensive information sharing between states and entities that collectively seek to put an end to piracy. Similarly, Wilson (2009) recommends the setting up of regional partnerships.

Cause	Scholar(s)
(Youth) unemployment and economic dislocation	Bizicuras (2013, p. 118/119); Bueger (2015, p. 35/36); Chalk (2012, p. 557); Carvalho Oliveira (2013, p. 10); Daxecker & Prins (2012, p. 960); Otto (2011, p. 50)
Poverty/absence of alternatives for upward social and economic mobility	Bizicuras (2013, p. 118/119); Chalk (2012, p. 557); Carvalho Oliveira (2013, p. 10); Hodgkinson (2013, p. 155); Otto (2011, p. 50); Percy & Shortland (2013, p. 544); Sloan (2013, p. 380)
Corruption	Bizicuras (2013, p. 118/119); Bueger (2015, p. 34/35); Carvalho Oliveira (2013, p. 9/10); Petrovic (2012, p. 286)
Low risk – high rewards	Bizicuras (2013, p. 118/119); Bueger (2012, p. 23); Carvalho Oliveira (2013, p. 9/10); Hansen (2012, p. 523/524); Otto (2011, p. 50); Petrovic (2012, p. 288)
State weakness and absence of sovereign governance	Chalk (2012, p. 557); Bueger (2015, p. 34/35); Daxecker & Prins (2012, p. 960); Hansen (2012, p. 528); Iglesias Baniela & Vinagre Rios (2012, p. 702); Otto (2011, p. 50); Percy & Shortland (2013, p. 544); Petrovic (2012, p. 285); Samatar, Lindberg & Mahayni (2010, p. 1381); Sloan (2013, p. 380); Vreÿ (2009, p. 20)
Favorable geography	Bueger (2015, p. 34); Daxecker & Prins (2012, p. 960); Iglesias Baniela & Vinagre Rios (2012, p. 702); Percy & Shortland (2013, p. 544); Vreÿ (2009, p. 22)
Cultural acceptability and skills (e.g. the "coast guard narrative")	Bueger (2015, p. 36); Bueger (2013a); Petrovic (2012, p. 285-288); Samatar, Lindberg & Mahayni (2010, p. 1387); Sloan (2013, p. 379)
Maritime insecurity	Bueger (2015, p. 35); Sloan (2013, p. 380); Vreÿ (2009, p. 20)
Prevalence of criminal minded entrepreneurs	Bueger (2015, p. 36); Hansen (2012, p. 528)
Need to finance fighting factions	Carvalho Oliveira (2013, p. 10)
Informal regulations that govern clan groups, rent-based economic activities, and collective security arrangements	Hastings & Phillips (2015, p. 576)
Prestige	Bueger (2012, p. 23)
Difficult to opt out	Bueger (2012, p. 23)

Table 2: Causes of piracy in Somalia (own table)

Other security scholars depict the world's major powers as gladiators that use naval counterpiracy operations in Somali waters as an opportunity to practice operations and display their strength in a contested geopolitical arena (Bouchard & Crumplin, 2010, p. 30; Cordner, 2010, p. 76; Rao, 2010, p. 131/132). Interestingly, the field of security studies piracy tends to place piracy rather high in the spectrum of violence, as it is conceptualized as a "transnational threat" (Chalk, 2012, p. 555), a "threat to national wealth and security" (Sörenson & Widen, 2014, p. 400) or a phenomenon that "threatens national security interests" (Wilson, 2009, p. 496).

Another body of research takes up maritime piracy in Somalia as a business and highlights the political-economic and developmental perspective on the issue. In short, these researchers portray piracy in Somalia as a profit-driven illegal business that emanates from land, is carried out offshore and seeks to generate income through demanding ransom payments for kidnapped sailors (Percy & Shortland, 2013; Daxecker & Prins, 2012; Hansen, 2012; Carvalho Oliveira, 2013; Otto, 2011; Petrovic, 2012; Samatar, Lindberg & Mahayni, 2010). Samatar, Lindberg & Mahayni (2010) also provide an unconventional perspective on the matter in underlining the importance of resources. Somalia's collapsed state-situation enables illegal foreign fishery in Somali waters. In turn, Samatar, Lindberg & Mahayni (2010, p. 1385/1386) argue, Somali 'defensive pirates' seek to expel these 'resource pirates' from 'their' waters. Interestingly, by identifying piracy as organized crime at sea, researchers with an economic focus place piracy in a lower spectrum of violence than security scholars tend to do. Besides, scholars demonstrate a widespread consensus that in order to find a durable solution to the piracy problem, onshore commitments such as governance building need to complement current offshore counterpiracy operations but must explicitly involve local communities in order to create a viable and stable situation (Bueger, 2012, p. 29/30; Otto, 2011, p. 51; Petrovic, 2012, p. 294/295; Carvalho Oliveira, 2013, p. 15/16; Samatar, Lindberg & Mahayni, 2010, p. 1390; Hansen, 2012, p. 528). Daxecker & Prins (2012, p. 960) however, show through a compelling quantitative study that democracy in fragile states only increases piracy attacks. Similarly, Percy & Shortland's (2013, p. 565/566), statistical investigation concludes that state- and governance building, even if centered around local communities, does not help in countering piracy as it does not remove the incentives for piracy.

A more sophisticated form of this argument is put forward by Hastings & Phillips (2015) in a recent article on pirate behaviour in the Horn of Africa and the Gulf of Guinea. Taking an institutionalist perspective, Hastings & Phillips (2015, p. 568) identify informal institutions

relating to Somalia's clan system as the key drivers for piracy in the region. Bueger (2013a) deals with the so-called "coast guard narrative" through which Somali pirates depict themselves as the upholders of law and order, thus justifying their actions and creating a common identity and framework for cooperation (p. 1822). In a more recent article, Bueger (2015) presents a rare exploration of the decrease in piracy off the Somali coast. By first identifying and grouping the triggers for piracy and subsequently examining them systematically vis-à-vis the factors that contributed to the decline in piracy, this analysis shows that current countermeasures are successful as they address some of these triggers. Nevertheless, Bueger (2015, p. 38) argues, a sustainable solution to Somali piracy requires continued attention to and funding of these measures. Additionally, some triggers for piracy remain unaddressed.

The Gulf of Guinea

A close look at the literature on piracy in the Gulf of Guinea reveals that scholars identify a wide range of factors that cause piracy. These causes, sometimes called drivers or triggers, of piracy are in some cases taken up in depth but more often are mentioned only briefly. One way or another, almost every researcher comes up with one or more causes of piracy, which is showed in Table 1.

Reports by think tanks particularly take a maritime security perspective. The aim of these rather descriptive publications seems particularly to draw the attention of the international community (Jakobsen & Nordby, 2015; Chatham House, 2012; Barrios, 2013). Onuoha (2012) points out that piracy in the Gulf of Guinea revolves around oil. The centre of gravity of these crimes lies in the Niger Delta region and includes the theft, smuggling and illegal bunkering of oil. Although Onuoha (2012, p. 18-22) extensively treats the implications for the wider Gulf of Guinea region, the root causes for the situation remain rather vague, which in turn raises questions about the accuracy and feasibility of the proposed countermeasures.

A more persuasive account in this regard is provided by Vreÿ (2009), who argues that the situation in the Gulf of Guinea is complicated by political oil-inspired clashes such as interstate conflicts and separatist insurgencies involving various state and non-state actors.[3] Moreover, ecological problems such as pollution and food security matters like illegal fishing cannot be seen disconnected from piracy (p. 28). This view is shared by Bueger (2013b, p. 298), Stockbruegger (2014) and Walker (2013, p. 90). An interesting analysis of the security dynamics of so-called "petro-piracy" in the Gulf of Guinea region and Nigeria in particular is

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[3] Among others, Vreÿ (2009, p. 24) refers to the Bakassi dispute between Nigeria and Cameroon and the separatist insurgency in Cabinda, Angola.

provided by Murphy (2013), who argues that the problem is that sates such as Nigeria are weak, but strong enough to facilitate resource extraction for corrupt elites.

Cause	Scholar(s)
(Youth) unemployment	Biziouras (2013, p. 118/119); Daxecker & Prins (2012, p. 960); Jakobsen & Nordby (2015, p. 15/16); Murphy (2013, p. 425)
Poverty/absence of alternatives for upward social and economic mobility	Biziouras (2013, p. 118/119); Jakobsen & Nordby (2015, p. 15/16)
Corruption	Biziouras (2013, p. 118/119); Hodgkinson (2013, p. 158); Jakobsen & Nordby (2015, p. 17); Murphy (2013, p. 425); Onuoha (2012, p. 22)
State weakness and absence of sovereign governance	Daxecker & Prins (2012, p. 960); Hastings & Phillips (2015, p. 576); Jakobsen & Nordby (2015, p. 14-19); Onuoha (2012, p. 22)
Favorable geography	Daxecker & Prins (2012, p. 960); Murphy (2013, p. 425)
Presence of organized crime	Chatham House (2013, p. 3); Hodgkinson (2013, p. 158); Onuoha (2012, p. 21); Vrey (2009, p. 24)
Rising small-arms proliferation	Chatham House (2013, p. 3)
Insurgency and unrest in the region	Chatham House (2013, p. 3); Hastings & Phillips (2015, p. 576); Jakobsen & Nordby (2015, p. 16/17); Onuoha (2012, p. 21); Vrey (2009, p. 24)
Maritime insecurity	Chatham House (2013, p. 3); Onuoha (2012, p. 21); Vrey (2009, p. 22/23)
Large-scale oil production	Chatham House (2013, p. 3); Hastings & Phillips (2015, p. 576); Murphy (2013, p. 425); Vrey (2009, p. 24)
Ecological problems such as pollution and food insecurity	Vrey (2009, p. 28); Bueger (2013b, p. 298); Walker (2013, p. 90)

Table 1: Causes of piracy in the Gulf of Guinea (own table)

This, combined with Nigeria's oil-richness and hence economic importance safeguards it for international interference, as has occurred in Somalia (p. 435-437). Some scholars move beyond security, economic or political explanations for West African piracy. In their enlightening comparative investigation of the institutional landscape around piracy in Somalia and the Gulf of Guinea, Hastings & Phillips (2015) outline that in the Gulf of Guinea region, formal state and business institutions surrounding the oil industry are structured in such a way that they enable corrupt officials and pirates to operate a thriving clandestine trade. In an investigation aimed at finding the root causes of piracy in the Gulf of Guinea, Biziouras (2013, p. 118/119) finds that the growing number of piracy attacks in the region demonstrates that recently intensified regional interstate cooperation in countering does not address the real causes of piracy, being unemployment, income inequality and corruption.

Similarities

Almost all of the widely identified causes for piracy, being state weakness, poverty, corruption, unemployment, favorable geography and maritime insecurity are the same for both cases. Only some less occurring causes such as the presence of organized crime, insurgency and unrest in the region and the large-scale production of oil are specific for the Gulf of Guinea case while the same goes for cultural acceptability and low risk and high reward in Somalia. Interestingly, the causal factors have a heavily structural focus. By putting little emphasis on pirates' responsibility and choice agency-centered explanations of maritime piracy hardly appear in the literature.

Unanswered questions

Reviewing the literature reveals several trends in piracy-related research. First, for the most part, scholars approach piracy from a rather practical perspective; theory and theoretical explanations rarely feature in the writings. As a result, research tends to focus more on ways to counter piracy than on the issue as such. In other words, the interest seems to be in how to respond to piracy once it has emerged rather than in understanding piracy in order to preclude it. Secondly, research largely fails to account for the historical roots of the concept of piracy and neglects how it became illicit. Third, there is a clear emphasis on Somali piracy; few scholars come up with in-depth investigations of piracy in the Gulf of Guinea. With the notable exception of Hastings & Phillips (2015), even less researchers analytically compare the two cases. Fourth, the literature has plenty to say about the emergence and rise of piracy; particularly investigations with an institutionalist label offer powerful insights. However, it remains largely silent over why and how piracy declines. In fact, Bueger (2015) is the only scholar providing a rigorous examination of what accounts for the fall in piracy attacks in the Horn of Africa. Fifth, academics pinpoint a wide array of root causes of piracy but often fail to connect them to the policies they recommend, which leads to a blurred analytical picture and underlines Bueger's (2013a; 2015) concern about the efficacy of counterpiracy initiatives in the long run. Moreover, when addressing the causes of piracy, scholars lean heavily towards structural explanations, neglecting human agency in piracy. Finally, as pirates in Somalia seem contained scholarly interest is fading.

Although the literature has taught us a great deal about contemporary piracy in Africa, it also leaves us with unanswered questions. This research aims at answering a pivotal question that encompasses much of what so far largely has been largely neglected in research: *why has*

maritime piracy in the Gulf of Guinea emerged so rapidly over the past years while it has decreased so swiftly off the coast of Somalia?

Research method and design

Since the nature of the research question implies that an explanation is sought for a contemporary and real-life phenomenon over which the researcher has no control, a (comparative) case study research design was adopted to answer the question (Yin, 2003, p. 6/7). The two cases were chosen as they represent two major piracy hotspots that threaten important trade routes, both off Africa's coast and causing trouble with worldwide economic and political ramifications. Moreover, the literature review shows that the causal factors featuring most prominently in the literature, being state weakness, corruption, unemployment, poverty, favorable geography and maritime insecurity, are similar for the Gulf of Guinea and Somalia. The single major difference between the cases is that piracy declines in Somalia and is on the rise in the Gulf of Guinea. Thus, following Gerring (2007, p. 131), a most-similar case study method was used as the two cases are similar apart from the variable of interest. Moereover, the social world the investigation is conducted in is seen as a complex one the researcher helps shape rather than a "stable, pre-existing reality" he can observe objectively (Gusterson, 2008, p. 105). Thus, an interpretivist epistemological stance was taken, which underlines the importance of context and interpretation. In this investigation liberal institutionalist theory served as a twofold foundation as the theory not only shapes the kick off stage of the research but also was employed to provide analytical guidance and make more sense of the research findings.

Within the case study design, interviews with maritime security experts and official documents provided the data. The interviewed experts include Matt Walje, Project Manager at Oceans Beyond Piracy, Dr. Lisa Otto, Research Associate at Coventry University and Dr. Patricia Schneider, senior researcher at the Institute for Peace Research and Security Policy (IFSH) at the University of Hamburg. The interviews were conducted in a semi-structured fashion in order to enable following up on specific answers given by the interviewees. The investigation's reliability and validity was enhanced by recording and summarizing the interviews and sending the summaries to the interviewees in order to give them the opportunity to correct or clarify where necessary (Yin, 2003, p. 33/34). Furthermore, the obtained information has been checked vis-à-vis other sources such as official documents. According to Yin (2003, p. 34) this is another measure that boosts validity. The interview transcripts have been attached as appendices.

Theory

Institutionalism serves as the theoretical foundation of the research. Below, this theory is presented with a focus on those parts that are crucial in explaining piracy.

Institutions and liberal institutionalism in International Relations

The theoretical strand of liberalism is built on the premise that democracy and free trade are the cornerstones of a peaceful and prospering world. Liberals, founding their theories on thoughts of influential philosophers like Immanuel Kant and John Stuart Mill as well as ideas of major economists such as Adam Smith and David Ricardo, argue that promoting democracy as a form of government and free trade as an economic policy increases worldwide interdependence between states, which in turn increases cooperation and leaves war as an often too costly option for extending power and influence (Burchill, 2005, p. 58-64).

Liberal institutionalism, or simply institutionalism, can be seen as a subset of liberalism and advocates the formalization of interstate cooperation in international institutions (Burchill, 2005, p. 64). Thus, institutions are the key components of institutionalism, but are to be regarded as much more than just organizations with employees and headquarters. Krasner (1983, p. 2) defines institutions as "recognized patterns of behavior or practice around which expectations converge." Young (1994)'s conceptualization of institutions is similarly broad: "sets of rules of the game or codes of conduct that serve to define social practices, assign roles to the participants in these practices, and guide the interactions among occupants of these roles" (p. 3). Adopting this broad conception of institutions means that not both an organization such as NATO as well as less obvious matters such as religion are considered institutions. The similarity is that both embody certain rules, be it more formal and explicit in the former case and less so in the latter. Institutions, or regimes, as Keohane & Nye (2012) call them, operate as a vital link in explaining behavior:

> "The structure of the system (the distribution of power resources among states) profoundly affects the nature of the regime (the more or less loose set of formal and informal norms, rules, and procedures relevant to the system). The regime, in turn, affects and to some extent governs the political bargaining and daily decision-making that occurs within the system" (Keohane & Nye, 2012, p. 18).

Thus, if structure deals with the tools as such, process explains how they are used. An institution then, is shaped by the different power-pressures it is subjected to. Put differently, an institution, bei it NATO or religion, is a product of its constitutive entities but also steers these entities'

behaviour. Thus, institutions affect decision-making by operating both on the cause and the effect side of human behavior.

Responses to institutional pressures

Keohane (1984) succinctly states that institutions "*prescribe* certain actions and *proscribe* others" (p. 59, emphasis added). However, rules and codes, be they formal or informal, are often violated. It is therefore important to add that some institutions are more enforceable than others (Keohane, 1984, p. 59). In other words, if a NATO member refuses to support a fellow member in times of war, NATO's constituents can take serious political measures in order to force this member to comply with the rules laid out in Article 5 of its Treaty. If a believer fails to attend church though, the consistory may take no action at all. Hence, the impact of conforming or not conforming to institutional pressures can vary greatly.

As International Relations theory does not get more specific when it comes to behavior, we need to turn to institutionalism in the field of economics for a more tangible take on the matter. North (1991, p. 4/5), comparing social contexts to a game, emphasizes that the rules have to be distinguished from the players. Institutions are the rules and actors the players, and these players are in the game to win it, using fair as well as foul skills and strategies in playing the game and dealing with the rules.[4] What matters are how actors (in this case: pirates) respond to different institutional pressures. Oliver (1991) provides a typology of five different strategic responses to institutional pressures, representing resistance levels that become progressively active. As Figure 1 shows, within every strategic response Oliver (1991) identifies three different tactics. When actors **acquiesce**, they consciously or subconsciously conform to an institutional pressure. The tactics involved here include *habit, imitate* and *comply,* demonstrating a gradation in the level of consciousness with which a decision is made. When acquiescing is deemed not feasible, an actor may choose to **compromise**. Particularly when institutional pressures are conflicting or confusing, this may involve the use of *balancing, pacifying* or *bargaining* tactics. **Avoidance** is the strategy used when both complying and not complying with the rule are considered bad options, and can be done by *concealing* nonconformity or *buffering* or *escaping* from norms. The **defying** strategy entails not conforming to the rule, employing tactics that are increasingly active in nature: *dismissing, challenging* and *attacking*.

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[4] North (1991, p. 5) notes that "[m]odeling the strategies and the skills of the team as it develops is a separate process from modeling the creation, evolution, and consequences of the rules." Reviewing IR literature on institutions demonstrates an (over)emphasis on the latter and a neglect of the former.

Strategies	Tactics	Examples
Acquiesce	Habit	Following invisible, taken-for-granted norms
	Imitate	Mimicking institutional models
	Comply	Obeying rules and accepting norms
Compromise	Balance	Balancing the expectations of multiple constituents
	Pacify	Placating and accommodating institutional elements
	Bargain	Negotiating with institutional stakeholders
Avoid	Conceal	Disguising nonconformity
	Buffer	Loosening institutional attachments
	Escape	Changing goals, activities, or domains
Defy	Dismiss	Ignoring explicit norms and values
	Challenge	Contesting rules and requirements
	Attack	Assaulting the sources of institutional pressure
Manipulate	Co-opt	Importing influential constituents
	Influence	Shaping values and criteria
	Control	Dominating institutional constituents and processes

Figure 1: Responses to institutional processes (Oliver, 1991)

Finally, the **manipulating** strategy has the highest level of resistance against the rule. Here, actors seek to *co-opt, influence,* or *control* institutions, which again shows an increase in the level of activity.

To sum up, institutionalism shows why behavioural choices are made. Keohane (1984) notes in his influential book *After Hegemony* that institutions demonstrate "long-term patterns of behaviour" and therefore lend themselves perfectly for explaining both continuity and change over time (p. 63/64). Indeed, since the variable of interest is the intensity of piracy, the cases of the Gulf of Guinea and Somalia demonstrate considerable change over time. In addition, whereas IR literature is overwhelmingly structurally informed, by depicting pirates as people forced by a set of circumstances, Oliver's (1991) theory on institutions brings agency into the equation. Bearing this in mind, the notion of sovereignty as a key institution that influences maritime piracy is dealt with below. As sovereignty and piracy are historically inextricably linked, a brief genealogy of piracy will be presented simultaneously.

Institutionalism, maritime piracy and sovereignty

From an institutionalist perspective, sovereignty is considered an institution, precisely because it steers states' behaviour in the international system. In Thomson's (1994, p. 14) words, sovereignty is to be regarded "as a set of institutionalized authority claims."

It is surprising, Thomson (1994) outlines, how natural sovereignty is considered given the fact that it is a relatively new feature in international affairs and has been subject to significant change over time. Sovereignty as we know it, Thomson (1994, p. 15) argues, breaks down into two dimensions, the first being "the claim to ultimate or final authority in a particular political

space" and the second referring to "the specific set of authority claims made by a state over a range of activities within its political space." Hence, Thomson's (1994) constitutive dimension relates to what Keohane & Nye (2012) call the structure of the international system, the functional dimension is concerned with the international system's process. Sovereignty's constitutive dimension enables the state to be the primary actor in international affairs, based on territoriality. The functional dimension then, creates a distinction between the political and the economic on the one hand and the state and the non-state in terms of decision-making authority on the other (Thomson, 1994, p. 17). However, Thomson (1994) amply demonstrates that this has not always been the case but is the result of a process that spanned several decades.

During the centuries before, many states (or actually the leaders exercising control over them) often allowed or even actively encouraged piracy in the form of privateering, which was nothing less than state-promoted piracy during wartime. However, the practices of these privateers and other non-state actors produced what Thomson (1994, p. 43) calls "unintended consequences", meaning that these actors in the end contested the sovereignty of the emerging nation state as their actions often clashed with state policies. As states more and more began to realize this, they started to gradually delegitimize and eradicate non-state violence by international agreements and changes in law. Also, military force was often needed to put an end to these practices (Thomson, 1994, p. 110-116). From the seventeenth century onwards, Thomson (1994, p. 115-117) points out, states began to develop the norm that a state is sovereign within its own territory and thus has the responsibility to oppose piracy in its own territorial waters. To this day however, no state or other international entity exerts sovereignty beyond territorial waters. In sum, Thomson's (1994) historical analysis teaches us that in today's world, piracy came to be seen as an (1) *illegal* offshore endeavour that pursues (2) *non-political* and thus economic objectives, and (3) is carried out by a *non-state actor*.

Analysis

In this section, the cases of Somalia and the Gulf of Guinea will be examined separately. The interviews and literature suggest a range of institutions that exert pressures on pirates in Somalia and the Gulf of Guinea. These institutions fall in four different categories: legal, political, economic and socio-cultural, representing four different spheres or contexts. The analysis of each institutional sphere breaks down in two parts. The first part involves sketching the way the institution operates context-specifically, providing a structural explanation of the issue. The

rules or norms the institution lays down are the core element here. The second part outlines the way actors –being the pirates– respond to the specific institutional pressure at hand following Oliver's (1991) model, thus adding an element of agency to the analysis. It is important to keep in mind that institutions can take different shapes. Sometimes they should be considered in their colloquial use, simply as a formal organizations that seeks to further certain objectives. In other cases they are best thought of as rules of the game that assign roles to different actors such as pirates, as expressed in North's (1991) and Young's (1994) take on institutions.

Somalia

A wide array of institutions are identified that play a role when it comes to maritime piracy in Somalia. These are brought together in the legal, political, economic and operational institutional spheres. The way these institutions account for the decline in Somali piracy is the focal point of this first part of the analysis.

Legal institutional sphere

Over time, several legal instruments have been devised to combat piracy off the coast of Somalia.

The UNCLOS

The United Nations Convention on the Law of the Sea (UNCLOS), signed in 1982 and coming into effect in 1994 was an ambitious UN-led international effort to once and for all overcome disputes concerning the use of seas and oceans (UN, 2012). Overall, the UNCLOS establishes two main norms. The first gives ships the right to navigate freely in international waters (Article 90) and offers states exclusive authority over their territorial waters (Article 2). Secondly, following the so-called flag-state system a ship in international waters effectively becomes territory of the state whose flag it carries, which also places it under that state's jurisdiction (UN, 1982). Coming to the issue of piracy, the first thing the UNCLOS does is pointing out in Article 100 that "all States shall cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State" (UN, 1982, p. 60). In the next article, the agreement specifies that piracy constitutes any of the following activities:

> (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), (UN, 1982, p. 61).

Thus, the UNCLOS is in fact the international tool that institutionalizes sovereignty in the context of maritime piracy, criminalizing piracy and providing a clear definition of the act revolving around the notion of territoriality.

UNSC Resolution 1816

Another UN institution that affects piracy is Security Council Resolution 1816 that was adopted in 2008 in response to Somali piracy specifically. Since Somalia itself did not have the naval capacity to patrol and secure its territorial waters, the Resolution allows other states to

> "[e]nter the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea […] and [u]se, within the territorial waters of Somalia, in a manner consistent with action permitted on the high seas with respect to piracy under relevant international law, all necessary means to repress acts of piracy and armed robbery (UN, 2008).

The Djibouti Code of Conduct

In 2009, the Djibouti Code of Conduct (DCoC) was signed by 20 East African states. Inspired by the IMO, the Code aims at promoting regional cooperation in the fight against piracy and armed robbery at sea. The latter is defined as the same as piracy, with the notable difference that armed robbery occurs within territorial waters (IMO, 2009). Thus, the DCoC recognizes what UNSC Resolution 1816 had acknowledged a year earlier, namely that the problem presented itself both in territorial and non-territorial waters. The Code states that regional cooperation is intended concerning the sharing and reportage of information, interdiction and confiscation of pirate vessels, apprehension and prosecution of people suspected of piracy or armed robbery and the rescuing and taking proper care of assaulted vessels and seafarers (IMO, 2009).

Piracy courts

As Matt Walje of Oceans Beyond Piracy mentions however, it lasted till 2011 before prisoner transfer agreements and regional piracy courts enabled law enforcement agencies to successfully "capture, transfer, try, prosecute and then imprison pirates." Before, international naval forces could not do more than 'cold catch and release', meaning that pirates were simply put ashore after they had been captured (M. Walje, personal communication, May 20, 2016).

Pirates' response
Combined, the legal institutions presented above criminalize piracy and armed robbery at sea, encouraging regional states to cooperate in fighting it, allowing foreign states to patrol and secure Somali territorial waters and becoming increasingly effective in doing so over time. Piracy in the Horn of Africa saw its heydays around 2011 or 2012 (M. Walje, personal communication, May 20, 2016). That is to say, after these legal instruments were formed. Following Oliver (1991), this is clear evidence that pirates **defied** stipulated norms by simply dismissing them.

Political institutional sphere
Experts unanimously identify Somalia's weak state condition as a major underlying reason for piracy.

Government institutions
We need to start our analysis from the ideal situation in which strong government structures do everything in their power to contain piracy. In other words, in an ideal world government institutions actively put pressure on pirates. Research demonstrates that in this regard Somalia is far from an ideal part of the world, designating Somalia as an extremely weak and corruption-stricken state.[5] Vast coastal spaces were completely ungoverned, allowing pirates to hold a vessel including its crew for months in order to negotiate a ransom. Although 2012 saw the first swearing-in of a government since the fall of the Barre regime, the interviewees remain highly sceptical regarding its functionality (M. Walje, personal communication, May 20, 2016; L. Otto, personal communication, May 27, 2016; P. Schneider, personal communication, June 16, 2016). Hence, whereas government pressure on pirates practically was non-existent, it is minimal at this moment.

Pirates' response
Attracted by Somalia's weak state-condition, foreign fishermen started to illegally fish in the country's waters, which was a pivotal moment in the emergence of piracy off the Somali coast. In response to the Somali government's inability to perform its function of patrolling and securing its territorial waters, Somalis took matters in their own hands, initially only robbing fishing vessels and later also kidnapping them for ransom. This marked the beginning of the piracy problem in the region (M. Walje, personal communication, May 20, 2016). By actually performing state functions –be it in a fair way or not–, pirates took an extremely active stance,

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[5] Somalia ranks second on the Fragile State Index of the Fund For Peace (2015) and qualifies –together with North Korea– as 'the most corrupt state' according to Transparency International (2014).

using a **manipulation** strategy by controlling and dominating institutional constituents and processes.

Economic institutional sphere

Large parts of the Somali population live in extreme poverty, leading to famine and 2.87 million people receiving food aid in 2009 (Percy & Shortland, 2013, p. 545). A natural resource the coastal population has access to is fish, which underlines the importance of the (foreign) fishing industry.

The fishing industry

Whereas piracy in Somalia may have been contained, illegal fishing is an ongoing problem (M. Walje, personal communication, May 20, 2016; P. Schneider, personal communication, June 16, 2016). By fishing illegally in Somali waters, the foreign fishing industry continues to violate fishing laws, taking advantage of the state of lawlessness in Somalia. In other words, (a part of) the fishing industry developed its own norms concerning conducting business, expecting Somalis to accept these.

Pirates' response

Particularly during the initial stage of Somali piracy, pirates clearly used what Oliver (1991) describes as a **defiance** strategy, assaulting the sources of institutional pressure by robbing and kidnapping vessels and crews for ransom. Since piracy has been suppressed however, pirates currently are not or barely able to attack fishing vessels.

Cultural institutional sphere

As the literature review showed, cultural explanations of piracy feature prominently in scholarly writings.

Culture of violent protest

Otto (2015, p. 267/268) singles out the presence of existing cultural elements of protest and violence as important enablers of piracy in Somalia. These cultural phenomena find their roots in the Barre regime, which left a deep-seated suspicion of state structures. Besides, the regime's end heralded an era of extensive violence between local clans. Moreover, warlords in charge of the clans set up well-organized criminal structures, operating akin to a business (Otto, 2015, p. 266/267). This accustomed the population to both violence and crime.

Pirates' response

Several scholars convincingly outline the pivotal role of culture-based legitimizing tactics used by pirates. Somali pirates have drawn attention to illegal fishing as well as pollution and toxic waste dumping, publicly stating in different media outlets that in the absence of a coast guard,

these illegal activities by international actors compelled them to protect their waters themselves. Through these so-called coast guard narrative, or Robin Hood narrative, pirates sought to legitimize their actions (Bueger, 2013; Schneider & Winkler, 2012; Hastings & Phillips, 2015). As Bueger (2013, p. 1812/1813) argues, this demonstrates that "piracy is about more than money and is interpreted as a form of alternative development, resistance to globalisation or protection against external influences." Matt Walje points out that pirates' claims on toxic waste dumping are most likely to be false, and Patricia Schneider credits the UN's attempts to refute the narrative by organizing debates and providing factual information on piracy. Furthermore, both point to the delegitimizing role of Islamic faith, condemning piracy and connected practices around alcohol and prostitution as 'haram' or anti-Islamic activities. Also, over time, locals became less benign towards pirates as they saw that it mostly benefited a relatively small group of people rather than the community as a whole. Nevertheless, both experts affirm that the narrative carries through and even continues to be used by some Somali politicians (M. Walje, personal communication, May 20, 2016; P. Schneider, personal communication, June 16, 2016). By tapping into existing popular beliefs and underlying values, thus mimicking institutional models for their benefit, pirates deployed what Oliver (1991) terms an **acquiescence** strategy.

Operational institutional sphere
In the operational sphere, a range of institutions aim at terminating or at least hindering pirates in their activities.

Naval missions
Acknowledging that Somalia itself was unable to tackle piracy in its waters, and after being enabled to do so by UNSC Resolution 1816, the international community deployed several naval missions to the Horn of Africa, including operations coordinated by the European Union (Operation Atalanta), NATO (Operation Ocean Shield), the US (Combined Task Force 151) as well as naval patrol efforts undertaken by individual nations in order to protect their own shipping (Russia, India and China) (Huggins & Kane-Hartnett, 2013, p. 362). The interviewees show consensus when it comes to the effectiveness of these missions, noting that the naval presence in the area greatly limited the scope and number of pirate attacks. Another view that is shared however, is that these missions already have been and possibly will be even further reduced in size, which could ultimately enable a resurgence in piracy (M. Walje, personal communication, May 20, 2016; L. Otto, personal communication, May 27, 2016; P. Schneider, personal communication, June 16, 2016).

PMCs and VPDs
Another factor that has been significant in bringing down the number of successful attacks is the presence of armed guards on board ships, who often are part of private military companies (PMCs) and have been allowed since 2011 (M. Walje, personal communication, May 20, 2016; P. Schneider, personal communication, June 16, 2016). Despite their proven value however, the deployment of armed guards, whether privately contracted or belonging to a vessel protection detachment (VPD) consisting of armed forces personnel, has been controversial over fears of escalation of violence (Hodgkinson, 2013, p. 153; Sloan, 2013, p. 383).

BMPs
In 2009, a set of countermeasures developed by the Contact Group on Piracy off the Coast of Somalia (CGPCS) in conjunction with the shipping industry was widely adopted (Chalk, 2012, p. 555). The document outlining these Best Management Practices (BMPs) includes guidelines on matters such as incident reporting and re-routing vessels away from so-called High Risk Areas but also recommends and sets forth countermeasures like evasive maneuvering, sound alarms and the use of a safe room (BMP4, 2011). Experts agree that BMPs have been vital in warding off pirates (M. Walje, personal communication, May 20, 2016; P. Schneider, personal communication, June 16, 2016).

Capacity building missions
Patricia Schneider of the IFSH points out that maritime capacity building efforts such as the EU's EUCAP Nestor mission and the UN's UNODC Maritime Crime Programme are bearing some fruit. However, these efforts are insufficiently coordinated, and their continued existence is far from certain due to concerns over their effectiveness. This raises fears about the durability of the current low in Somali piracy. As Patricia Schneider puts it: "As long as the situation in Somalia has not fully stabilized, [piracy] could pop up again." (P. Schneider, personal communication, June 16, 2016).

Pirates' response
Although it took time to get all counterpiracy measures in place, it is evident that Somali pirates face an entire range of pressures aimed at making their pirate life harder, if not impossible. Nevertheless, Walje, Otto and Schneider all acknowledge that they have shown remarkable resilience in the face of changing operational environments. An early example of Somali pirates' ability to make the best of the opportunities and challenges they are presented with is their shift from 'simple' armed robbery to kidnapping for ransom. Furthermore, in response to ships' BMP-inspired strategy of re-routing up to 600 nautical miles off the coast of Somalia for

instance, pirates switched to a mother ship-model, which extends their range to over a 1000 nautical miles of Somalia. (M. Walje, personal communication, May 20, 2016; L. Otto, personal communication, May 27, 2016; P. Schneider, personal communication, June 16, 2016). All in all, Somali pirates have been using a strategy of **avoiding** the above pressures by changing their activities or domains.

The Gulf of Guinea

The case of the Gulf of Guinea includes the analysis of the legal, political, economic, cultural and operational institutional spheres.

Legal institutional sphere

The analysis of the UNCLOS, being the primary legal counterpiracy tool, showed that for piracy to actually be piracy it has to occur in international waters. As a result, much of what is going on in the Gulf of Guinea region does not qualify as piracy. After all, as one expert states, the incidents taking place in West Africa "are almost exclusively territorial in nature" (L. Otto, personal communication, May 27, 2016). Consequently, Articles 100 and 101 of the UNCLOS are practically useless in the Gulf of Guinea context. The second analytical problem arising from the UNCLOS' definition is linked to piracy being inherently private and non-political in nature. As a matter of fact, experts see clear connections between maritime crime and regional insurgent groups such as the Movement for the Emancipation of the Niger Delta (MEND) and MOSOP (Movement for the Survival of the Ogoni People). Although much may be nebulous around these organizations, the fact that their aims are political is obvious (M. Walje, personal communication, May 20, 2016; L. Otto, personal communication, May 27, 2016). Hence, piracy in the Gulf of Guinea can be characterized as hardly non-territorial and at least partly political. As a result, the UNCLOS barely offers guidance in a region that is widely seen as one of the most piracy-ridden in the world.[6] All that remains is Article 2 declaring a state has exclusive authority over its territorial waters, thus allowing coastal states to deal with piracy in their seas as they please, which in turn permits disparate juridical responses.

The SUA Convention

During the 1980s concern about all sorts of violence against and on board ships increased as a result of numerous hijackings, kidnappings and assaults. At the instigation of the US and the International Maritime Organization (IMO) the Convention for the Suppression of Unlawful

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[6] In spite of this fact, the majority of scholars continues to use 'piracy' as a catch-all notion for different sorts of non-state violence at sea. Sometimes however terms like, 'maritime criminal activity' or 'armed robbery at sea' are used.

Acts Against the Safety of Maritime Navigation was adopted in 1988. The so-called SUA Convention stipulates that each state "shall make [the actions described above] punishable by appropriate penalties", be they "committed against or on board a ship flying the flag of the State", "in the territory of that State, including its territorial sea", "by a national of that State" or even when the vessel "is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single State" (IMO, 1988).

Although with 166 signatories the treaty is truly multilateral, states that did not ratify the treaty include Angola, Cameroon, Gabon and the DRC (IMO, 2016). Needless to say, this reduces the treaty's efficacy in the Gulf of Guinea region. However, the very fact that it proscribes criminal activity is a big step in the right direction as the crimes the SUA Convention prohibits are often not even legally defined as such in West Africa (L. Otto, personal communication, May 27, 2016). Pirate tactics in the Gulf of Guinea include theft and robbery of oil and other cargo, illegal oil bunkering and, more recently, kidnapping for ransom (M. Walje, personal communication, May 20, 2016; L. Otto, personal communication, May 27, 2016; P. Schneider, personal communication, June 16, 2016). Put simply, the actions that entail the use of any sort of violence against crew members or the ship as a whole are forbidden by the SUA Convention. Compared to the UNCLOS, the SUA Convention presents us with a couple of noteworthy differences. Firstly, nothing is specified about the ends –private or political– of the criminal act. Secondly, the agreement is very broad but at the same time rather confusing regarding its territorial scope; both territorial and non-territorial waters are included, and the word "scheduled" seems very arbitrary. Both of these features however, loosen the rules of the game for states seeking to secure their territorial waters. Also, the tone and wording of the Convention is more binding than that of the UNCLOS, unambiguously obliging states to act against all sorts of crimes at sea.

The Yaoundé Declaration
In 2013 another legal tool to fight piracy and armed robbery at sea was signed in Yaoundé, Cameroon by the heads of state of 25 Central- and West African nations, including Nigeria. In the so-called Yaoundé Declaration, states commit themselves to working together regarding counterpiracy. Besides, they promise to "develop and implement relevant national laws [and] policies on the fight against piracy, armed robbery, and other illegal activities at sea" (African Union, 2013).

Pirates' response

Piracy in West African waters tends to be much more violent than in Somalia. As Lisa Otto from Coventry University states, pirates in the Gulf of Guinea often use violence "as a means to an end" (L. Otto, personal communication, May 27, 2016). Following Oliver (1991), this clearly points towards **defiance** of the SUA Convention's and the Yaoundé Declaration's rules. A dismissal tactic is employed since the stipulated norms are simply ignored.

Political institutional sphere

As in the case of Somalia, there is a widespread consensus on the negative consequences of weak government institutions and large-scale corruption on piracy in the Gulf of Guinea region. Admittedly, government institutions are not as weak as in Somalia. Nevertheless, the outcomes of investigations into state strength and corruption do not paint a rosy picture.[7]

Government institutions

Obviously, the laws and rules presented in the previous section need to be enforced by government institutions of the regional states. However, the interviewed experts all indicate state weakness, corruption and patronage politics in Nigeria in particular as a major underlying reason for the existence of piracy in the Gulf of Guinea. Over the years, a situation has emerged where already weak institutions seek to fight piracy but are hindered in their efforts by –often corrupt– officials who conclude agreements that accommodate rather than fight pirates (M. Walje, personal communication, May 20, 2016; L. Otto, personal communication, May 27, 2016; P. Schneider, personal communication, June 16, 2016). A striking example of this is put forward by Matt Walje of Oceans Beyond Piracy, reporting that former Nigerian president Goodluck Jonathan struck a deal with a former MEND leader that effectively made him and his company responsible for securing Nigerian waters on the government's behalf, but also enabled him to charge fees from passing vessels. This happened even though, as Matt Walje states, "some of the pirates in the region are probably tied in to that group." After current president Buhari cancelled this contract, piracy in the Gulf of Guinea escalated during the beginning of this year (M. Walje, personal communication, May 20, 2016). Patricia Schneider of the IFSH offers another illustration of official rules impeding counterpiracy efforts, underlining the fact that Nigeria does not allow private military companies (PMCs) to assist in safeguarding its maritime environment due to fears of further escalation of violence, even though efforts by

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[7] The DRC, Nigeria and Côte d'Ivoire rank 5th, 14th and 15th respectively on the Fragile State Index of the Fund For Peace (2015), which places these countries in the 'High Alert' category. Angola comes in 161th out of 175 countries on Transparency International's 2014 Corruption Perceptions Index. The DRC ranks 154th, Cameroon and Nigeria share the 136th place and Côte d'Ivoire takes the 115th position (Transparency International, 2014).

PMCs have been highly successful in Somalia (P. Schneider, personal communication, June 16, 2016). Although the fear of a partial loss of sovereignty is understandable, this is surprising in light of the capacity limitations regional navies and coast guards are coping with (M. Walje, personal communication, May 20, 2016; P. Schneider, personal communication, June 16, 2016). Unfortunately, these two difficulties identified in the political context are closely related. As Matt Walje puts it: "The corruption problem exacerbates the maritime capacity limitations" (M. Walje, personal communication, May 20, 2016).

Pirates' response
The examples above demonstrate that law enforcement institutions are tremendously impeded by capacity problems on the one hand, and corruption and patronage politics on the other. Militants definitely were and perhaps are closely tied to government institutions. Thus, they **compromise** both the institutional pressure in the form of counterpiracy efforts as such as well as government credibility since they are allowed to bargain with officials as high up as the Nigerian president himself. In fact, strength of the legal norms embodied in the SUA Convention and the Yaoundé Declaration reaches maritime criminals only in a severely weakened shape.

Economic institutional sphere
According to the interviewed experts, pirates' primary aims are financial and thus economic in nature. This draws our attention to an institution that plays a pivotal role in oil-related crime in the Gulf of Guinea, namely the oil industry.

The oil industry
As Murphy (2013, p. 428/429) explains, oil was first found in the Niger Delta in 1956. Its commercial exploitation however, started to skyrocket only from the oil crisis in 1970s onwards. From that moment on, oil-related piracy has existed, waxing and waning on the back of rising and declining oil prices. For Lisa Otto, this mechanism explains the rise in piracy incidents over the past years: higher oil prices meant more vessel traffic, and more traffic in turn led to increased opportunities for pirates (L. Otto, personal communication, May 27, 2016). Nevertheless, there is another way in which the oil industry impacts piracy. The industry accounts for 80 percent of Nigeria's income over the past 30 years (Murphy, 2013, p. 429). This makes Nigeria's government heavily reliant on oil, and thus on multinationals such as Shell and Chevron that commercially exploit oil. As Lisa Otto concludes: "Political power and the control of oil are very closely linked", rendering the control over the commodity "a tool for power" both on the legal and illegal side of business (L. Otto, personal communication, May 27, 2016).

If the command over oil equates to power, regional states' institutions are weak and corruption blossoms, it has to follow that the oil industry is in a unique position to largely define its own rules concerning how to do business. This becomes particularly evident given the extent of oil-related environmental degradation the Niger Delta region is coping with. The UN Environment Programme (Unep) found that cleaning up oil spills in the area will cost $1 billion and will take approximately 30 years (Vidal, 2011). Partly due to this pollution, Matt Walje explains, the local fishing industry has been decimated, which in turn decreases the opportunities to earn a living and increases the pool of possible pirate recruits (M. Walje, personal communication, May 20, 2016). Besides, hiring and employment practices by the oil industry are perceived by locals as discriminatory (Murphy, 2013, p. 429). In sum, large oil firms operating in the Gulf of Guinea form a powerful institution that lays down lenient corporate rules that may positively influence profit but –at least are perceived to– disadvantage local communities.

Pirates' response
Piratical activities are directed against ships and facilities belonging to companies that exploit and transport oil. Next to the political issue of unjust income distribution, the economic matters described above relate directly to the oil industry and serve as a justification for pirates' violent activities (M. Walje, personal communication, May 20, 2016; L. Otto, personal communication, May 27, 2016; P. Schneider, personal communication, June 16, 2016). Hence, pirates **defy** the oil industry's self-imposed rules of the game.

Cultural institutional sphere
Although Nigeria according to Murphy (2013, p. 435) earned "half a trillion dollars" over the past decades through the extraction of oil, very little of these yields have been used to improve the lives of the Niger Delta population, of which the majority continues to live in poverty (L. Otto, personal communication, May 27, 2016). Instead, most of the gains flow to corrupt elites, only feeding the existing income inequality that already exists (Otto, 2015, p. 178/179). In fact, 85 percent of oil revenues accrue to one percent of the people (Murphy, 2013, p. 427). Inequality then, Murphy (2013, p. 427) argues, fuels corruption, thus drawing the picture of a vicious circle.

Culture of violent protest
The Movement for the Emancipation of the Niger Delta (MEND) and more recently the Niger Delta Avengers are militant groups that stage attacks against oil facilities, claiming to strive for a fairer distribution of oil wealth in the region. Using modern media outlets such as websites and Twitter these groups convey the message of protest against government policies concerning

the distribution of financial gains deriving from oil (Ewokor, 2016). The presence of multiple militant organizations in the Niger Delta and the fact that tensions go back as far as the Biafran War of of 1967-1979 is proof of the political trouble the region faces (L. Otto, personal communication, May 27, 2016). The overarching element of protest against an unjust order is so longstanding, widespread and deeply engrained in society that it is testimony that this issue transcends politics and is in fact a cultural phenomenon. As Otto (2015, p. 195) puts it: "[T]here have been numerous instances where the local population has, in some way or other, risen up in protest against the rentier mentality, with a desire to effect a more equitable division of resources at least, and control over oil resources at most."

Pirates' response
Although pirates ultimately are in business for their personal financial gain, experts agree that other motives do play a role in the Gulf of Guinea (M. Walje, personal communication, May 20, 2016; L. Otto, personal communication, May 27, 2016; P. Schneider, personal communication, June 16, 2016). By being tied to and following the norms and behaviour of groups like MEND, pirates seek to sail on the winds of what Lisa Otto terms protest and vigilantism, tapping into popular beliefs and feelings of injustice, thus trying to legitimize their actions. There even are instances known where pirates redirected illegally derived oil profits to local communities in order to build schools (L. Otto, personal communication, May 27, 2016). This points towards an **acquiescing** strategy, using the tactic of imitation by mimicking existing institutional models.

Operational institutional sphere
Pirates' direct opponents from an operational perspective are the navies and coast guards patrolling the Gulf of Guinea's and Niger Delta's waters.

Regional navies and coast guards
It already became clear that their efforts are adversely negatively impacted by questionable political deals and capacity issues, partly since Nigeria does not allow foreign private guards nor international naval missions in its waters (P. Schneider, personal communication, June 16, 2016). Another factor that impedes counterpiracy operations is the presence of swamps in the Niger Delta, which enables pirates to disappear (M. Walje, personal communication, May 20, 2016). Despite these difficulties, regional navies and coast guards –as far as they exist– continue to attempt to stop or at least hinder maritime criminal activity.

For pirates at work, patrolling navies and coast guards may often be the first institutions they need to worry about. Regarding the way they respond to these counterpiracy efforts, experts are unanimous in highlighting pirates' tactical dynamism and ability to learn and further develop their skills in the face of increasing and changing opportunities as well as challenges. This is exemplified by the fact that recently, several pirate gangs successfully changed their tactic from petro-piracy to kidnapping for ransom (M. Walje, personal communication, May 20, 2016; L. Otto, personal communication, May 27, 2016; P. Schneider, personal communication, June 16, 2016). This indicates the use of an **avoidance** strategy, as maritime criminals seek to escape the pressure exerted on them by naval patrols by changing their activities or domains.

Conclusion

The institutional landscape of piracy in the Gulf of Guinea and Somalia has been mapped – the different pressures that are exerted on pirates in East- and West Africa, how these pressures interlink but also how pirates respond to those pressures has been outlined. First and foremost, the analysis has demonstrated the complexity of the phenomenon; institutional pressures reside in the legal, political, economic, cultural and operational spheres and are often connected. Besides, the cases have shown to be remarkably similar in many ways. On the other hand, influential institutional differences exist as well. The question guiding this research has been *why maritime piracy in the Gulf of Guinea has emerged so rapidly over the past years while it has decreased so swiftly off the coast of Somalia*? The first part of the question, dealing with the rise in piracy, will be answered first. Although the Gulf of Guinea is the case of interest here, it will be showed that the earlier upswing in Somali piracy was triggered by broadly the same institutional pressures.

Where greed meets grievance: why piracy in the Gulf of Guinea soars

Legally, several institutions seek to quell West African piracy. Although the UNCLOS is of limited use due to its narrow definition of piracy, and other agreements such as the SUA Convention also have their flaws, for the most part piracy and armed robbery is legally criminalized and counterpiracy efforts are encouraged. Real problems start to emerge in the political landscape: corruption badly affects already weak government institutions, as a result of which the enforcement of legal norms is vastly insufficient. Economically, the presence of the often irresponsibly acting oil industry leads to environmental problems and endangers local communities' safety, providing pirates with an invaluable tool to legitimize their actions. This

is only exacerbated by a deep and long-living sense of injustice and oppression, resulting in a culture where violent protest becomes a serious option for a significant part of the population. Interestingly, whether deliberately modeled after Somali piracy or not, the recent turn to kidnapping for ransom in West Africa is testimony of pirates' operational isomorphism. In sum, in an environment where greed meets grievance, the opportunities for piratical activity seem endless and insufficient constraints on the behavior of skilled and tactically dynamic maritime criminals exist, piracy can flourish.

Concerted efforts: why piracy in Somalia declined

So far, this conclusion reads like the tale of the rise of Somali piracy. In Somalia too, legal measures have been developed that render piracy illegal and oblige states to act against it. As in the Gulf of Guinea region, government institutions are weak, and illegal practices by the fishing industry provide Somali pirates with both incentives for and legitimizations of their behavior. Furthermore, the presence of violent protest against an order that is perceived as unfair is firmly established. Finally, even in the operational sphere similarity emerges. Admittedly, Somali piracy has been more non-territorial in nature than in the Gulf of Guinea, and the fishing industry in Somalia may not be exactly as dominant as the oil industry in Nigeria. Still, the similarities are striking.

The cases' institutional resemblance makes one wonder what institution(s) account for the sharp decline in Somali piracy while piracy in n the Gulf of Guinea soars. To answer this question, we need to turn to the influential institutional differences the analysis has exposed. For the most part, these differences exist in the operational sphere: multilateral naval missions, armed guards on board vessels in the form of VPDs and PMCs, the adoption of BMPs by the shipping industry and maritime capacity building missions have created sufficient pressure on Somalia pirates to discontinue their operations. These institutional pressures however, could only be established by virtue of essential earlier legal developments. Most notably, the setting up of piracy courts and the adoption of UNSC Resolution 1816 enabled the international community to deploy missions and act decisively.

Somali successes: the end of the beginning?

A question that remains is what the future of piracy in Africa will look like. Will West African states be able to suppress piracy? Or are Somalia-like measures by the international community indispensable in tackling the problem? This investigation has highlighted the relatedness between the cases in terms of causality. Hence, regardless of the international community's involvement in countering West African piracy, efforts to transfer all sorts of counterpiracy

practices from Somalia to the Gulf of Guinea are to be warmly welcomed. Keeping the success Concerning Somali piracy, the question arises how durable the current discontinuation in piratical activity is. To be sure, vital legal and operational steps have been taken in terminating piracy. However, not much has changed in the political, economic and cultural realms. After all, Somalia still is a fragile state, poverty and illegal fishing are ongoing problems and the coast-guard narrative is still being used. In other words, institutional pressures that directly address these factors underlying piracy barely exist. Consequently, the fear that piracy may re-emerge when the environment for pirates is permissive enough seems justified. Therefore, the current naval missions and other measures taken deserve the international community's continued commitment; backing off now the tide is turning could eradicate recent successes at once. Furthermore, in order to finally end the tale of piracy in Somalia (and ultimately in the Gulf of Guinea), the international community has to provide local government structures with council, finance and equipment to fight pirates. Next, governments need to ban illegal behavior by foreign industries, thus increasing their own authority while removing a vital part of pirates' legitimation strategy. Also, given the success of PMCs in Somalia, the Nigerian government should seriously contemplate to compromise on sovereignty by allowing these, be it under strict regulation. Certainly, there are no quick-fixes to the piracy problem, requiring long-term strategies. Controversially, this brings us back to Thomson's (1994) history of piracy: centuries after the establishing the institution of state sovereignty in order to quell piracy, the very same concept is compromised for exactly the same reason.

To end on a positive note though, counterpiracy efforts in Somalia *have* borne fruit. In a famous war time speech, Winston Churchill summarized the situation in which the British found themselves after winning the second battle of El Alamein as follows: "Now this is not the end. It is not even the beginning of the end. But it is, perhaps, the end of the beginning." If those fighting piracy keep in mind that pirates are no one-trick ponies, and show the patience and tenacity required, recent successes in suppressing Somali piracy could be just that.

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Appendix 1: Interview transcript Matt Walje

Matthew Walje is Project Manager - Trends Analysis at US-based Oceans Beyond Piracy (OBP), a research project of the One Earth Future Foundation that investigates maritime piracy. The interview was conducted on May 20th, 2016.

MW: Piracy in the Gulf of Guinea is a very old problem, that has been going on for decades. It started out as lower-level crime. Robbers would steal from an anchored vessel what they could without being seen. This escalated over the years in hijacking for oil (or cargo) theft, where the vessel is hijacked, taken to a safe location where the cargo is loaded onto another tanker in order to ultimately sell it on the black market. This requires connections to organized crime and even the government as these are large and complex operation. This was particularly an issue in 2012, 2013. In 2015 the [pirates' business] model shifted away from hijacking for cargo theft to kidnapping for ransom. This existed in the region already, though onshore. Nigeria is notorious for the kidnapping problem. It has shifted offshore to include seafarers. Pirates board a vessel, identify the top ranking seafarers, mostly from more Western countries, remove them from the vessel and hold them for ransom. There is also a lot of political instability in Nigeria, particularly in the Niger Delta region. The MEND [Movement for the Emancipation of the Niger Delta] insurgency plays a role too, although it is very hard to nail down what or who MEND is. It is an amorphous group without a clear leadership structure, but some of the pirates in the region are probably tied in to that group.

Also, to highly oversimplify, Nigeria is a divided nation where the South is primarily Christian and the North is Muslim. Former president Goodluck Jonathan is from the South and had a lot of patronage politics going on there, also to keep MEND at bay through amnesty agreements. What I am saying is that there are identity politics going on here. This included NIMASA (Nigerian Maritime Administration and Safety Agency) which more or less is Nigeria's coast guard. They had contracts with a former militant called Tompolo that was responsible for maritime security but also charged fees from passing ships. The new president, Buhari, is from the North and does not have ties in the Niger Delta region. He has tried to remove a lot of the corruption that was going on under the Goodluck Jonathan regime. Part of this was cancelling the contracts with former militants and getting rid of the head of NIMASA, who is tried for corruption. Tompolo is also indicted for this and the patronage payments to his company were stopped. As a result, the beginning of 2016 has seen an escalation in piracy.

NR: You said piracy has been going on for decades…

MW: Yes, in some form. It has evolved significantly over the years, has become much more advanced with the hijacking for cargo and kidnapping for ransom.

NR: So, what would you say explains the rise in piracy, starting from approximately five years ago?

MW: Not entirely sure, to be honest. Part of it is acquired skills and learned behavior. The pirates have gotten better at it. It is difficult to board a vessel while it is moving, this is a high-level skill. There is an evolution to piracy in terms of skills and networks ashore. Nigeria's political problems also play a role. They are distracted by Boko Haram in the North. Besides, Nigeria's fishing industry has been decimated due to violence by local militants and the effects of the oil industry such as pollution. This reduces alternative livelihoods and increases the pool of young men that could be recruited for piracy.

NR: What is for these pirates the primary motivation to engage in these activities?

MW: Profit. There are definitely political ties in this, you cannot remove the MEND issue from piracy in the Gulf of Guinea, but what MEND's political aims are is unclear. It is an organization that bridges the gap between organized crime and terrorism.

NR: Is there something that makes piracy in the Gulf of Guinea different compared to other places in the world where piracy exists?

MW: Wherever piracy exists, you need high concentrations of vessel traffic, which exists in the Gulf of Guinea due to the production of oil. Then you need a permissive security environment, either due to a lack of capacity by regional states or as a result of geography. The Gulf of Guinea is a mixture of both. Nigeria has the maritime capacity but the riverine area is very difficult to patrol as it is easy for criminals to disappear in swamps etc. The corruption problem exacerbates the maritime capacity limitations. The final aspect that needs to exist is a lack of legitimate economic opportunity. The swampy rivers and ties with MEND make it somewhat unique.

NR: What role does culture play here? Is piracy accepted?

MW: A lot of the violence is focused on people from the region. So it does not enjoy the levels of community support as Somali piracy had at its height. I don't think the community benefiting from it beyond the warlords and criminal groups themselves. It is not that publicized, but once you start digging you start to see significant anger against piracy by those in the region.

NR: To move to Somalia then. Piracy in Somalia is almost down to zero in terms of attempted and even actual attacks. What explains that decline for you?

MW: Let's go a little bit into the history, as that will help explain Somali piracy. It really started back in 1989, with the fall of the Siad Barre regime, so it is a much older problem than many people recognize. It did not start off as hijacking for ransom [as was the case at the heydays] but it started off in a way similar to the Gulf of Guinea: robbery. From 1994 you see cases of kidnapping for ransom, particularly from fishing vessels. Here the development of the narrative starts: Somali pirates as the makeshift coast guard that charged vessels with illegal fishing. This narrative was about foreign illegal fishing and toxic waste dumping in order to justify criminal activity. The truth is that there is very little evidence that there ever was toxic waste dumping in Somalia. However, the narrative carries through. You don't see piracy evolve as a business model until the early 2000s, it explodes in 2005. They even attacked a cruise ship that year. Because Somalia was and is a failed state, there were vast parts of the coast line that were completely ungoverned space. Pirates could hold the entire vessel there for long periods of time to negotiate a ransom. This is completely unique to Somalia. In Nigeria they have never held the complete vessel for ransom, but take a few people inland and hide them ashore. So this does require some level of community support, because holding a vessel for months means you need some sort of infrastructure ashore. You need to pay for shelter, food and amenities. With so little economic opportunity in Somalia the promise of millions of dollars of ransom becomes very interesting.

Piracy goes down a bit in 2006 as the Islamic Courts Union (ICU) held more sway over parts of the country. That reduced the areas where pirates were able to operate. The ICU imposed a 20% tax on piracy and pirates did not want to pay that so they moved to regions not governed by the ICU. The ICU fell after the invasion of Ethiopia and Kenya. Then piracy skyrockets till 2011, 2012. Then it starts to fall due to the so-called pillars of counterpiracy. One is the establishments of Best Management Practices (BMPs) in 2009, where vessels start rerouting. Vessel routes start to shift as far as 600 nm off the coast of Somalia. This forces pirates to extend their range significantly so they change to a mother ship model to extend their range to 1000 nm or more. Then there are international naval forces that come online. Initially they have to deal with cold catch and release; they took their weapons and put them back in a boat or they would destroy their boat and drop them off in Somalia. So basically, there was no consequence to the pirates. Their current expedition was interrupted, they went home and could try again. Early 2011 prisoner transfer agreements were established, regional piracy courts were

established so they were actually able to capture, transfer, try, prosecute and then imprison pirates. About 1000 pirates went to jail, which decreased the pool of possible pirates a bit and demonstrated a consequence to piracy, which is a deterrent. Then in 2011 there also are armed guards, who are permitted. Due to these three pillars, vessel self-protection (BMPs and armed guards), maritime security response (naval operations) and a legal finish (actual prosecutions), the number of incidents drops dramatically starting at the end of 2011 and almost disappears in 2013. In 2014 counterpiracy measures start to diminish. In 2015 this trend continues and you see some attacks on dhows occurring. Although I would not call it a resurgence in piracy by any means the potential for a resurgence still exists as nothing has changed ashore. Somalia is not a stable state with a functioning government and opportunities for its people and pirate gangs still exist. What keeps pirates from operating again is that there is not yet a permissive enough environment for them.

NR: Earlier you said that in Somalia, unlike in the Gulf of Guinea region, piracy was seen as a legitimate business. Has that changed or is it still the case?

MW: Around 2012, when piracy becomes less successful you see an erosion of community support. Pirates were a rowdy bunch, they brought with them alcohol, drugs, partying, prostitution. A lot of haram, anti-Islamic activity. As long as the economic benefit outweighs the negatives of having pirates in town there was some level of community support. It may not have been enthusiastic but people were fine taking the money, basically. In a few communities the pirates were pushed out because they felt it was a haram activity and they did not like the influence it had on their local population. But for the most part there was some level of support as long as the pirates brought money in. Once that dried up, the support for the pirates disappeared. However, we are four years out since the decline in piracy and the economic opportunities have not improved and illegal fishing takes place off Somalia's coast. From reports, the overall sentiment seems to be that people are willing to let piracy return when the international community moves away. So there is a growing level of community support for the concept of piracy due to limited economic opportunity and perceived antagonism due to illegal fishing. This opened up a willingness to entertain the concept of piracy again.

In terms of means, motive and opportunity, pirates still have the means and the motive to conduct their operations. The opportunity is not there but they are waiting for that to emerge again. Our estimations are that this moment is fairly close.

Appendix 2: Interview transcript Dr. Lisa Otto

Lisa Otto is a Research Associate at Coventry University, specializing in maritime piracy around the world. The interview was conducted on May 27th, 2016.

NR: Considering the causes of piracy in Somalia, from your 2011 article on piracy in Somalia I understood that you establish a causal chain, starting off with state failure, which leads to an environment where foreign illegal fishing is possible, leading to Somalis countering this with unofficial coast guards, which ultimately emerged into full-blown piracy. Whereas many scholars seem to identify a range of causes next to each other, you connect them to each other. Did I understand that correctly?

LO: Yes. Obviously the situation is complex and this is a simple breakdown of how the evolution of piracy in Somalia came about. Of course there are also issues like poverty, which is also mentioned in the article. This also pushed pirates, since they were able to make money they otherwise could not even have earned in a lifetime. You come to a point where conditions of need and resilience begin to merge with criminal motives. These are the deeper complexities. In my doctoral research I did a lot of work in trying to understand what was underlying piracy or maritime criminal activity in West Africa. After I established what the main things were, I tried to apply these causes to the East African and South China Sea contexts in order to see what is the same. One thing that came up was certainly state weakness. I wanted to move away from the notion of state failure since in Nigeria it is a lot more difficult to talk about a failed state. I am sure you are aware that a lot of the literature around state failure is contentious, so I moved to the idea of state weakness and ungoverned spaces, which is a bit broader and allows for the complexity you encounter in different states. I found state weakness and ungoverned spaces similar in the Gulf of Aden and Southeast Asia. I looked at poverty, inequality, corruption, patronage and clientelism, environmental concerns, protest and vigilantism, criminality, a history and/or culture of violence. Those were the main things that I identified as the origins of maritime criminal activity.

NR: So, in both East and West Africa.

LO: Yes. The only thing that I found to be different was the issue of inequality. It is something that is far more pointed in the Gulf of Guinea than it is in the Gulf of Aden. In the Gulf of Aden you see poverty being widespread without the large income inequality that you see in Nigeria. This has been something that really fuels oil crimes in Nigeria specifically.

NR. All right. So what exactly do you mean by vigilantism? You mentioned it in your article on Somalia as well.

LO: Let me step back to the notion of piracy. In West Africa there is NO law that defines these acts as piracy but we cannot make use of the UNCLOS as these acts are not happening on the high seas. The UNCLOS also does not give appreciation for acts that might be politically motivated rather than being conducted for private ends, which is the definition under the UNCLOS. So when we come to the political means part of it, we have seen that there were uprisings in the Niger Delta, and establishments of widespread protest which merged into militia and we later saw merging into financially motivated criminal groups. Certainly there is an element of protest there. Groups like the Movement for the Emancipation of the Niger Delta (MEND) and other organizations are disappointed in the way oil resources are being used, how oil is being extracted, environmental degradation that is taking place and impacts the livelihoods of people in the Niger Delta in a negative way. Then, the fact that Nigeria has been extracting oil commercially since at least the 1970s and these resource gains have not been redirected in a way that has shown meaningful improvement in the quality of life of people particularly in the Niger Delta, where a lot of the oil originates. That is the element of protest and vigilantism in that area. You've got MEND, you've got MOSOP (Movement for the Survival of the Ogoni People), if you go back far enough you also have the Biafran War. There is a long history of conflict and protest around oil. More contemporarily, there is the development of notions like illegal development, where groups are stealing oil, be it on land via oil bunkering or at sea by petro-piracy. Some of these profits are making their way back into local villages in the form of schools etcetera. They also have this sense of buy-in from local communities, who see development not necessarily from the state who should provide these political goods but also from these groups.

NR: To get back to the notion of piracy. Maybe this is an obvious question, but what do you think is the ultimate motivation for a pirate to conduct these activities?

LO: Ultimately it comes down to the lack of provision of political goods, which means in turn the lack of opportunity at least financially for people to progress in their lives. I think when you have a community, people have skills that have applicability in these contexts. Obviously in Somalia we saw that in the form of seafaring skills as people along the coast may be fishermen. In West Africa you have again seafaring skills but you also have people that have access to for instance weapons. These skills and this access grants them greater opportunity for financial freedom than legitimate opportunities.

NR: We know that piracy or crime at sea in the Gulf of Guinea has existed for decades already. What would for you explain the rise in recent years?

LO: One of the things that I have tried to do in my research is look at data. As you may understand, there is a lot of difficulty around collecting accurate and reliable data because of underreporting. But there is an interesting text that was written by a British naval captain. He traced maritime criminal activity in West Africa. It is from 1985 and his name is captain Villar. He provided an historical account of the earlier days of piracy and maritime criminal activity. What you see is that is seems to track along the exploitation of oil. When oil started being exploited commercially, there was obviously an increase in sea traffic in West Africa. Now the ports there were not really ready to accommodate the large number of vessels that visit these ports, which means that you had vessels that were essentially sitting ducks as they were at anchor. So it was easy for people to attack them. So what we have seen is a growth in opportunity. Also, what you see both in the Somali case and in West Africa is the dynamism of pirates or maritime criminals who really are able to assess the opportunities and challenges that they are presented with and make the best of those situations for their financial gain. You saw it in Somalia with the phenomenon of ballooning [pirates extending their range] and you are seeing it presently in West Africa with a drop in so-called petro-piracy on the back of lower oil prices but a move towards kidnapping for ransom. When you look at data, you see these shifts and ebbs and flows that really track opportunities and challenges. For example, if you have naval forces that happen to be more active in some waters than in others, you see the flow of criminal activity accounting for that. There is a great deal of dynamism, which makes it also more difficult to tackle.

NR: You talked about political and economic factors in the Gulf of Guinea. Do you think that culture also plays a role? Does something like a clan-based legitimation of piracy exist in the Gulf of Guinea or is it not accepted at all?

LO: Definitely. You have to understand that in Nigeria you have an economy that relies almost exclusively on oil. There has been work in recent years to diversify the economy and move it more towards services, but largely this is a country that does not really have a tax base, and its income predominantly comes from oil. Political power and the control of oil are very closely linked. You have got a state that is weak and having difficulty in delivering political goods, a large state that is very complex, that has economic inequalities but also linguistic and ethnic inequalities and tensions that impact upon the politics of the country. So oil, and the control over oil is a tool for power. And whether you see that on the legal or illegal side of the spectrum,

it remains the same because there are huge amounts of money being made. I am sure you are familiar with the figures that oil bunkering is thought to be worth seven billion US dollars a year, in current oil prices. A couple of years ago that figure was at twelve billion. So when you are looking at an illegal industry, this is a lot of money.

NR: You talked about the UNCLOS, which defines piracy as being a private undertaking, occurring in non-territorial waters. Do you think other agreements such as the SUA Convention also have an impact on piracy in the Gulf of Guinea, because it often takes place in territorial waters?

LO: Yes, I think the SUA Convention takes a broader view on how we define maritime criminal activity. Many people disagree with me, and maybe I have to develop this idea further, but I am not a fan of the UNCLOS because of how it came about and the fact that it is based on common law developed around the golden age of piracy, and the fact that it took so long to come into effect following the Harvard Draft of 1932. I do not believe that Article 100 and 101 were developed with the modern manifestation of the phenomenon in mind. We need a broader understanding of what these criminal activities are. Certainly, the SUA Convention is one of the protocols that does allow for this. But I think we need to go beyond that. I am an advocate for the development of legal instruments in West African states. In many of these states, to the best of my knowledge, these crimes are not defined as such under the law. For that reason it is actually a misnomer to talk about crimes in this context because they are not as such defined. It is a starting point because we have a tendency to talk about piracy but what is happening in West Africa is not technically piracy. There is a wide range of activities that are taking place that are different. The evidence from data that I collected, and of course that comes at the caveat that I appreciate that data is not infallible, but the point is that we have data that suggests that petty theft in ports is the most prolific of criminal activities taking place in Nigerian waters, or, more broadly, in the Gulf of Guinea. So I think there needs to be a move towards incentivizing reportage so that we actually can establish how much of this is centered around the oil industry and how much of it is petty theft or armed robbery at sea that has not necessarily got something to do with oil. And then from there, look to have legal definitions and develop policy that is evidence-based.

NR: Yes. Also, the interesting thing about the SUA Convention is that Angola, Cameroon and the DRC did not sign it at all.

LO: Yes, the inherent trouble with international law is that it is not enforceable. So you can sign a document but until you domesticate it it is not useful. Not to invalidate international law, but still.

NR: Maybe we can talk briefly about Somalia now. What does for you explain the recent decline in Somali piracy?

LO: I think that it is twofold. It is a combination of at sea and on land. You had alongside the multilateral naval deployments in the Gulf of Aden developments on land in Somalia that have brought a greater semblance to stability. In 2012 you saw the election of a president and the first real government since the fall of the Barre regime. So you have a state in place there now. Of course you can question how functional this state is, and I would say that it is not very functional because there still are United Nations and African Union forces there. And ultimately Al-Shabaab remains problematic so you do not have a state with the capacity to provide the ultimate political good which is to secure its own territory. And if it cannot secure its own territory, how does that extend to its own territorial waters? I have a concern that when the European Union mandate expires this year, and the presence of naval forces will decline in these waters, what will happen then? One has to ask: have the essential conditions, the conditions that allowed for piracy, been fully eradicated? I do not think that they have.

NR: Here you mean the conditions you talked about in the beginning?

LO: Yes. The circumstances are certainly not as bad as they were in 2009 or prior to that. There has been improvement, but I am concerned that that improvement has not been significant enough. You need a state that is able to provide those political goods and can secure its territory. In the case of Somalia you are also going to continue to have challenges in dealing with issues like piracy until the issue of Somaliland has been dealt with. There is no capacity for political cooperation between the two entities.

NR: What would you think is the most influential difference between piracy in Somalia and the Gulf of Guinea. And can we compare them?

LO: They are very different. I do not like the word 'piracy' very much, I prefer to talk about 'piracies' because I think you see manifestations that are quite different. In Somalia you had piracy that was committed almost exclusively on the high seas, based on a kidnap for ransom-model. Vessels and crew were ransomed for ridiculous amounts of money. In West Africa you are having a situation where incidents are almost exclusively territorial in nature and the kidnap

for ransom-model is not the main model there, even though I noted earlier that you are seeing an increase in kidnap for ransom, that happens quite strategically and quite differently. Whereas in Somalia you would hijack a vessel and hold the crew hostage in a safe haven for a period of six months or even longer, in West Africa it is more opportunistic, so based on the challenges and opportunities that are facing criminals at a particular time. Usually they take a few individuals that they deem higher value-individuals. The turnaround time is much shorter, around four days. These people are ransomed for far smaller sums of money. There are differences, and it is difficult to compare them. Broadly, you see the same kind of drivers and causal factors but when you start looking at modus operandi, the location of incidents, motives and goals of operations, the types of weapons used and the way in which violence is used you see very different pictures. In Somalia violence is not used that much, whereas in West Africa violence is often used as a means to an end. This makes it difficult to talk about piracy as a singular phenomenon and think about lessons learned or transferability of practice.

Appendix 3: Interview transcript Dr. Patricia Schneider

Patricia Schneider is a senior researcher at the Institute for Peace Research and Security Policy (IFSH) at the University of Hamburg. The interview was conducted on June 16th, 2016.

NR: A lot has been written about the increase in Somali piracy. There are many different takes on the matter. I read your article on the Robin Hood narrative, which was really interesting. But what, in your opinion, made Somali piracy decrease so dramatically?

PS: Well, it is a combination of factors. We have the navy missions, but they were already there before the drop in piracy so these alone are not enough to explain the decline. Then we have the private military companies. It always depends on who you ask, if you ask navies, they will tell you they are the decisive factor, if you ask private military companies, they will tell you they are the decisive factor. So these are two contributing factors. Then we have the missions on land, civil missions. Capability missions, not only by the EU such as EUCAP Nestor but also UNODC by the UN are doing a lot of work. They are trying to stimulate the people not to welcome pirates in their communities, trying to delegitimize the issue. These efforts on land also contributed, even though for a long time they were hampered as they could only act from neighboring countries instead of inside Somalia. This only changed during the last years. Then we have prosecution of pirates. Another factor is the Best Management Practices (BMPs) by the shipping industry which reduces the vulnerability of the targets. So it is a number of factors that come into play. As long as the situation in Somalia has not fully stabilized, the issue could pop up again.

NR: You talked about the fact that they are trying to delegitimize piracy in Somalia. How exactly does that work?

PS: It depends on what actors you talk about. But if you talk about the UN, they organized debates on the issue that tried to provide data and material on piracy. The narrative that legitimizes piracy still exists. Some politicians still use it, saying that the international navies and foreign fishermen are the real pirates etcetera. However, they could experience that local communities were not profiting from piracy. The money went into things the pirates had to import (like cars) or things that are forbidden by Islam such as prostitution and alcohol. This did not help the local communities that much. That is one thing; the other thing that was addressed were alternative livelihood issues. There is this FISH-i Africa initiative for example, where several countries tried to come together in stimulating the fishing industry and acting against illegal fishing. Then there are also capacity-building missions, such as EUCAP Nestor

by the EU but also missions by the UN. They try to improve the coast guard functions of Puntland and Central Somalia so that they can protect their own coasts. This made things more dangerous for pirates, although it is not really about delegitimizing. Although, if you protect your coast by official means, you do not need unofficial fighters anymore, so in this way it also contributes to the issue.

NR: So these efforts bear fruit? They are successful?

PS: It is a bit difficult to judge from the outside. I was trying to find out more about the EUCAP Nestor mission and I talked to a general from the Atalanta mission and he was complaining that these missions and efforts by the EU and other parties are not harmonized or coordinated which hinders their effectiveness.

NR: The efforts on land you mean?

PS: Yes, but they are also not coordinated with the efforts at sea, so it could be better. There is no comprehensive effort. I have heard rumors about not quitting the EUCAP Nestor mission but melting it together with the EU NAVFOR mission. The first impression is that this is good since we heard this complaints about there being not enough coordination. But then I heard that this is more or less used as an excuse to diminish the efforts because they were not seen as being effective. As some factors such as corruption on land makes it pretty difficult to cooperate with local actors.

NR: OK, then the last question on Somalia. What do you think were the real root causes of Somali piracy and do you think these have been sufficiently eradicated?

PS: There are different factors. One factor is that there is still opportunity because we have this interesting seaway with a lot of international trade going on and easy targets. In the future there will still be easy targets. Following the BMPs ships largely tried to circumvent the Gulf of Aden. However, this risk area is shrinking considerably now, after many years in which it grew. So in general there still is this vulnerability of international trade, this will stay even though it is less than in the beginning where we did not have these BMPs. Secondly, and the biggest cause for the special model of Somali piracy, is that they could hijack and abduct whole ships and leave them for months or even years on their coasts. This obviously is only possible if you have a failed state where you do not have state institutions patrolling the coast. The more the state consolidates and the better it functions, be it the state as a whole or just Puntland, Central Somalia or Somaliland, the less opportunity for the pirates to pursue this model. So if we make

progress in this state-building you would assume that there are less chances for this model of piracy to take roots again.

NR: Let's jump to the Gulf of Guinea then. Same question here, what do you think are the root causes in this case?

PS: Here we have a completely different case as we have a functioning state. Therefore the countermeasures are different. There is no exceptional failed state condition where a UN resolution allows us to do things we usually are not allowed to do in territorial waters of a state. You cannot say the states in the Gulf of Guinea region are failed states. If you look at the most important state, Nigeria, you cannot say that as the state performs functions on the one hand. On the other hand we see that Nigeria has a lot of trouble with different violent groups. The fight against Boko Haram in the north is not affecting piracy as it is in a different region, but in the Niger Delta we have the MEND movement. Now we have also the Niger Delta Avengers, so other groups are popping up. But these groups were more carrying out attacks against oil facilities on land. The piracy is actually a form of organized crime, with oil theft, either stealing the whole cargo of the ship or kidnapping a couple of crew members for ransom. The sums are much lower as in the Somali case since the pirates do not have the whole ship, on the other hand it is more difficult to get the money into Nigeria since there are no international counterpiracy missions.

So where are the pirates coming from? That is one of the core questions. We know much less about it. There were a lot of rumors that state forces of Nigeria were also involved. One reason for this was for instance was once the private security left the ship, the ship was attacked. So it was assumed that there was an information flow between official authorities and the pirates and maybe even the same people that worked for the authorities could be involved, could be hobby-pirates in their free time. Besides, often the ships were robbed while being in a port. This is difficult when it comes to the definition of piracy, since piracy occurs on the high seas. So we speak about piracy and armed robbery. Another explanation could be that after Boko Haram intensified its fight, state forces moved to the north to fight them, which in turn led to less attacks in the Gulf of Guinea [by state troops]. However, in the year after the numbers were similar to the year before and I think that was just a speculation.

What makes it especially difficult is that Nigeria does not allow private military forces that are not Nigerian, so you can either hire a Nigerian company or no company. There is this fear that Nigerians are or were involved in piracy, and that maybe this security personnel could be

involved. However, I have not seen a study that really could prove these links. But you can read in international reports on this but there is no thorough study on who these people are. Whether it is their main source of income etcetera. So we know pretty little about this. Nigeria argues it does not want international companies there because they would militarize the whole issue by bringing in weapons and even more violence, and their motivation would just be to make money. My argument would be: yes, but from our experience with Somalian piracy where models of licensing private companies were developed in order to gain something back in terms of the state's monopoly of the use of force. So they maybe should not allow every kind of company but they could agree on a list of companies that are licensed in the states of Nigeria's trade partners, as these companies already have been checked for not being 'cowboys'. Then we could have reliable protection without having international missions in these waters, which is rather infeasible as you need the consent of the coastal states in the region. There are however common exercises by navies, like the Obangame Express and so on, but I am sure the impact of this is pretty limited.

NR: We know that piracy and armed robbery in the Gulf of Guinea has existed for decades. What has made it increase over the past years?

PS: On the one hand it has to do with attention, Somalia gets less attention, hence the Gulf of Guinea gets more. There is not really a big increase in the number of attacks. What is new is that Nigerian pirates started to abduct people for ransom. People said: they learned from the Somalis that you can make a lot of money with that; you cannot eradicate piracy as they will just go into a different area. This is not the main model of pirates in the Gulf of Guinea but this could be inspired by the successful model of Somali piracy. But this is an assumption, it will be difficult to prove this.

NR: So it could be that piracy in the Gulf of Guinea has evolved as pirates learned from their Somali counterparts?

PS: That they are inspired that way, yes. As we see a lot of oil theft, it also has to do a lot with the oil industry. This brings opportunities, also since the ships cannot be protected by international private companies.

NR: Would you say there is more opportunity for pirates now than 20 years ago?

PS: At least that is something one could look into. Maybe there is more oil production or more opportunity and more opportunity to steal oil or cargo. You could look into the trade figures.

But then we also have a cooperation between coastal states in the Gulf of Guinea, at least on the declaratory level. And as they are sovereign states there is some hope that they can combine their efforts. This would obviously not help in territorial waters but on the high seas. But then it is also a matter of capacity. Only very few African states really have navies or even coast guards.

NR: In the case of Somalia you talked about the fact that there is at least a certain level of legitimacy around piracy. Does something like that exist in the Gulf of Guinea as well?

PS: Well, when I was looking at other violent groups in Nigeria, the MEND for instance, they were arguing that of the oil spills by the oil industry destroys the country, and the profits are not sufficiently shared among the people. That is part of the legitimation for their fight. Then you could argue if it is more piracy or more terrorism, that is kind of blurred. I would say it is more terrorism but it depends, both groups can abduct people, steal oil etcetera. As we say that pirates have economic aims as major motive, we would say that terrorist groups have political motives. What made it special with the Somalis is that you could argue that it is a social movement, since they use this narrative [of protecting their country against foreign illegal fishing]. These arguments were publicly used on Twitter etc. In the Gulf of Guinea I have never heard a narrative like this from pirates seeking public support. Piracy is purely seen as a crime. At the same time, there is a lot of oil theft on land as well, so piracy cannot be completely separated from developments on land. Then on land you also have this issue: is it political or economic? The MEND group was more or less stopped when Goodluck Jonathan, from their region, was not the president of Nigeria anymore. But as the oil prices were higher it was easier to pay certain groups a profit share to keep more quiet. But as the oil prices dropped, you could say that this was a reason for uprising in Nigeria in general, like we see now with the Niger Delta Avengers. There is a close connection to oil trade. In Somalia you had pirates that were active at sea, not on land. Here you see people that are active at land and at sea. In the Gulf of Guinea, the pirates that abducted the crew members were the same that looked after them on land whereas in Somalia you had shared tasks; the people that were out at sea were not the people that guarded the hostages on land. The connection between the situation on land and at sea is closer in Nigeria.

NR: Do you think there is a real connection between groups such as MEND and piracy? Or are these two different problems that both need government attention?

PS: It depends on what you concentrate. Pirates do not only steal oil, but since it is a big part of their activities, you can compare oil theft on land to oil theft at sea. There you could see a connection. MEND also did maritime attacks, so there is a maritime component. But I have not heard this about the Niger Delta Avengers, which are only active since January [2016]. In writings about the Avengers, the MEND groups is always mentioned as a previous group but I have not read that the Avengers did any maritime attacks yet. So I would say that at the moment they are not interlinked and that the justification model is not used by Nigerian pirates, at least I did not hear about it so far.

NR: So in short: there is not really this narrative such as in Somalia, but there are political issues involved? Or at least were?

PS: Yes. One more thing about legitimacy, when I read the last IMB [International Maritime Bureau] report I was pretty surprised that former pirates now offer their services to fishing fleets, to protect them as private guards. If you think about the narrative, that it was about protecting against illegal fishing… This deflates the whole legitimation issue even more than all other rational arguments did.

NR: Yes, so this highlights the fact that a narrative does not need to be true in order to be effective.

PS: That is true, yes.