

COMBATING PIRACY OFF THE HORN OF AFRICA: A MULTIDIMENSIONAL  
ANALYSIS OF THE CONTACT GROUP ON PIRACY OFF THE COAST OF  
SOMALIA

by

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Combating Piracy off the Horn of Africa: A Multidimensional Analysis of the Contact  
Group on Piracy off the Coast of Somalia

A Thesis submitted in partial fulfillment of the requirements for the degrees of Master of  
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## **DEDICATION**

This paper is dedicated to my beloved parents, Nancy and Tony, and to my brothers, Thomas, Nash, Frank, and Reid. Without their constant love and support, this research and my forever memorable experience in the Mediterranean would have never been possible.

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## LIST OF KEY TERMS AND ACRONYMS

Multidimensional – Refers to the unique composition of the *Contact Group on Piracy off the Coast of Somalia* with its array of stakeholder members, including state military powers, private industry experts, non-governmental organizations, and regional states.

Transnational Intervention Strategy – Any strategy constructed to intervene and resolve a problem which crosses multiple state borders and/or boundaries. This strategy can be implemented by any actor with an inherent self-interest to do so including states, non-governmental actors, and members of the private sector.

|                     |  |
|---------------------|--|
| AFRICOM .....       | United States Africa Command   |
| AMISOM .....        | African Union Mission in Somalia   |
| ASG.....            | Abu Sayyaf Group   |
| CGPCS.....          | the <i>Contact Group on Piracy off the Coast of Somalia</i>                                |
| CIMIC .....         | Civil-Military Cooperation   |
| EU NAVFOR.....      | European Union Naval Force (Operation <i>Atalanta</i> )                                    |
| EVEXI.....          | Evidence Exploitation Initiative   |
| FARC .....          | Fuerzas Armadas Revolutionaries de Colombia  |
| ICS .....           | International Chamber of Shipping  |
| ICU.....            | Islamic Courts Union   |
| IMO.....            | International Maritime Organization  |
| INTERPOL .....      | International Criminal Police Organization   |
| IRTC .....          | Internationally Recognized Transit Corridor  |
| ITFPR.....          | International Task Force on Piracy Ransom  |
| LETF .....          | Law Enforcement Task Force   |
| MNLF .....          | Moro National Liberation Front   |
| MSCHOA .....        | Maritime Center off the Horn of Africa   |
| NATO .....          | North Atlantic Treaty Organization   |
| NGO.....            | Nongovernmental Organization   |
| PMC .....           | Private Military Company   |
| ReCAAP .....        | Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia |
| SHADE .....         | Shared Awareness Deconfliction Mechanism   |
| SNM.....            | Somali National Movement   |
| SWOT Analysis ..... | Strengths, Weaknesses, Opportunities, and Threats Analysis                                 |
| SYL .....           | Somali Youth League  |
| TFG.....            | Transnational Federal Government (Somalia)   |

|                       |   |
|-----------------------|---|
| UKMTO .....           | United Kingdom Maritime Trade Operations                |
| UN .....              | United Nations  |
| UNCLOS .....          | United Nations Convention Law of the Sea                |
| UNDOC .....           | United Nations Office on Drugs and Crime                |
| UNICRI .....          | United Nations Interregional Crime and Justice Research |
| UNISOM (I & II) ..... | United Nations Peacekeeping Mission in Somalia          |
| UNPOS .....           | United Nations Political Office for Somalia             |
| USMA .....            | United States Maritime Administration                   |
| VNSA .....            | Violent Non-State Actor                                 |
| WFP .....             | World Food Program                                      |

## ABSTRACT

### COMBATING PIRACY OFF THE HORN OF AFRICA: A MULTIDIMENSIONAL ANALYSIS OF THE CONTACT GROUP ON PIRACY OFF THE COAST OF SOMALIA

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As the scourge of maritime piracy manifested itself in the mid-2000s off the Horn of Africa, the international community demanded a viable response. The *Contact Group on Piracy off the Coast of Somalia* was formed in 2008 in direct response to United Nations Security Council Resolution 1851. Through its five subsequent Working Groups, the CGPCS addressed various facets of counterpiracy operations with collaboration from an array of both public and private stakeholders.

The goal of this study is to analyze the multidimensional nature of the *Contact Group on Piracy off the Coast of Somalia*. This policy analysis applies the logic model and its subsequent evaluation method in order to examine various decisions and milestones of the CGPCS, revealing their efficacy. Additionally, I apply a comprehensive SWOT analysis summarizing various internal strengths and weaknesses of the CGPCS, along with its external opportunities and threats. In conclusion, this thesis provides both a

descriptive and analytical understanding of the CGPCS while highlighting its evolution in the context of multidimensional transnational intervention strategies.

## **CHAPTER 1: SURVEY OF SOMALIA'S POST-COLONIAL HISTORY**

The Horn of Africa has a long and turbulent history which underlies the complicated and dynamic geopolitics of the region today. Unfortunately, this region in East Africa has been plagued with famine, conflict, and mass refugee resettlement in the recent past, destabilizing its post-colonial settlement. The Horn of Africa's conflicts, involving such players as state actors, terrorists, tribal clans, and pirates, will continue to have influential and ongoing repercussions on the international community. Piracy off the Horn of Africa has emerged as one of the most recent issues with which the international community has grappled and serves as the focus of this research project. The containment and perhaps resolution of transnational issues such as piracy off the Horn of Africa will only be possible through an adequate understanding of the geopolitical history of the Horn of Africa itself; the current problems flow from the confluence of multiple factors that have undermined traditional elements of stability throughout the region.

The overwhelming majority of academics— though a few scholars disagree— conclude that the Horn of Africa is made up of the following East African countries: Somalia, Ethiopia, Eritrea, Djibouti, and Sudan (Woodward, 2003, Introduction). With its extended coastline, Somalia serves as the nexus of piracy off the Horn of Africa. Its location on the Northeastern Horn of Africa borders both the Arabian Sea to its east and the Gulf of Aden to the north. It has a total land mass of 637,657 km and 3,025km of

coastline, while claiming 200 nautical miles of territorial sea. With a population of 10,616,380, Somalia is one of the most ethnically homogeneous countries in the Horn of Africa since 85 percent of its inhabitants are ethnically Somali (Central Intelligence Agency, 2016). For the purpose of ultimately understanding its piracy problem, a detailed discussion of Somalia's history should begin in the post-colonial period beginning with Somalia's independence in 1960. This event served as the end of previous colonial occupation by both the Italian and British dating back into the nineteenth century. While both colonizers exploited the preexisting clan structure of Somalia for divisive purposes, the British historically colonized the northwestern portion of Somalia while the Italian occupation occurred in the northeastern and southern parts. Termed "British Somaliland" and "Italian Somaliland" respectively, this division ended near the end of World War II when the British successfully invaded and annexed the Italian colony. Finding themselves bankrupt after World War II, the British relinquished a large portion of control to the United Nations which temporarily held control while assisting the Somali people with achieving independence (Woodward, 2003, p. 23-24).

As a result of British colonialism, Somalia attempted to retain the political framework of its dominant colonizer and, therefore, established a new liberal democracy in line with its past European occupiers. A consequence of contributing to this colonial-political tradition was the aspiration of linking together Somalis who were then spread throughout the surrounding region across borders drawn by the departed colonial powers. For example, at the same time that Somalia was attempting to gain independence and form a nation-state, Ethiopia was pursuing the same goal, though many of its inhabitants

were ethnically Somali. This was, perhaps, the first sign of regional conflict brewing in the Horn of Africa during the post-colonial era (2003, p. 65).

Initially northern and southern Somali representatives made progress and forged the constitution, fostering a hope in the creation of a new democratic independent state. The Somali Youth League, originating from Southern Somalia, was the main political party that gained the most power during the independence movement in 1960. The constitution of Somalia was established in 1961, granting terms of six years for elected presidents. The president had substantial power, as he could appoint and dismiss the prime minister, along with dissolving the entire assembly, which was designed to be proportionally elected through the utilization of a list system. In theory, the proportional design of the assembly attempted to allow for differences between the Italian-influenced south to be equally represented against the British-influenced North. Ultimately, the differing political views of the North and South paled in comparison to the major problem at hand: establishing roots for an effective and efficient democracy in a practically anarchic state (2003, p. 65-66).

The first president elected, a member of the Somali Youth League, was Adnaan Abdullah Osman, who appointed his first Prime Minister from the North, Abdirashid Ali Shermarke. This pair initially helped to quell previous political grumblings between the North and South, although their partnership did not last long. After the 1964 election, the SYL was still in power, although numerous other parties now existed, including parties in the North. In an attempt to preserve his party's power, President Osman appointed a new Prime Minister from the south and dropped Shermarke from his ticket. Unfortunately for

Osman, Shermarke won the presidency in the next election, appointing again a prime minister from his opposition. This renewed attempt for political stability, though, did not work as Shermarke and his new Prime Minister, Mohamed Egal had opposing views on aid packages offered by the United States. Eventually this disagreement led to political instability and the creation of over 1000 clan-based candidates (2003, p. 66). Though the pair won the following election together and formally disbanded many of the clans, the clan influence still existed, now called “ex-clans”. The consequence of such a proliferation of clans and ex-clans led to massive political instability, fragmented areas, and ultimately chaos. In 1969, President Shermarke was assassinated by an opposing and disillusioned clan member, further proving the lingering influence of the clan-based system that predated the colonial period (2003, p. 67).

This clan system of Somalia had, in precolonial times, been the main governing system in Somalia implementing customary traditions to uphold law and order and establish socioeconomic principles. Major clans in Somalia included the Darod, the Mijertein, the Ishaak, the Hawiya, the Negroid and many more (Lewis, 1998). During colonialism, these clans were driven from public service, although their influence continued to be present. Originally clans were much smaller than the aforementioned political parties like the SYL that they influenced, as they were traditionally constructed to allow simply for the governance of smaller communities. As a result, the political parties formed during the 1960s were composed of numerous sub-clans which often led to faction-based fighting and further instability. The assassination of President Shermarke



in 1969 led to the abandonment of hope for a democratic state with the rise of Siad Barre (2003, p. 66-67).

Siad Barre headed a peaceful but effective military coup after the assassination. With the backing of previous Somali police from the colonial period (most coming from one clan), Barre formed the Supreme Revolutionary Council, appointing like-minded and powerful individuals to office. During the early 1970s, at the height of the Soviet Union's influence in Africa, Barre strengthened the preexisting military ties with the Soviets, which persuaded the Soviets to generously arm Barre's troops. Furthermore, the Soviet Union used its sophisticated intelligence capabilities to create partnerships between itself and the influential Somali clan system. With the help of the USSR, Barre successfully established the Somali Revolutionary Socialist Party, proclaiming himself as their leader and endorsing a Marxist vision for the state (2003, p. 67).

Barre rang in a period of strict socialist control, quickly imposing elements of a leftist state. Women in Somalia were granted more rights, opposing the views of many traditional Islamic scholars. Those Islamic scholars who did indeed speak out against Barre and secular Marxism were executed, quickly enlightening the people of Somalia of the harshness of their new ruler. Mirroring the USSR, Barre placed major agricultural producing businesses under government control in an attempt to distribute food centrally for the impoverished regions of Somalia. Additionally, Barre saw the Somalia clan system as a threat and outlawed any references to clan allegiance. Though this became law, it only forced clan allegiance underground and further grew tensions between Barre and the traditional clan system (2003, p. 68).

In the following years, Barre continued his harsh rule and looked to Somalia's troubled neighbor for hopes of expansion. In 1974, revolutions were taking place in Ethiopia, bordering Somalia in the northwest. As Barre was still establishing his dominance in Somalia, he exploited Ethiopia's state instability and waged war on the country with the backing of his Supreme Revolutionary Council. Unfortunately for Barre, the decision to attack Ethiopia was a costly one as he was soundly defeated. Furthermore, as a result of the conflict, intense clan rivalries erupted in Somalia along with numerous attempts to overthrow Barre. Most attempts failed, though one movement, the Somali National Movement (SNM) founded in 1981, became an ongoing force to reckon with for the Barre regime. The SNM found safe refuge with revolutionaries and likeminded individuals in Ethiopia who also hoped to overthrow Barre. As the post-war economic situation worsened in Somalia, farmers in the northern region began to trade with SNM members, further strengthening their cause. As tensions rose against Barre, he chose to make a bold and strategic move in order to protect his regime.

In 1988, Barre signed an accord with the Ethiopian President in an attempt to combat the SNM together. This partnership led to mass killings of civilians by Barre in the north where the SNM was most present. The civilian killings caused further uprisings and ultimately cost Barre his army as officers began to desert in multitudes. As clan based warfare engulfed the northern region and spread subsequently to the central region of Somalia, Barre quickly lost control and eventually fled from Mogadishu, the capital, on 26 January, 1991. The reign of Barre had now officially ended and unprecedented

anarchy ensued. Without a central government or strongman emerging to replace him, Somalia devolved quickly into a failed state (2003, p. 72-73).

Anarchy thrived, and unlike the revolution in Ethiopia, the revolutionaries in Somalia were still highly discordant and factious. One of the more powerful leaders of the revolutionary clans, Mohamad Farah Aideed, originating from the Hawiye clan, was a previous key leader in the forces which overthrew Barre in Mogadishu, but could not consolidate power firmly. He loosely took control once Barre fled, though clan divisiveness deepened. This clan system which overthrew Barre was not an organized and united force, but rather a factious grouping of numerous sub-clans and rivalries which inherently caused so much chaos, that no regime could adequately stay afloat. During July 1991, the government of neighboring Djibouti attempted to supervise peace accords between 6 key Somali clans, though it failed in its efforts. The following years only resulted in further clan-based warfare, economic inequality, and warlords (2003, p. 74).

In 1992, a United Nations representative visited Somalia and saw first-hand how destructive the current situation was, suffocating any hopes for reconstructing a state. An official United Nations aid relief program, named UNISOM, was implemented and began shipping massive amounts of aid to the region. Unfortunately, members of the various warring clans began hijacking and stealing aid shipments which only further created an economic rift. Simultaneously, UN leaders, differing on policy, eventually agreed that UNISOM was an overall failure and began discussing possible armed intervention strategies. In late 1992, Bill Clinton, due to increasing political pressure domestically

driven by negative media images of widespread starvation, pledged a small amount of US elite forces to intervene in Somalia on behalf of the United Nations. This armed UN intervention became known as UNISOM II and also failed when the infamous “Black Hawk Down” incident occurred involving a US Black Hawk helicopter being shot down by clan members, resulting in the bodies of US Marines filmed while being dragged through the streets (2003, p. 77-79).

In the following years further clan anarchy ensued, along with recurring famine: these became mutually reinforcing causes of massive civilian death. The international community, although, became increasingly hesitant to intervene after two failed UN attempts. In 2004, the Transitional Federal Government (TFG) was set up which included an executive branch with an acting president along with a legislative branch containing the new parliament headed by the Prime Minister. This new government was backed by the United Nations and western forces such as the United States and Great Britain. Simultaneously, in southern Somalia, the Islamic Courts Union formed which was an Islamic ruling party governing under strict Sharia law. They gained popularity quickly when they offered food and healthcare services to the otherwise famished population weary from continuous clan fighting. The ICU, known today as Al-Shabaab, pledged allegiance to Al-Qaeda and sought to dispel the TFG along with its western allies. In order to combat their terrorist campaign, the African Union Mission in Somalia (AMISOM) was set up in 2007. Backed by the UN, AMISOM was as the newest peacekeeping mission in Somalia which attempted to combat Al-Shabaab and further strengthen the TFG (AMISOM, 2016). While these struggles occurred in the south near

Mogadishu, the slightly more stable but corrupt region of northern Somalia experienced a prevailing and powerful transnational issue increase rapidly. Piracy off the Horn of Africa, originating in Somalia, grew at an unprecedented rate from 2005 onward (Roos et al., 2013, p. 25-27).

## CHAPTER 2: LITERATURE REVIEW

### **Violent Non-State Actors**

Given the failed state status of Somalia and the rise of its own violent non-state actors (VNSA's), it is appropriate to examine any relationship between the two concepts. From piracy to terrorism, the array of VNSAs seen in the realm of international politics is constantly growing, having an ever-increasing influence on the global community. Erella Grassiani and Eyal Ben-Ari in their journal article entitled, "Violence Operators: Between State and Non-State Actors", explain how a state commits organized violence as it gains legitimacy through its monopolization of resources. In contrast, violent non-state actors often compete for these resources while pursuing political goals (Grassiani & Ben-Ari, 2011, p. 8-9).

It is these same violent non-state actors who have been at the forefront of a paradigm shift in security studies since the end of the Cold War. Amanda DiPaolo, in her journal article entitled, "Battle for State Control: Lessons from Violent Nonstate Actors Imitating the State: Colombia, Nicaragua, and Lessons for Iraq", explains that after the Cold War, most security studies scholars believed that the "state" would still be the primary threat to the newly emerged superpower: the United States. From a realist perspective, the threat posed by the Soviet Union during the Cold War would simply be replaced by another State. DiPaolo argues that VNSAs are increasingly being given just

as much, if not more attention than their non-violent counterparts based in civil society such as NGOs. This is primarily due to the similar process that, in accordance with their non-violent counterparts, VNSAs take in imitating various state processes. VNSAs often feel that they need to imitate such state functions, usually using violent means to do so, because they feel excluded from the political process in place to which they could otherwise achieve their goals (DiPaolo, 2005, p. 166-167).

In order to measure VNSA's imitations of state functions, DiPaolo denotes the success rate to be the highest if the VNSA takes full control from the state itself. Secondary to that success, VNSAs succeed if they have power outside of their home state. Success is considered moderate if the VNSA cannot be stopped by the forces of the home state. Finally, the VNSA fails if the home state can indeed stop the VNSA from gaining any political clout. With the measure of success as a dependent variable, the independent variables of VNSAs which DiPaolo measured included: maintain membership which functioned as a population, having an intelligence capacity, creating an organization resembling a state-structure, and mimicking a "foreign policy" in the form of a VNSA's activism (2005, p. 167).

In the latter portion of her article, DiPaolo demonstrates how the "Fuerzas Armadas Revolutionaries de Colombia" or FARC meet each of the before-mentioned independent variables which lead her to conclude the FARC as a highly successfully VNSA. The FARC is perhaps Colombia's most well-known and powerful VNSA. It began as a protest calling for land reform in the context of a larger politically corrupt system governed alternately by both liberal and conservative politicians. In the 1960s, the

FARC formed out of protest to the government from rural peasants who fled the state-backed military. The Soviet Union financially and militarily backed the FARC until the end of the Cold War, after which FARC leaders began to intermingle with narcotics traffickers for a renewed financial stream. Hostage taking and drug sales produced revenue, leading to the longevity of the FARC. It used its leverage to gain political influence in Colombia through both violence and diplomatic negotiations (2005, p. 170).

In line with DiPaolo's variables, the FARC has a large membership base with over 18,000 members, mimicking the population of a state (as cited in DiPaolo, 2005, p. 170). Furthermore, and perhaps most importantly, the FARC has an actual territory which is gained through negotiations with the government of Colombia. The land, though still considered part of sovereign Colombia, is free of any police and/or military forces sponsored by the state as an outcome to the FARC's negotiations. This lack of state-based authority gives the FARC further legitimacy, provides training grounds for their own military training camps, and is itself governed by the FARC's own constitution. In this way, the FARC's semi-autonomous rule on their territory gives them power outside of the state. Additionally, such state-mimicking practices within their territory led to the construction of their own paramilitary with a very capable intelligence system, both providing valuable information on their enemy (the state) and asserting their objectives through public outreach measures. Lastly, the FARC mimics a foreign policy of a state through declaring their political goals explicitly, with their ultimate goal being to overthrow the present-day state of Colombia with political means, though they openly state they will use violent means if ever necessary. DiPaolo concludes the FARC to be a



highly successful VNSA due to their achievement of the dependent variables of success. In sum, DiPaolo believes that successful VNSA's will have two defining characteristics. First they will use violence as a means of diplomacy and secondly, they will imitate state structures in order to achieve local change within the context of their stated goals and objectives (2005, p. 170).

With VNSAs demonstrated to be on the rise and increasingly pertinent to conversations within the realm of international security, it is appropriate to understand some of the origins of these VNSAs. Although the list of VNSAs—which normally includes terrorists, militias, warlords, paramilitaries, and insurgents—is large, many of the originating factors of these VNSAs are similar. In her book entitled “Failed States and the Origins of Violence: A Comparative Analysis of State Failure as a Root Cause of Terrorism and Political Violence,” author Tiffany Howard discusses the root of one VNSA in particular: terrorism. She writes on the origins of terrorism and presents the broad argument among academics of “nurture vs nature,” referring to the idea that VNSAs (such as terrorist organizations) come to being either from a genetic predisposition to a violent nature, or that they are born into certain environmental situations which make them more likely to resort to such violent tendencies (Howard, 2014, p. 13-15).

Howard explains past explanations offered by academics on the origins of terrorism. The first and foremost explanation that is given, she says, is poverty. She doesn't deny that poverty stricken areas have the potential to breed potential future members of VNSA's, though she does not believe this to be a full justification explaining

the origins of VNSA's, specifically in regards to terrorism. Howard goes on to assert that, in her opinion, the factor most responsible for a human joining a VNSA like a terrorist organization is rooted in simply the will to survive. This will to survive is found indeed in poverty stricken areas, but even more so, in failed states as a whole. Failed states, as Howard indicates, threaten an individual's right to survive through deprivation of institutional security, political, and economic resources. Thus, the rise of VNSAs and the perpetuation of a failed state can be considered to be quite symbiotic (2014, p. 15-18). One of Somalia's most infamous VNSAs is, of course, its scourge of modern piracy found off the Horn of Africa.

## **Piracy**

Piracy in the modern sense has manifested itself internationally in recent history, namely in areas such as the Straits of Malacca, the South China Sea, and the Horn of Africa. Pirates have plagued international waters through acts of robbery, kidnapping, and even murder. Though structural conditions encouraging piracy must be addressed, the criminal act of piracy itself must be eradicated for the preservation of life, rule of law, and the long-term health of the international economy.

Piracy, often thought of in historic and romantic terms, is a distinct phenomenon often originating from a plethora of aggravating factors varying from location to location. In order to gain a practical and working definition of piracy, international maritime security experts regularly follow The 1982 United Nations Convention Law of the Sea (UNCLOS). This is the internationally recognized agreement establishing maritime

definitions and protocol for an array of maritime players in various sectors, both state and private. In article 101 of the UNCLOS, piracy is defined in the following way:

*“Piracy consists of any of the following acts:*

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

*(i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;*

*(ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;*

*(b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;*

*(c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b) (UN General Assembly, 1982).”*

Furthermore, the definition of piracy should be differentiated from robbery at sea which is defined by the International Maritime Organization in their resolution A.1025 on IMO's Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships as:

*“(a) any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a*

*ship or against persons or property on board such a ship, within a State's internal waters, archipelagic waters and territorial sea;*

*(b) any act of inciting or of intentionally facilitating an act described above*  
(International Maritime Organization, 2016)."

Using the above definitions as reference points, one may begin to investigate the origins of modern piracy. Andrew Palmer, author of *The New Pirates: Modern Global Piracy from Somalia to the South China Sea* offers readers a comprehensive analysis of the components of modern piracy. Palmer believes there are five key reasons for the growth of modern piracy:

*State Corruption:* A key distinction must be made here noting the difference between a totally anarchical/failed state and a corrupt government. Modern piracy is, though criminal, still highly organized. Thus the need for some level of state governance is vital for illicit activities to occur. Furthermore, these illicit activities are often intertwined as a consequence of state corruption. Piracy profits funneled through corrupted officials eventually helps fund other activities such as human trafficking, drug smuggling, and more. In a sense, piracy is only one spoke in a larger interconnected wheel of organized crime, thus it makes sense that this interconnectedness thrives on the existence of corruption.

*Sea Access:* Accordingly, areas where piracy runs rampant requires sea access along with easy admittance to major shipping lanes with few barriers to entry.

*Willingness for Piracy:* Palmer stresses here that poverty alone is an inadequate explanation for the existence of piracy. Though poverty often coincides with piracy-related activities, individuals involved in piracy must be adequately equipped, militarily trained, and desperate enough to participate in piracy operations as such participation is incredibly dangerous.

*Effective management:* Whether it is corrupt government officials involved, career criminals, or disillusioned fishermen, piracy as a criminal enterprise requires the same level of management as any other legitimate business.

*Diaspora population:* the existence of an international diaspora population with cultural or criminal ties to piracy must exist in order to facilitate financial transactions. These key players were especially important in the advent of Somali piracy often taking the form of “negotiators” living abroad with adequate language skills to negotiate the release of hostages with western shipping companies. These middlemen would often then receive a payment quietly from their pirate counterparts (Palmer, 2014, p. 8).

Ultimately, Palmer believes the foundations of piracy lie in “predation,” as defined in Merriam-Webster dictionary as, “The act of preying or plundering; a mode of life in which food is primarily obtained by the killing and consuming of animals (Merriam-Webster Dictionary, 2016). In human terms, this can be understood in not only the behavior of organized criminal organizations, but also the corrupt societal mechanisms which allow such behavior to thrive. In this way, preying on the weak is not necessarily viewed as criminal in conflict-ridden regions such as the Horn of Africa, but rather a way of life. Modern piracy takes advantage of such regions in the same way and

exploits their instability. In recent history, two of the main regions affected by piracy are the Horn of Africa and the South China Sea.

Piracy in the Horn of Africa, arising from the previously mentioned instability in Somalia, has run rampant from 2005 onward. Under UNCLOS, every state reserves the right to establish their territorial waters for up to 12 nautical miles from their established coast line (UN General Assembly, 1982). Due to Somalia's lack of state governance and failed state status, many surrounding regional players such as international fishing industries took advantage of Somalia's absence of territorial waters. Overfishing of Somali waters became commonplace and created daunting competition for traditional Somali fishermen. Fishing was one of the few localized industries left within the anarchical failed state, and thus outside competition was not welcome. Furthermore, for the same reasons as overfishing, some regional actors became involved with illicit waste dumping in what would normally be considered Somali territorial waters. The result from both illicit activities led Somali fisherman to violently agitate, vowing to defend their waters. This narrative, is although viewed as false by some experts who claim that the fishermen's story is simply a ploy to justify violence due to regional competition among fisherman. Nonetheless unofficial "Coast Guards" were formed, primarily in the northeast sector of Somalia called "Puntland." As part of the former British Colony, Puntland became a more stable region of Somalia, declaring its autonomy from the rest of the state in 1998. Though more stable, Puntland remains unrecognized by the international community; however some experts claim that could change in the near future (Nelson, 2010, p. 95 and Palmer, 2014, p. 124).

These “Coast Guards,” armed with weapons left over from the Barre regime and subsequent clan warfare, began warding off foreign fishing vessels and threatening violence. Eventually any ships caught in the Gulf of Aden and further southward were targeted. Cargo vessels carrying international aid began being hijacked by these disillusioned fishermen. Finally, not only the cargo, but the crews themselves were hijacked and the era of modern Somali Piracy was born (2010, p. 52). During the height of Somali Piracy, Puntland was a piracy hotspot due the region having the minimum amount of stability needed for such transnational criminal organizations to thrive. Combined with existing corruption, this gave pirates and their counterparts a perfect operation headquarters (Palmer, 2014, p. 8-9).

Somali Pirates employ a unique set of tactics which perhaps set them apart from other pirate hotspot areas. In 2010, the United States Maritime Administration produced literature describing the specifics of Somali Pirate tactics. The importance of such analysis obviously lies in the development of counterpiracy measures and policy recommendations on best practices to combat piracy. Once pirates are operational, the USMA provides four key stages of a pirate attack (US Maritime Administration, 2010):

*Selecting a target for the hijacking:* As mentioned, Somali Pirates use corrupt officials such as police and other maritime officers to provide them with information such as intelligence on inbound cargo ships. Motherships, larger and more seaworthy, are often stationed far off the African coast in order to house smaller and faster skiffs. Usually these motherships are previously hijacked cargo ships themselves. When a cargo

ship is approaching, the smaller and faster skiffs are released to begin the hijacking (2010).

*The attack:* The attack and the hijacking are actually two separate events. During the initial attack, multiple skiffs are released from the Mothership each with different objectives. For example, if three skiffs are released, then two ships might approach the side of the ship with pirates firing fully automatic weapons at the crew in order to intimidate them. The objective here is to scare and persuade the crew to slow down their cargo ship in order for the actual hijacking to take place (2010).

*Boarding a hijacked vessel:* While the two attack skiffs are working to slow the vessel, the third skiff will usually approach the target from behind, as this is the weakest point for the main radar of the cargo ship. Once the cargo ship has slowed, this third ship will sail in close, and begin to board using grappling hooks and modified boat ladders. Once boarded, pirates will kidnap crew members and navigate their new hijacked cargo ship to a “safe area” usually close to the Somali coast where it will be held indefinitely (2010).

*Negotiating a ransom for a hijacked vessel:* Pirates will use middlemen posing as “negotiators” to make contact with the shipping company. Negotiators will contact the shipping company immediately after boarding. These Somali negotiators, often attempting to sound diplomatic, will begin parlaying with the shipping company, negotiating ransom money in exchange for returning the crew and vessel safely. During the talks, the negotiators will try to convince the shipping companies that their crew is in grave danger. More often than not, although, most crews are relatively safe and treated



well as pirates know that such human capital is their main leverage. Finally, if all goes as planned for the pirates, either a financial money wire to an anonymous account will occur or the shipping company will physically drop packaged ransom money in an agreed upon location. After this is completed, the pirates will release the ship and crew, again, usually unharmed (2010).

A second major pirate hotspot which is perhaps less resolved than the Somali piracy problem is occurring within the South China Sea. The South China Sea, a sub-region of the Pacific Ocean, stretches from the Strait of Malacca to the Strait of Taiwan. Serving as a major international shipping route for commodities such as oil, organized crime has increased in the area during the recent years. Piracy in this area differs from the piracy in the Horn of Africa in various ways. Firstly, experts often try to make a clear distinction between “non-political piracy” and “maritime terrorism.” Such maritime terrorism can simply be defined as committing acts of piracy on the high seas to promote a political, ideological, or religious cause (French & Chambers, 2010, p. 91). Whereas Somali piracy was purely motivated by greed and corruption, many acts of piracy in the South China Sea are associated with terrorists groups. For example, in the Malacca Straits pirates have claimed allegiance with the Free Aceh Movement, an Indonesian separatist movement, and uses the profits from piracy as a way to fund their cause (2010, p. 91). Furthermore in the Philippines, the Moro National Liberation Front (MNLF) and the Abu Sayyaf Group (ASG) have pursued similar fundraising campaigns using piracy as a lucrative tactic (2010, p. 91).

A second difference in piracy within the South China Sea can be seen in their goal objective. Whereas Somali pirates focused on capturing and using the crew as leverage for negotiations with the shipping company, pirates in the South China Sea are often more focused on capturing the commodity itself – mainly oil. An early pirate case in 1998 involved Indonesian pirates capturing the *MV Petro Ranger*, a ship from Singapore. This ship was transporting nearly 11,000 tons of petroleum making its way to Vietnam. Captured just outside of Singapore, the pirates steered it to a Chinese island where it was repainted as a “phantom ship”. Phantom ships are simply hijacked cargo ships which are repainted by pirates during mid-voyage in order to escape detection from authorities. While docked, smaller pirate ships siphoned off half of the petroleum, resulting in a loss of US\$ 2.3 million to its owners (2010, p. 100).

### **Transnational Intervention Strategies**

From Somali Piracy to Piracy in the South China Sea, the international community continually demands a response. The difficulty in organizing such a response is deciding exactly how to develop an effective transnational interventional strategy. As globalization progresses, states are continually searching for ways to collaborate with foreign partners in order to solve transnational issues. Perhaps the most traditional approach used by states would be multilateral diplomacy. Multilateral diplomacy can be defined as the practice of involving more than two nations or parties in achieving diplomatic solutions to supranational problems (Mahbubani, 2013, p. 249-251). In his piece on multilateral diplomacy within the Oxford Handbook of International Diplomacy, Author Kishor Mahbubani describes four functions of multilateral diplomacy. First and

foremost, he says that it serves as the “Parliament of Man” referring to the ability of national representatives to speak on behalf of their countrymen at international forums such as the United Nations. Secondly and similar to the first, these national representatives are assumed to discern together the needs of the global community. Interestingly enough, these global forums often give voice to the most impoverished and needy areas of the globe. Thirdly, Mahbubani refers to the power of these global forums to set seemingly permanent norms. For example, he refers to the Universal Declaration of Human Rights, signed after the Second World War, which sought to end to brutal practices such as torture by declaring them “crimes against humanity,” and, in this way, set a global precedent to continue the ban on piracy (2013, p. 249-251).

There are, of course, downfalls to multilateral diplomacy which manifest themselves mostly in the nature of the state itself. The 1648 Treaty of Westphalia established the modern idea of state sovereignty and the resulting international community has kept relatively the same mindset ever since. It was not until the end of the Cold War in the 1990s where the world saw an increase, or at least began to acknowledge the existence of intrastate conflict. Violent non-state actors, such as pirates themselves, called for a global response and, for the first time since the Treaty of Westphalia, the world recognized that it must respond with one, united voice. The United Nations paradoxically inherently protects and upholds state sovereignty, but recent transnational issues have demanded a global strategy from organizations like themselves (2013, p. 256-257).

Consequently, new transnational strategies are increasingly explored. William Robinson in his publication, *Beyond Nation-State Paradigms: Globalization, Sociology, and the Challenge of Transnational Studies*, claims that globalization, or more specifically, global capitalism (as opposed to state-based capitalism) has created a “world economy” which combines various facets of the global economy including responses to transnational issues like inflation. Robinson’s idea of a world economy does well to highlight the increasing interconnection of socioeconomic institutions such as the financial sector. In his view, corporations, which he claims are ultimately the backbone of the world economy, have no true headquarters nor are they genuinely committed to the interests of any particular state. Thus, he claims, insights can be derived from such transnational governance (Robinson, 1998).

Yet another example of global governance can be explored in Anja Jakobi’s publication titled, *Non-state Actors and Global Crime Governance: Explaining the Variance of Public-private Interaction*. One obvious transition from using only state-based organizations in solving transnational issues would be to mix and build public-private partnerships. Jakobi explores the implications of such partnerships within a specific transnational issue: global crime governance. Global crime governance, he explains, is different from traditional crime governance. Traditional crime governance is usually closely related to a national judicial system, whereas global crime governance refers to international regulations and their implementation (Jakobi, 2016). He argues that non-state actors found in these partnerships will become more involved in certain crimes than others. Ultimately, Jakobi argues that the variance found amongst non-state actors in

regards to their involvement in global crime governance is systematic and distinguishable. He provides four areas in which public-private governance can be shown to vary. These areas, when individually analyzed, can be used to critique the advantages and drawbacks of using public and private partnerships in a multidimensional manner to address transnational issues. Firstly, public regulation provides the initial and most basic step against crime. Though it is often structured in an international framework, the true work is usually done at the national level (2016). Therein lies a key critique: for true global governance to occur from such a multi-dimensional perspective, the international community must at least acknowledge the fact that the nation-state still remains as the central protagonist of global governance efforts. Secondly, non-state actors serve as key advocates for phenomena such as the creation of international law within global crime governance. Without such heavy campaigning, many important issues would never become politicized enough to even be discussed at the international level. Thirdly, co-regulators of key industries can provide subtle insights to transnational issues which may not be recognized within the public sector. In the case of global crime governance specifically, co-regulators from the private sector can offer industry best practices on combating product piracy, for example. Finally, the private sector is usually more responsible for delegation within global crime governance. Banks, for instance, are left alone to sort out how they would like to assess risk on certain transactions, along with any precautions needed to be taken (2016). Of course, the previously mentioned four areas of involvement and effectiveness by the private sector will vary based on differing transnational issues. Within global crime governance, such areas show variation based on

the current criminal issue being discussed. Transnational crimes, like human trafficking, are highly moralized, Jakobi writes. He concludes that they will be more likely to be given attention by non-state actors than would be more technical crimes such as transnational money laundering (2016).

One can see that there are indeed both advantages and disadvantages to differing transnational intervention strategies. As globalization progresses, new and inventive transnational intervention strategies will be called upon by international organizations—such as the United Nations—to address pressing transnational issues. The *Contact Group on Piracy off the Coast of Somalia* (CGPCS) provides an ideal example to analyze a multi-dimensional approach involving a unique collaboration of actors including state governance, military intervention, private military companies (PMCs), non-governmental organizations, and shipping industry experts.

## CHAPTER 3: METHODOLOGY

### Introduction

The *Contact Group on Piracy off the Coast of Somalia* is a distinctive intervention strategy since, given its numerous stakeholders, it supports analysis from many different angles. Thus, undertaking a complex policy analysis yields the most comprehensive perspective through representing the various facets reflective of the interested parties. Sage Research Methods summarizes a policy analysis as “The process of establishing through empirical research how far specific policies set by government or public bodies have achieved their goals (Sage Research Methods, 2016).” This definition provides a clear and broad working explanation of the subject in order that subsequent subcategories may flow from it. The nature of the CGPCS and its internal working groups is indeed layered and overlapping; therefore, the specific policy to be analyzed will be CGPCS’s “multidimensional” approach to problem resolution. The analysis will scrutinize not only its various individual actors, but also the evolution of the CGPCS itself.

The specific framework for the policy analysis to be performed on the CGPCS will be primarily derived from the research book entitled, *Practical Program Evaluation* by Huey-Tsyh Chen (Chen, 2005). Although Chen instructs on program evaluation, his framework of analysis is transferable and effective at analyzing the subtleties of evolving

intervention strategies like the CGPCS. Therefore, for purposes of analyzing the CGPCS, one may view Chen's program evaluation method to be as a specific framework of assessment embedded within a more comprehensive network of policy analysis. This larger network allows for a broader array of analysis whereby all available texts, documents, reports, and past research intersect, providing the opportunity for a comprehensive analysis.

### **Methodological Literature Review**

Various research exists on the subject of performing policy analysis. Different research proposes various models of analysis which should be weighed for applicability against the specific criteria being analyzed. The models of analysis also depend on the specific questions being asked and the quality of available answers. In one such research article entitled "The Methodology of Normative Policy Analysis," Robert and Zeckhauser differentiate between two types of policy analysis; normative and positive. Normative policy analysis is more exploratory as it asks the question of, "What is?" Positive policy analysis tends to be more prescriptive as it asks, "What action should be taken (Robert & Zeckhauser, 2011)?"

Within positive policy analysis, 3 primary questions are asked in regards to scope, model and estimate. Within the question of scope, the policy analyst asks, "What elements of the world does he or she want to understand?" The question of model asks, "What mechanisms explain the behavior of the world?" Finally, the question of estimate asks, "What estimates of the model's parameters are being used to measure within a particular context (Robert & Zeckhauser, 2011)?"



Likewise, normative (or “value-based”) policy analysis asks three questions in regards to standing, criteria, and weights. The question of standing asks, “Who counts?” This is to be understood as asking, “Who are the players which are relevant to the policy?” These players include stakeholders along with all those most affected by the policy. The question of criteria asks, “What counts?” In other words, which criteria should be used in order to most relevantly measure the policy? Finally, weights asks, “How much do different individuals and criteria count within a policy analysis?” This question somewhat combines the precepts of the previously mentioned questions of standing and criteria in that it chooses amongst both of them to decide which question should have the most emphasis placed upon it (Robert & Zeckhauser, 2011).

In total, Robert and Zeckhauser suggest to combine both policy and normative analysis for, in their opinion, the farthest-reaching model for policy analysis. The model requiring analysts to apply the questions of scope, model, estimate, standing, criteria, and weights is indeed far-reaching, though ultimately too broad for this analysis. In order to uncover implicit assumptions and subtleties of the CGPCS, I chose to use Chen’s as my primary framework for analysis. This methodology focuses on program evaluation specifically, but fits within a broader spectrum of policy analysis (Chen, 2005). As his policy evaluation methods are more specific than Robert and Zeckhausers’ model, it will provide a narrow lens to analyze more critically the CGPCS.

Further definitional research will help deepen the investigation. Specifically, Sage Publication’s *Handbook of Public Policy Analysis* provides three key elements which help to define good policy analysis (Sage Publications, 2002). The use of Chen’s program

evaluation within this broader spectrum of policy analysis will ultimately meet these three key elements when applied to the analysis of the CGPCS. They are as follows (Sage Publications, 2002):

Validity: this refers to having a sense of accuracy within the context of the research.

Some such aspects of validity include the following:

- The listed goals should include all the major goals along with any other non-goals.
- The policy should be feasible itself and include other feasible alternatives.
- Any feasible alternatives should include external empirical realities if applicable
- Internal consistencies should follow a logical path when drawing conclusions upon goals, policies, and relations.

Importance: Important research is defined in two primary ways.

- Important research deals with issues in which major societal benefits and/or costs are being both analyzed.
- Important research also deals with subjects which have broad explanatory power which can be re-applied in other settings.

Usefulness: Usefulness should be viewed as a spectrum rather than with an “all or nothing” lens. At the very least, policy analysis research should be relevant to a field even if it is never referred to. At the highest level of usefulness, an analyst’s research will be referred to by relevant policy makers within a relevant field in order to make top level decisions. In this way, usefulness is indeed on a spectrum with the lowest acceptable bar being that of relevance (Sage Publications, 2002).

These three elements provides a standard for research in policy analysis. My research analyzing the multidimensional aspect of the CGPCS will meet such standards as exemplified in the use of Chen's models within my methodological theory.

## **Methodological Theory**

In order to begin exploring Chen's framework for analysis, understanding its theoretical underpinnings is vital. Chen introduces the primary theory behind program evaluation which is known as "program theory." Program theory has often been "collaboratively" defined, based on a combination of different models with each utilizing similar ideas. For example, key aspects of Chen's foundational "change and action models" coincide with much of the "logic model"(Chen, 2005). Chen describes his change and action models as "a specification of what must be done to achieve the desirable goals, what other important aspects may also be anticipated, and how these goals and impacts would be generated (Chen, 2005)." Similarly Chen cites program theory in relation to the logic model to be, "program resources, program activities, and intended program outcomes, and specifies a chain of casual assumptions linking program resources, activities, intermediate outcomes and ultimate goals ((Chen, 2005). Both definitions of program theory are appropriate to analyze the CGPCS's multidimensional intervention strategy since Chen's change and action models provide a theoretical foundation to then subsequently implement analysis using the logic model.

Intervention strategies are based on sets of various assumptions, all of which set out to solve a social problem. These assumptions can be either explicit or implicit and are made by various stakeholders involved in such intervention strategies. This is precisely

where Chen separates program theory from more traditional research theories since it is more than the explanation of casual relationships. Instead, it involves placing value judgement on assumptions and actions taken. Doing this—combined with analyzing the who, why, when, and how of these assumptions and actions—is the primary function of program theory (Chen, 2005). Thus the theoretical structure of the program theory to be utilized during the analysis of the CGPCS is comprised from foundational aspects of the before-mentioned change and action models to then be applied and continued through the logic model.

The “change model” is based on the causal relations that stakeholders assume during an intervention which they believe to produce ultimately the social problem under consideration. Consequently, the “action model” is the proceeding stage of any intervention strategy, designed around any previous assumptions found within the change model. The action model of an intervention strategy is said to be the “nuts and bolts” of the intervention as it primarily deals with the specific design of the intervention which ultimately answer questions such as: “What are the crucial elements of the intervention? How will implementers be trained? How will the primary target be reached? (Chen, 2005).”

To better understand the structure of the change and action models, examples derive from the CGPCS. The unique multidimensional framework of the CGPCS requires that I disassemble it into its individual parts before analysis. Therefore examining Working Group 2 of the CGPCS provides a model to explain both the change model and the action model. Working Group 2 was one of the various Working Groups of the

CGPCS. The international community tasked it with providing legal guidance to in regards to combating piracy off the coast of Somalia (European Union Institute for Security Studies, 2014, p. 35). Applying the change model to the origins of Working Group 2, one can derive the primary assumptions, either descriptive or prescriptive, of its stakeholders. Forums for state, public, and private organizations to discuss legal issues related to combating piracy did not seem to exist before the Working Group 2 of the CGPCS. Therefore, the primary descriptive assumption here was that state, public, and private organizations did indeed require such a forum. In regards to the change model of program theory, the initial emphasis here is not a value judgment on whether such an assumption is right or wrong, but rather only recognition that such a specific assumption, with proceeding implications, has been made by stakeholders. Hence, the assumptions of the change model provide implications that can help to explain the subsequent interventions of the action model. Due to this assumption of a lack of collaborative legal framework, Working Group 2, for example, established its own through the development of specific mechanisms such as the Post Trial Transfer System, along with various other collaborative legal mechanisms (European Union Institute for Security Studies, 2014). Thus when analyzing any intervention strategy, the change model of program theory helps evaluators to recognize the conceptual underpinnings surrounding the intervention while the action model of program theory can highlight how systematic plans were derived from abstract and generalizable assumptions made by the intervention designers (Chen, 2005).

Further components of both the change model and action model can be discussed in order to describe their symbiotic relationship. Within the models, two separate constituent mechanisms appear. Goals and objectives are mechanisms in the models which help to designate between the “abstract” and “concrete.” Goals are the more abstract concepts, subsuming the objectives of the intervention strategy in order to motivate stakeholders and acquire resource commitment from supporters. Outcomes, although, are the tangible and concrete elements feeding into goals, or “sub-goals,” which provide stakeholders with metrics giving meaning to goals. Referring back to the CGPCS Working Group 2 example, a goal of it can have said to have been, “Providing specific, practical, and legally sound guidance to the CGPCS, states, and organizations on all legal aspects of counterpiracy (European Union Institute for Security Studies, 2014).” A tangible outcome within such a goal, although, would be the Post Trial Transfer System which provides hard metrics involving the transfer of apprehended pirates by arresting states to regional states within the Horn of Africa for final prosecution. The outcome here serves the original goal of the group and ultimately provides meaning to Working Group 2 (Chen, 2005; European Union Institute for Security Studies, 2014).

While the change and action model provides foundational insight, the “logic model” serves as the application tool to begin the analysis of the CGPCS. This model derives from a sub-theory of program theory called the “Theory of Change” described by Dr. Rob Fisher as “the rationale for why doing this type of programs should bring about the changes that we desire for the participants (Rob Fisher, 2016). This theory closely relates to the rationale behind the change and action models as it seeks to make explicit

the otherwise implicit assumptions which policy and program designers often unknowingly make. This theory will prove to be useful when applied the analysis of the CGPCS in order to make exceptionally clear the objectives of the group.

To utilize effectively a logic model, there are two steps required to be taken. The first step, divided into four parts, is required in order to lay out the original framework that the group's stakeholders initially hoped to achieve. These four parts are as follows: conditions, activities, outcomes, and impacts. "Conditions" are the aggravating factors present at the beginning of the intervention which stakeholders recognize to be main drivers behind the root cause of the problem. "Activities," then, are the steps which a group wants to take in order to begin to address that problem. The activities chosen by stakeholders should be realistic interventions which can be executed given the allotted amount of time and resources available. Following the group's proposed activities, the group should predict accurate and isolated "outcomes" which they believe their previous activities will cause. Finally, the group should propose ultimate "impacts" which these outcomes will have on all potentially affected areas including secondary stakeholders, the immediate community, and regional (or international) community (Rob Fisher, 2016).

Once the initial logic model has been constructed and the program theoretically concluded, the next four steps of evaluation are as follows: identifying goals and objectives, evaluate the process, evaluating outcomes, and evaluating ultimate impact. When identifying goals and objectives, an evaluator seeks to identify the abstract goals of the group along with the concrete and specific objectives which were used as metrics by a group to identify progress. Next, the process itself needs to be evaluated. This involves

identifying the “who, what, when, where, and how” of the specific activities the group took in during their attempt to solve their identified problem. This is essentially an analysis of the “activities” section of the logic model. After this, the outcomes which were identified in the first step should be evaluated to see if they were effective. Finally the true impacts of the intervention by the group should be assessed and compared with the original hypothesized impacts to reveal implicit bias which may have gone unnoticed by stakeholders.

### **Explanation of Logic Model and Evaluation**

In order to analyze effectively the multidimensional policy of the CGPCS, I will structure my policy analysis around the previously mentioned program theory involving aspects from both the change and action models, mainly focusing on making implicit assumptions of the CGPCS explicit. In order to do this, I will apply the logic model to the key components of the CGPCS, specifically the Working Groups.

The Working Groups of the CGPCS were originally designed to act as the main framework of the Contact Group. Working Group 1 aimed to coordinate maritime operations and capacity building in the region. Working Group 2 counseled stake holders on the legal aspects of piracy. Working Group 3 focused on strengthening relationships with private shipping industry stakeholders. Working Group 4, dismantled in 2013, concentrated on public diplomacy. Finally, Working Group 5 worked to disrupt financial networks ((European Union Institute for Security Studies, 2014).

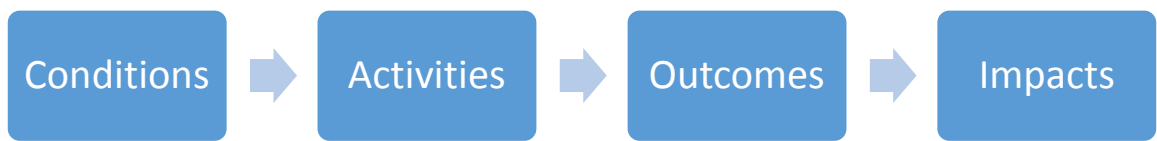
As *Piracy off the Horn of Africa* subsided over time, the Working Groups were reorganized and renamed in 2014 as the following: Working Group 1 was deemed the



“Working Group on Capacity Building”. Working Group 2 was streamlined and renamed the “Legal Forum of the CGPCS”. Working Group 3 was renamed “Maritime Counterpiracy and Mitigation Operations”. Working Group 4 was dismantled as mentioned, and Working Group 5 was renamed “Reconfiguring Pirate Networks Ashore” (European Union Institute for Security Studies, 2014).

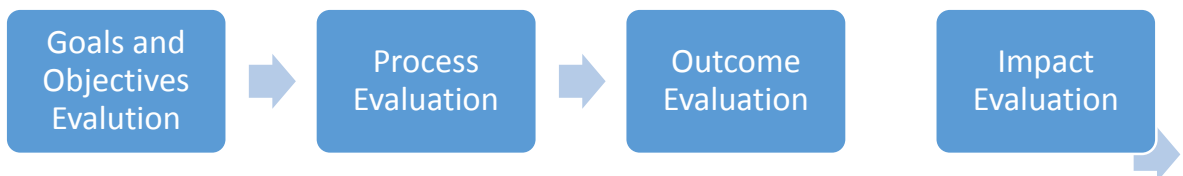
Using these Working Groups as data, I will analyze each one individually using the previously mentioned steps of the logic model. Furthermore, the official “Communiques,” or announcements, which are all publicly posted on the website “lessonsfrompiracy.net,” will be partially used to analyze further the Working Groups. In total there are 19 Communiques of the CGPCS which provide explanations and evolutions of the Working Groups along with other individual stakeholder goals. Various Communiques will be used to describe major changes of each Working Group, though these Communiques may not necessarily be analyzed in sequential order since milestones were reached at different points within different Working Groups. Finally, it should be noted that for simplicity purposes, I will use the before mentioned names of the individual Working Groups to refer to them instead of “Working Group 1-5” (“Lessons from Piracy,” 2016).

Therefore, when performing my policy analysis of the CGPCS rooted in program theory, the first step of the logic model construction resemble the following process diagram (Rob Fisher, 2016):



**Figure 1-Flowchart 1**

Furthermore, the subsequent evaluation analysis will resemble the following similar process diagram:



**Figure 2-Flowchart 2**

The analysis will attempt to answer not only the posed individual questions of the logic model and subsequent evaluation. It will ultimately provide insight into the decisions made by the CGPCS which will then be critically examined within each individual Working Group.

### **Explanation of Comprehensive SWOT Analysis**

As a final synthesis to the main policy analysis, I will provide a comprehensive analysis of the CGPCS with the use of a “SWOT Analysis.” A SWOT Analysis,

abbreviated from “Strengths, Weaknesses, Opportunities, and Threats,” is a basic analytic tool used often in business strategy to provide corporate stance and outlook, though it is generally transferable and applicable to almost all fields. Coghlan and Miller in their literature on strategic planning define a SWOT analysis as, “A realistic assessment to determine how far the organization can stretch to expand and where it should focus for quality impact within the current opportunities and threats in the environment (“Strategic Planning,” 2014).” It is important to distinguish that the “Strengths and Weaknesses” section of the SWOT analysis focus primarily on the proposed internal strengths and weakness of the group while the “Opportunities and Threats” section is meant to show the proposed external opportunities and threats of the group. In a visual diagram a SWOT analysis will look like the following (T. Hill & Westbrook, 1997):



**Figure 3-SWOT Diagram 1**

## **Limitations**

There are, of course, limitations to all methodology: both the logic model and the SWOT analysis are no exceptions. In regards to the logic model, the primary drawback stems from having only one person (myself) evaluate the group since this model was originally designed to be collaborative for maximize effectiveness. Additionally, the logic model is a conceptual and linear model, which, if viewed as a rigid construct, may hinder parts of the evaluation. As with any model, although, the original design is meant to be a broad and dynamic framework, allowing for adaptation as needed. Finally, the logic model might not fully appreciate subtle influences to program which are incredibly hard to measure, even conceptually. Influences such as the impact of human interactions and

relationships among stakeholders should also, if possible, be weighed in any evaluation (Savaya & Waysman, 2005). Each above limitation will be considered and lessened through specificity of concepts, applying time-related metrics to the analysis, and staying cognizant of any subtle, yet powerful influences while analyzing the various policy documents of the CGPCS.

There are also similar limitations for performing a SWOT analysis, even if brief in nature. These analyses, when viewed in business contexts, are often lengthy and ambiguous. Furthermore, they can over generalize without any prioritization of variables listed (T. Hill & Westbrook, 1997). For this reason, I will attempt to mitigate such occurrences by prioritizing the variables listed in the SWOT analysis of the CGPCS.

## **Conclusion**

The CGPCS is a fairly recent and exploratory intervention strategy with, to date, mostly internal analysis performed. Although I will use internal CGPCS documents as they comprise the majority of data sources available, my critique will be unique in that I am applying the logic model to reveal and make explicit underlying assumptions of the CGPCS. In this way, the documents themselves are not the critical piece; rather the methodology applied to them provides the necessary critique. Furthermore, uncovering implicit assumptions will help to highlight critical voices within the CGPCS. Ultimately, this critical analysis is anticipated to add value to future decisions regarding the CGPCS along with other multidimensional intervention strategies by allowing stakeholders to acknowledge and stay aware of all underlying assumptions which may affect the construction of an intervention strategy.

## **CHAPTER 4: POLICY ANALYSIS**

### **Outline**

After introducing the subject matter, I will present the specific “logic model” in four discrete subsections, as previously represented in the flow chart in the above “Methodology” section. Subsequently, I will present the evaluation analysis of the underlying assumptions and decision-making processes that shaped the choices made to address the perceived crisis in the Horn of Africa.

### **Introduction**

During the height of Somali piracy in the mid-2000s, policy makers across government boundaries were frantically scrambling to devise strategies to address the recent surge of ship hijackings off the Horn of Africa. The European Union Naval Force Atalanta or EU NAVFOR was the first collaborative intervention strategy for counterpiracy operations in Somalia. Basing its founding off various aspects of both international law and United Nations Security Council Resolutions, this organization was formed in December of 2008 (European Union External Action, 2016b).

Citing the progress of Operation EU NAVFOR along with international agreements such as the United Nations Convention on the Law of the Sea (UNCLOS), the United Nations issued Resolution 1851 in 2008. Its primary message was to recognize existing counterpiracy structures, while also advocating for further Somali counterpiracy

interventions across the international community. The final line of Resolution 1851 states that the United Nations, “Decides to remain seized of this matter (United Nations, 2008).” In this way, the United Nations recognized its own shortcomings in attempting to address the quickly evolving transnational issue of piracy and, hence, called for a more flexible approach (2008).

In response to Resolution 1851, the Contact Group on Piracy off the Coast of Somalia was formed in New York City during January 2009. Its five subsequent Working Groups were assigned responsibilities and the scourge of Somali piracy began to be addressed strategically (Oceans Beyond Piracy, 2016a).

### **Working Group on Capacity Building-Working Group 1**

The Working Group on Capacity Building of the CGPCS was tasked with overseeing effective naval operation coordination and support to promote the building of legitimate judicial, penal, and maritime capacities in the region. In order to analyze critically the Working Group on Capacity Building, I will apply the first four steps of the logic model to its elements (Fisher, 2016, 03:08-04:41). Following the logic model, two preliminary conditions must be analyzed: one relating to capacity building and the other relating to naval operations.

#### *-Conditions*

Preliminary conditions relevant to the rise of Somali piracy related to capacity building center on the collapse of societal structures since the downfall of the dictator Siad Barre in the early 1990s. This led directly to a socioeconomic crisis with the rise of non-state actors and the absence of legitimate national governance. Five primary non-

state actors developed in Somalia (Paul, Clarke, & Serena, 2014, p. 156). Firstly, armed factions evolved into warlord-governing militias such as the Somali National Movement, the Somali Salvation Democratic Front, the Somalia Patriotic Movement, and the United Somali Congress. Next, sub-clan militias formed including members from the police, Sharia courts security, rural farmers, and Somali youth. These sub-clan militias often had a primary group which was “action-ready” and a secondary group which could be organized, if needed, at a moment’s notice. The sub-clan was an offshoot of the original ruling clans which held power during pre-colonial periods. Similar to sub-clans, “Mooryan” (armed gangs of Somali youth), used various tactics to turn an illicit profit such as setting up various roadblocks around Somalia in order to extort travelers. Due to their lack of organization, the Mooryan provided excellent recruiting opportunities to pirate factions looking for candidates with firearm aptitude. Private security forces were also present in Somalia, working as security for various private-sector companies which were operating within Somalia’s most unstable areas. These private security forces were usually more trained and disciplined than other armed entities, though their injection of small arms into Somalia only added to the existing potential for complete chaos. Lastly, the rise of the Islamic Courts Union occurred in 2006, which eventually evolved into the radical jihadist terrorist group, Al-Shabaab. Though Al-Shabaab condemned Somali piracy as it deemed it contrary with Sharia (Islamic law), its violent rise to power (especially in Southern Somalia) only added to further conflict and instability in the region (Paul et al., 2014, p. 156).



Regarding preliminary conditions related to Naval Operations, three specific conditions fostered the need for Naval Operations. Firstly there was a major uptick in piracy off the Horn of Africa. Beginning in 2005, it peaked in 2008 to include 293 total attacks with 496 ships hijacked and 889 hostages taken that year (as cited in Zach, Seyle, & Madsen, 2013, p. 10). Secondly, a plea was made from the United Nations for increased joint-military assistance due to humanitarian aid such as supplies from the World Food Program being hijacked, ransomed, and stolen by this escalating presence of Somali pirates off the Horn of Africa (European Union Institute for Security Studies, 2014, p. 18). Lastly, there was a threat to global international trade networks and commerce due to the hijacking of commercial shipping vessels by Somali pirates rising from 2005 onward (European Union Institute for Security Studies, 2014, p. 18). Such existing conditions created a disruptive environment, prompting the international community to react.

#### *-Activities*

In response to these preliminary conditions, the Working Group on Capacity Building planned two primary activities I will analyze consistent with the logic model. These two activities are related to “capacity building” and “naval operations.” As the Working Group on Capacity Building evolved, participants demonstrated their recognition of the need for its success within the Horn of Africa as a way to address root causes of the ongoing symptoms of piracy. In order to address such capacity building needs, the relevant working group planned to develop a “regional counter-piracy

capability needs assessment and prioritization mission” to the Horn of Africa (Oceans Beyond Piracy, 2016a).

Regarding planned activities related to naval operations, the Working Group on Capacity Building focused on expansion of warship availability. Stakeholders recognized a need to strengthen military coordination among the international community combating piracy. Therefore, the first proposed activity of the Working Group on Capacity Building was to expand upon the existing collaborative operation of the European Union Naval Force. EU NAVFOR, according to their website, was first launched in 2008 following a series of UN resolutions highlighting the need for counterpiracy operations off the Horn of Africa. Its four core responsibilities are listed as follows: to protect vessels of the World Food Program (WFP) and other vulnerable shipping; to deter and disrupt piracy or other armed robbery at sea; to monitor fishing activities off the coast of Somalia; and to support other EU missions and international organizations working to strengthen maritime security and capacity in the region (European Union External Action, 2016a). As mentioned, EU NAVFOR was one of the first naval operations in the Indian Ocean to combat pirates head on. The CGPCS as part of its multidimensional strategy understood the need for a robust and collaborative naval cooperation to combat and deter future piracy. Thus, it worked to expand existing collaborative operations like EU NAVFOR.

#### *-Outcomes*

These two primary activities of the Working Group on Capacity Building led to two assumed outcomes as specific results from both their capacity building efforts and their naval operations initiatives. Pertaining to the former, in accordance with the

previously proposed activity of developing a regional counter-piracy capability development needs assessment, the Working Group on Capacity Building agreed to begin the development of a counterpiracy coordination center as outlined in the 2<sup>nd</sup> Communique in March 2009 (“Archive,” 2014, 2<sup>nd</sup> Communique). Regarding planned outcomes associated with the latter naval operations, this working group understood their unique capability to halt immediately current pirate activities. As the Working Group on Capacity Building was tasked with coordinating and expanding naval operations, the initial hope of this working group was to decrease immediately the number of pirate attacks in the Gulf of Aden substantially by expanding on the existing framework of EU NAVFOR. In order to accomplish this, China—according to the 3<sup>rd</sup> Communique from May 2009—proposed establishing areas of responsibility for escort operations (“Archive,” 2014, 3<sup>rd</sup> Communique). From this proposal, the Working Group on Capacity Building planned to better establish an Internationally Recognized Transit Corridor (IRTC) in the Gulf of Aden. This internationally recognized route would be monitored and surrounded by coordinated naval operations, including EU NAVFOR and new military members, to deter future pirate attacks. The Working Group on Capacity Building hoped to establish a safe passage way for both humanitarian aid ships such as the World Food Program (WFP) along with also providing safe passage for commercial ships traveling through the Gulf of Aden (Maritime Security Center, 2010).

#### *-Impacts*

Two primary impacts emerged from the assumed activities and outcomes of the Working Group on Capacity Building. Firstly, it seemed obvious during the formation of

the Working Group on Capacity Building that the Horn of Africa was struggling socioeconomically due to continuing regional conflict. As a consequence of its proposed activities and outcomes, the Working Group on Capacity Building believed that coordination would improve regional maritime capabilities, along with renewing judicial/penal coordination among region states. Ultimately, the Working Group on Capacity Building hoped to eventually provide region states with the capacity to independently respond to any presented piracy issues.

In regards to Naval Operations, the Working Group on Capacity Building assumed both short and long term results. A major short term effect which the Working Group on Capacity Building hoped to achieve was the securing of the Gulf of Aden through the formation of a designated Internationally Recognized Transit Corridor in order to allow the safer passing of shipping vessels through the Gulf of Aden. This would ultimately further the progression of other goals like capacity building, since it would allow humanitarian aid to safely reach Somalia (Maritime Security Center, 2010). Such an impact would affect stakeholders like the shipping industry by eventually decreasing the need for expensive risk-based ship insurance which inflated costs throughout international markets during the height of piracy off the Horn of Africa.

In the longer term, a legacy which the Working Group on Capacity Building hoped to achieve was to increase the capability of regional maritime operations such as the Somali Coast Guard. Previous to any intervention, the term “Somali Coast Guard” was used by various pirate factions euphemistically to persuade locals that they were indeed protecting their homeland. The Working Group on Capacity Building hoped to

reestablish maritime capabilities in order that regional stakeholders could eventually patrol their own waters (Oceans Beyond Piracy, 2016a).

With the logic model completed, it is appropriate to proceed to the second stage of evaluation of the Working Group on Capacity Building. At this transition, the preceding logic model highlights primary activities, outcomes, and impacts which stakeholders of the Working Group on Capacity Building assumed given each clarified context. The subsequent analysis hereafter will evaluate the before-mentioned assumptions of the Working Group on Capacity Building, concluding with a critical summary of the Working Group.

#### *-Goals and Objective Evaluation*

The Working Group on Capacity Building realized two primary goals, each with subsequent objectives to be evaluated. The first goal was to build judicial, penal, and maritime capacities in the region (Oceans Beyond Piracy, 2016a). This goal produced an objective which promoted the development of a “regional counter-piracy capability needs assessment” with a prioritization mission to the Horn of Africa, along with the eventual development of a counterpiracy coordination center. The needs assessment reported four primary needs of the region. The first need recognized the importance that the Djibouti Code of Conduct should be the foundation for all regional counter-piracy activities and operations. Secondly, any activity should fully support the recognized political process, particularly in Somalia. Thirdly, the solutions reached need to be comprehensive enough to include both penal and judicial legislation, comprising reforms promoting prosecution, media relations, community participation, and evolving counterpiracy capabilities. Lastly,

any training on the national level should be matched with both regional and international training opportunities (Oceans Beyond Piracy, 2016a).

The second goal involved creating effective Naval Operation Coordination which subsequently produced two separate objectives. Firstly in an attempt to coordinate naval operations, the Working Group on Capacity Building sought out partnership with a maritime information sharing venue called the Shared Awareness De-confliction Mechanism also known as SHADE founded in 2008 (European Union Institute for Security Studies, 2014, p. 27)

Next, the Working Group on Capacity Building, capitalizing on the improved efficiency of naval coordination due to its recent collaboration with the SHADE mechanism, made progress on expanding naval coordination surrounding the designated Internationally Recognized Transit Corridor, which allowed for the secure transportation of commercial shipping vessels. Such collaboration involved SHADE members sharing operational strategy with the CGPCS at its plenary meetings (European Union Institute for Security Studies, 2014, p. 29).

#### *-Process Evaluation*

These goals and objectives lead logically to an evaluation of the processes used in the attempt to implement them. The first process involved building judicial, penal, and maritime capacities in the region using the Djibouti Code of Conduct as an underpinning for all counterpiracy activities within the region. This multilateral agreement was signed by 20 signatory states in January 2009 in order to combine individual maritime security capabilities, such as state navies and civilian security entities. The 20 countries included:

Comoros, Djibouti, Egypt, Eritrea, Ethiopia, Jordan, Kenya, Madagascar, Maldives, Mauritius, Oman, Saudi Arabia, Seychelles, Somalia, Sudan, UAE, United Republic of Tanzania, and Yemen. South Africa signed in May 2012 and Mozambique signed 2 months later in July 2012 (Oceans Beyond Piracy, 2016a). This agreement brought about major cooperation between state naval forces and civilian entities. For example, the International Migration Organization (IMO) and US AFRICOM agreed to create together a Maritime Situational Awareness project. This project aimed to share documents and pictures related to maritime situational awareness amongst both the military and civilian sectors operating in piracy-prone areas such as the Gulf of Aden. This Civil-Military Cooperation (CIMIC) helped to establish 3 Maritime Information Centers amongst 3 different signatory states: the Maritime Rescue Coordination Center in Kenya, the Sub-Regional Coordination Centre in Tanzania, and a Regional Maritime Information Center in Yemen (Oceans Beyond Piracy, 2016a).

The next process involved creating effective naval operations coordination which the Working Group on Capacity Building accomplished through its collaboration with the SHADE Mechanism. The SHADE Mechanism served as a separate entity from the CGPCS, although it was founded at the same time as the CGPCS. This mechanism has been led by a rotating chair from three distinct maritime security organizations. First, the Combined Maritime Forces contains a multinational naval force with an emphasis on counter-piracy originating from United Nations Security Council Resolutions 1816, 1838, 1846, and 1851 (Combined Maritime Forces, 2010). Secondly, EU NAVFOR, also known as the European Naval Force and/or Operation Atalanta actually was one of the

first major counter-piracy operations off the Horn of Africa founded in in late 2008. Its initial priority was to oversee the secure transport of World Food Program ships which Somali pirates regularly targeted (European Union External Action, 2016a). The last maritime security organization to share the chairmanship of the SHADE Mechanism is NATO, or the North Atlantic Treaty Organization, which likewise responded to United Nations Security Council Resolutions 1816, 1838, 1846, and 185. In 2008 NATO founded its own counter-piracy operation named Operation Ocean Shield with an emphasis on deterring and disrupting pirate attacks primarily in the Gulf of Aden. Deterrence and disruption is achieved through intelligence, surveillance, and reconnaissance missions which seek to separate legitimate shipping vessels from potential pirate motherships (NATO, 2016, Operation Ocean Shield).

The SHADE Mechanism includes both civilian and military representatives from 27 countries, 14 international organizations as well as several from the private commercial shipping industry. SHADE meetings occurred quarterly and were considered a major operational aspect of the Working Group on Capacity Building of the CGPCS in the promotion of naval coordination. In 2009 SHADE members helped to reevaluate and strengthen the Internationally Recognized Transit Corridor, ensuring the safest passage for commercial and humanitarian ships alike. This corridor is 492 nautical miles long and has both and east and westbound lanes for transit. As seen in the 2010 image from the Maritime Security Center below, it is situated in the most position within the Gulf of Aden to maximize the distance from coastal fishing vessels which otherwise could be mistaken for pirates (Maritime Security Center, 2010).



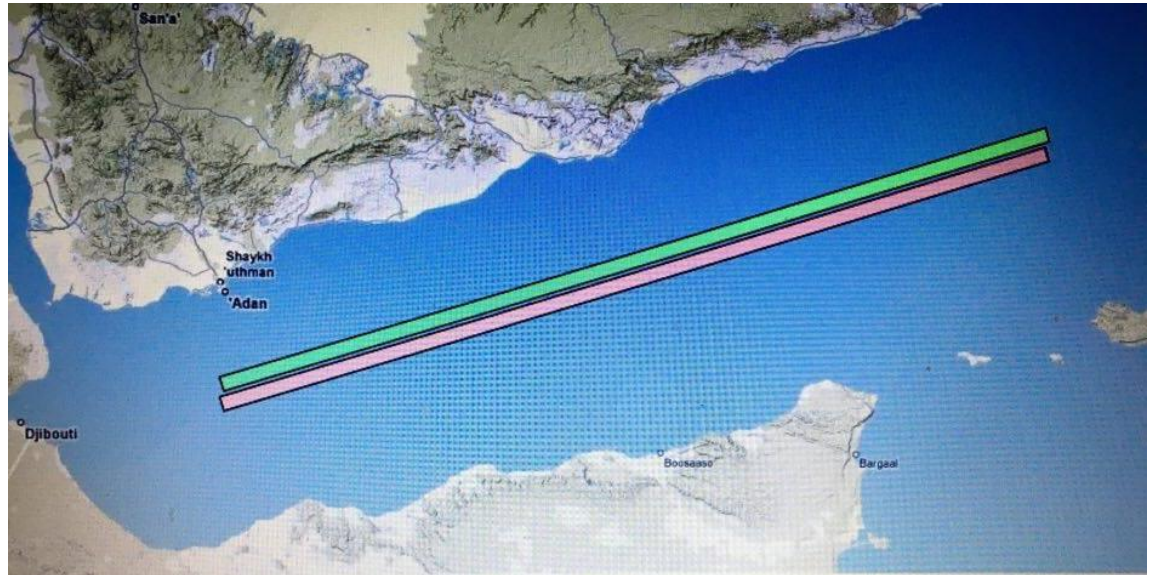


Figure 4-IRTC Diagram (Maritime Security Center, 2010)

#### *-Outcome Evaluation*

The previously mentioned process aspects led to two primary outcomes. The first outcome was that of the financial backing offered to help build judicial, penal, and maritime capacities in the region using the Djibouti Code of Conduct as an underpinning for all counter-piracy activities within the region. A major accomplishment of the document was the establishment of the Djibouti Code of Conduct Trust Fund. This is a long-term trust fund to which state signatories voluntarily donate for maritime security capacity building purposes. Likewise, in 2010, the United Nations Secretary General

established an international trust fund for the Contact Group itself (United Nations Development Group, 2016). These trust funds allow for the Working Group on Capacity Building to produce long term strategies in capacity building because of guaranteed financial backing. One such example using funds from the Djibouti Code of Conduct Trust Fund is the recent completion of the Djibouti Regional Training Centre located in Doraleh, Djibouti. This initiative seeks to provide long term maritime security training to signatories of the Djibouti Code of Conduct (International Maritime Organization, 2015).

The second outcome of the Working Group on Capacity Building involved implementing the SHADE mechanism to create effective naval operation coordination. The European Union Institute for Security Studies gives 3 primary reasons why the SHADE Mechanism is successful while in collaboration with the Working Group on Capacity Building. First, SHADE quarterly meetings are strictly meant to discuss operational counter-piracy tactics and not broad policies. This makes for a casual and incredibly collaborative meeting with valuable input from both government and private sector actors. Second, SHADE is open to all naval operations within the Indian Ocean which further strengthens operational coordination. Lastly, SHADE members can deliver measurable results in a timely manner due to their purely operational capacity (European Union Institute for Security Studies, 2014, p. 29). For example, SHADE members, the Working Group on Capacity Building, the International Chamber of Shipping, and other shipping industry experts helped to reevaluate and strengthen the Internationally Recognized Transit Corridor (IRTC) by providing regional shipping by providing all regional seafarers with “Best Management Practices” to include such topics as: High Risk

Areas, Risk Assessment, Reporting Procedures, Ship Protection Measures, Instructions for if Pirates take Control, Post Incident Reporting, and more (International Chamber of Shipping, Society of International Gas Tanker and Terminal Operators Ltd, & International Association of Independent Tanker Owners, 2011).

*-Impact Evaluation*

Given the before-mentioned goals/subsequent objectives, processes, and outcomes, an evaluation of their actual impact will critically address any and implicit bias made in the Working Group on Capacity Building. This initiative indeed evolved overtime as it realized various challenges, though overall its efforts were seemingly successful. Naval coordination was a major success with the CGPCS's collaboration between similar multidimensional structures like the SHADE Mechanism. A primary implicit bias, however, which the Working Group on Capacity Building should have acknowledged in the beginning was the glaring lack of regional leadership in regards to capacity building efforts. Indeed maritime capacity building efforts were led by more Western operations like EU NAVFOR for the sake of operational training efforts, risking opponents and critics branding them as neo-colonial or imperialist efforts. Similarly, capacity building on land should have begun with regional perspective. The first chair of the Working Group on Capacity Building was the United Kingdom, with perhaps a foreigner's perspective when addressing capacity building in the Horn of Africa, with inescapable neo-colonial overtones. Understandably, a first chair from delicate states like Somalia might have been difficult. Perhaps then, beginning the Working Group on

Capacity Building with a joint chair composed of a western state representative and a regional state representative would have established more trust among regional states and have persuaded them to collaborate sooner with the CGPCS by dispelling or weakening any perception of an imperialist agenda.

Additional bias could be found in the ad-hoc original composition of the CGPCS. Indeed this casual and short-term composition provides for a less bureaucratic processes amongst members, but it may also give regional players less incentive to cooperate. Ad Hoc organizations are inherently created for “as needed” situations whereas capacity building efforts could last decades before any progress is made. The Working Group on Capacity Building may have begun with a less than ideal mindset for effective capacity building, though overtime it evolved to understand regional long-term needs by providing local stakeholders with the financial backing needed like the CGPCS trust fund and the Djibouti Code of Conduct Trust Fund. Ultimately emphasis—from the onset of a transnational intervention strategy like the Working Group on Capacity Building of the CGPCS—should be placed on recognizing the critical voice of regional leadership since it provides locals with a sustainable framework as they rebuild socioeconomically, thus preventing the rise of international scourges like piracy.

## **The Legal Forum of the CGPCS – Working Group 2**

Working Group 2, also known as the Legal Forum of the CGPCS, was established in 2009 in accordance with the founding of the CGPCS as stakeholders realized there was an urgent need for legal guidance within current counter-piracy issues. The Legal Forum of the CGPCS was not a decision making mechanism itself, but rather sought to provide

the appropriate forum for an array of legal stakeholders to meet and discuss counter-piracy legalities. In 2009, Denmark volunteered to chair this second working group and did so until May 2014. Additionally, since its inception, the Legal Forum of the CGPCS has held 15 individual meetings to discuss specific objectives. The primary objective of the Legal Forum of the CGPCS was, therefore, to facilitate the legal discussions of all CGPCS stakeholders including states, international offices, private sector entities, and human rights-based NGOs (European Union Institute for Security Studies, 2014, p. 35)

*-Conditions*

Following the steps of the logic model, there are two preliminary conditions present within the Legal Forum of the CGPCS; A lack of a viable prosecution system for pirates and a need for an explanation of applicable international law. Firstly, when addressing a lack of a viable prosecution system for pirates, it is useful to reexamine and distinguish two common types of maritime crime; “Piracy” and “Robbery at Sea.” Article 101 of the UNCLOS defines the former as:

*“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: on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft; against a ship aircraft, persons or property in a place outside the jurisdiction of any State; 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 General Assembly, 1982).”*

The key distinction in the above definition is the location of the act, stated as either “on the high seas” or “outside the jurisdiction of any State,” thus occurring beyond the clear responsibility of any government to take action. This definition contrasts clearly with the latter legal term, defining “Robbery at Sea” thusly:

*“...any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State’s internal waters, archipelagic waters and territorial sea; (b) any act of inciting or of intentionally facilitating an act described above (International Maritime Organization, 2016).”*

Thus, a sovereign state has both the jurisdiction and responsibility to respond to allegations of these instances taking place in their waters.

Referring to the former, therefore, piracy occurs on the high seas with usually little to no enforcement mechanisms in place. Furthermore, individual states are often hesitant to prosecute pirates since they do not want to take state ownership of the scourge of piracy along with bearing any financial responsibility in terms of prosecution. When probing the distinction between these two legal violations, the various agencies and actors usually would examine the necessary “capacity mechanisms” regarding a state’s ability to respond to incidents judged to the “Robbery at Sea.” Since, however, most pirates in this crisis hailed from Somalia which, as a failed state, had very weak judicial and penal intuitions to prosecute such pirates, the government could not respond in a meaningful manner. The CGPCS understood this inability and sought to create a legal environment that would entice information and burden-sharing among its members.

The second preliminary condition under the logic model shows a need for an explanation of additional applicable international law. One group of stakeholders requiring an additional legal pretext for cooperation is the assortment of private military contractors. Private Military Contractors (PMCs) are non-state actors involved in combating piracy off the Horn of Africa, which offer the private sector shipping industry quality armed personnel and materiel to combat pirates and protect commercial vessels. The private sector utilizing these PMCs, however, became increasingly concerned with the legalities involved in use-of-force incidents. As use-of-force laws vary state by state, PMCs required clarification on the laws and conditions of individual instances (European Union Institute for Security Studies, 2014, p. 38).

*-Activities*

Following these conditions, two sets of activities planned by the Legal Forum of the CGPCS should be analyzed: the creation of a viable prosecution system for pirates and the establishment of a widely shared interpretation of applicable international law. In regards to the creation of a viable prosecution system for pirates, the “Chairman’s Summary” of the first meeting of the Legal Forum of the CGPCS, which met in Vienna in March of 2009, describes three long term activities which were planned to address the creation of such a prosecution structure (Winkler, 2009).

The first long-term activity discusses the financial needs for designing a viable prosecution system as the “Chairman’s Summary” considers, “The possible establishment of an international trust fund to help defray the expenses associated with prosecutions of suspected pirates, including facilitating the presence of necessary witnesses at trial

(2009).” (For clarification purposes, it should be noted that the before-mentioned trust fund was the same CGPCS which the Working Group on Capacity Building hoped to establish at the time.) Next, the Chairman discussed the idea of military and law enforcement collaboration at sea by proposing: “The possible use of shiprider arrangements (posting law enforcement officials with naval forces of other states) noting that sophisticated bilateral arrangements are required and that the use shiprider agreements in itself cannot replace other arrangements (2009, emphasis added).”

In the context of counterpiracy, a “shiprider agreement” is usually between a patrolling military and law enforcement officials from various states. The variation of law enforcement officers on the ship provides pirate apprehenders with jurisdictional choice for future prosecution (Petrig, 2014). Winkler outlines the scope of determinations and decisions necessary when an individual state—in this crisis, Somalia—lacks the domestic governance to bring pirates to justice (Winkler, 2009). However, he clarifies that the problem must reach a threshold that tips the “...proportionality between the effort/expense required to set up such a mechanism and the likely number of relevant suspects (Winkler, 2009).” Further, he cautions that the multidimensional actors must consider the “...potential disincentive such a mechanism could create with respect to domestic prosecutions, the length of time it would take to establish such a mechanism and get it operational, and other relevant factors (Winkler, 2009).” Each of these hurdles becomes a discrete action that, once met, drives the decision-making.

Lastly, there was a need for further explanation of international law which could be easily accessible to all stakeholders within the CGPCS, with legal emphasis on such



comprehensive maritime treaties like the United Nations Convention on the Law of the Sea (Nordquist, Moore, Soons, & Kim, 2012). Therefore, the last long-term activity leading to pirate prosecution was proposed as: “A possible compilation of the international legal basis for prosecution of suspected pirates in order to ensure a common understanding of relevant provisions in international law (Winkler, 2009).”

*-Outcomes and Impacts*

The results of the two proposed activities, to create a viable prosecution system for pirates and to create explanation of applicable international law both resulted in outcomes and their subsequent impacts. Regarding the creation of a prosecution system for pirates, the Legal Forum of the CGPCS considered the results of the report of the United Nations Secretary-General on prosecuting and imprisoning persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia (Oceans Beyond Piracy, 2016a). The report itself gives seven viable options which the UN Security Council could implement in order to assist with the development of a framework for piracy prosecution. Though the United Nations did not have any decision-making power within the CGPCS (nor did the CGPCS itself), it still collaborated as a stakeholder.

Thus the first option was based on enhancing the United Nations’ assistance, specifically in order for states within the region receiving capacity building assets promoting the prosecution of piracy. This initiative required cooperation from regional states towards the furthering of recognizably humane judicial and prison systems, which ultimately required political engagement between states and organizations like the CGPCS (United Nations Security Council, 2010, p. 2).

Next, the United Nations proposed establishing a Somali Court within a territory or region of a neighboring third state, with or without the subsequent involvement of the United Nations. This establishment would have, of course, helped to legitimize the Somali legal system along with helping to reestablish Somali rule of law as a whole, particularly if it could succeed on Somali sovereign soil (2010, p. 3). Similar to the second option, the third option presents the possibility of establishing a Special Chamber—without the United Nations’ direct assistance yet within the national jurisdiction of a regional state—which is devoted specifically to the prosecution of pirates. This option, although, hinged upon the fact that each state containing such a Chamber would have enough volume of cases to persuade national donors to fund the Special Chamber. At the time, it was thought that only Somalia itself contained enough cases of piracy to do this and, therefore, made such an option difficult. The fourth option, almost identical to the third option, except it mandated the participation of the United Nations. In this case, certain changes would have had to be made to the existing criminal justice procedures of participating regional states as inclusion of more than one judge (such as a UN judge) would require procedural changes. Both options three and four, though, presented capacity building possibilities for the host states, including the transferal of suspects between regional states with patrolling navies, and the cost-efficient option of participation by states with preexisting criminal justice systems (2010, p. 3, 4).

Option five, combining state prosecution mechanisms, would have opted for a multilateral agreement among regional states for a regional tribunal which included the active participation of the United Nations. This option would require the signing of a

multilateral treaty among regional states, along with the selection of UN-backed judiciaries comprised of regional states. The advantages of such a tribunal would lie in the consolidation of efforts among regional states along with the overarching capacity of a regional chamber versus merely a state process. Such a tribunal, however, could have tied up a single state's resources and overburden the expertise of a state's criminal justice system which would have otherwise been used by the state itself for its own counter-piracy purposes (2010, p. 4).

Option six, downsizing option 5, proposed the idea of developing an international tribunal between the United Nations and a singular regional state which chooses to do so. This would have seemingly been easier than option 5 and would not have required the signing of a multilateral treaty which would have been virtually impossibility with Somalia at the time. Of course, pursuing individual tribunals between the United Nations and states would require more time and money as each tribunal would have to adopt individual state's criminal justice processes (2010, p. 4, 5).

Finally, option seven in the report of the United Nations Secretary General considered the prosecuting and imprisoning of persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia. It proposed implementing an international tribunal based on a United Nations Security Council Resolution stemming from Chapter IV within the Charter of the United Nations. Chapter IV of the UN Charter is what gives the Security Council its authority to, if needed, use force "to maintain or restore international peace and security (United Nations, Article 39, 1945)." The advantage of invoking Chapter IV would, of course, be the requirement of regional states to participate

in the proceedings. This would, although, require the United Nations to find a host state, and could potentially detract any capacity building opportunities from regional states by using the full and official capacities of the United Nations (United Nations Security Council, 2010, p. 5). Additionally, if unpopular once declared, it might taint the United Nations' effort by appearing to be a potential belligerent rather than an arbitrator in the crisis.

#### *-Goals and Objectives Evaluation*

With the logic model of the Legal Forum of the CGPCS complete, the four subsequent evaluation phases of the group may proceed. The actual goals and objectives of the Legal Forum of the CGPCS never changed since they remained to both create a viable prosecution system for pirates and to create proper explanation of applicable international law for stakeholder use. Subsequently there was now clarity regarding the outcomes and impacts of such goals and objectives given the report of the United Nations Security Council (Oceans Beyond Piracy, 2016a).

Regarding the first goal and objective of creating a viable prosecution system for pirates, the Legal Forum of the CGPCS expanded upon the options presented by the United Nations Security Council and developed what they called the "Post Trial Transfer System." This system allowed for a realistic way of the prosecution of pirates by allowing arresting states to transfer apprehended suspected pirates to a state into their region for prosecution. If these suspects were convicted then they were transferred to Somalia specifically to serve out their prison sentence (European Union Institute for Security Studies, 2014, p. 35).

The second goal and objective of the Legal Forum of the CGPCS, to create proper explanation of applicable international law for stakeholder use, was attained through the development of “the Legal Toolbox for States”. This resource mechanism allowed regional states to review applicable international law during individual prosecutions, provided simple checklists on best practices of prosecuting pirates, guidelines for the collection of evidence, guidelines for the transferal of convicted pirates, and concerns in regards to the use of force by private military companies within the context of human rights (2014, p. 35).

*-Process Evaluation*

The first process involving the creation of a viable prosecution system for pirates occurred through the development of the Post Trial Transfer System. This system, as stated in the non-paper developed by the Legal Forum of the CGPCS entitled “Post Trial Transfer”, is rooted in human rights law. The reasoning behind the transferring of certain suspects to their home states for the duration of their prison sentence lies in the belief that the inherent goal of imprisonment is rehabilitation. With a prisoner, in this case a pirate, carrying out a sentence in his or her home state, rehabilitation and reconciliation into their original society becomes inherently easier. (CGPCS-Legal Forum, 2014).

Furthermore, the specific Post Trial Transfer System implemented by the Legal Forum of the CGPCS outlined three conditions which must be present for a post-trial transfer of a suspect to Somalia. First, the consent of the suspect should be at least attempted to be gained with total transparency between the apprehending state (the flag state of the apprehending ship), the prosecuting state, and the receiving state (in most

cases, Somalia). This first requirement is in place as it would be ill-advised to attempt to rehabilitate suspected pirates in their home state without their cooperation. Secondly, human rights considerations must be taken by all states, ensuring that during no part of the transfer process (either prosecution or post-prosecution) the suspect is treated inhumanely. If so, the Legal Forum of the CGPCS advises the prompt return of the suspect to the prosecuting and/or apprehension state. Lastly, monitoring mechanisms should be in place to observe primarily the prisons where the suspect will serve their sentence; but monitoring mechanisms should also be in place for all stages of a suspected pirate post-trial transfer in order for maximum transparency (2014).

The second process of developing the Legal Toolbox involved understanding and defining the legal basis for international law in relation to piracy. Dr. Douglass Guilfoyle compiled a white paper entitled “International Piracy” for just that purpose, which informally lays out the relevant international instruments related to piracy (Guilfoyle, 2009). Guilfoyle attributes the UNCLOS to be the most widely accepted legal basis for piracy, specifically within its Article 100 (UN General Assembly, 1982). Part of this reason lies in the UNCLOS to be one of the first international conventions to deal with piracy as a transitional issue, occurring only outside of a state’s territorial waters. All other treaties and agreements contain parallels to the UNCLOS legal basis, but cannot be as comprehensively referred to and interpreted.

#### *-Outcome Evaluation*

The outcome of the Post Trial Transfer System ultimately lies in the increased perception of the efficacy of global pirate prosecution. The Legal Forum of the CGPCS,

by developing such a transfer system, inherently removed much of the burden of prosecution states. By allowing for rehabilitation efforts and true burden sharing of prosecution and incarceration, the CGPCS increased the morale of legal stakeholders, leading to the effective suppression of piracy with over 1,200 pirates convicted as of 2014 while using this system (European Union Institute for Security Studies, 2014).

The outcome of the development of the Legal Toolbox by the Legal Forum of the CGPCS was the efficient and easy access of all relevant legal counter-piracy material provided to regional stakeholders for the prosecution of pirates. The online access of relevant legal information provides stakeholders like the military operations of EU NAVFOR with the quick answers needed for situations such as detainment of a pirate suspect as there are strict time limits on how long such a person may be held (2014, p. 40).

#### *-Impact Evaluation*

Overall the impacts of the endeavors of the Legal Forum of the CGPCS were effective in their original goals of both creating a viable prosecution system for pirates and creating a proper explanation of applicable international law for stakeholder use. I would, though argue that additional efforts should be made in the context of rehabilitation of convicted pirates through collaboration with ongoing capacity building efforts in Somalia.

If piracy is seen as merely a symptom of a weak state lacking in rule of law, then I would argue that just as much emphasis should be placed on the legal capacity building within Somalia by the Legal Forum of the CGPCS. Furthermore, if the Legal Forum of

the CGPCS invested in legal capacity building, I would advise such efforts to officially recognize the legally pluralistic aspects of Somalia in order to maximize their success. As defined by Margaret Davies, the concept of “legal pluralism” is “the idea that in any one geographical space defined by the conventional boundaries of a nation state, there is more than one law or legal system” (Davies, 2012).

The International Development Law Organization published an interview form 2015 with Adam-Shirwa Jama, the IDLO Country Director for Somalia, in which he discusses the implications of adopting the idea of multiple legal systems collaborating. As he states, “Xeer” or Somali Customary Justice is the only foundational form of justice in Somalia rooted in tradition. In this way, Somalis over time grew to distrust the imposed colonial legal systems, which mixed both French and Italian legal traditions (International Development Law Organization, 2015). In order to effectively establish trust and confidence, especially in rural areas, the Legal Forum of the CGPCS should implement legal counter-piracy initiatives to include and collaborate with communities on which still adhere to “Xeer” justice such as in rural areas of Somalia. In addition, the inclusion of such traditions in formal Somali governance will bring greater trust among everyday citizens, all of whom have valuable insights to Somali piracy. One such collaborative opportunity on counter-piracy initiatives—mixing “Xeer” and formal governance—lies in the recently founded Legal Policy and Drafting Unit within the Somali Ministry of Justice. This office regularly consults with the public on legal issues to build trust and could be used in the same way for the inclusion of legally pluralistic policies within the context of counter-piracy (2015). Overall, the Legal Forum of the CGPCS has achieved



its communicated goals and objectives, although there are still opportunities for further legal capacity building on land.

### **The Maritime Counterpiracy and Mitigation Operations Group-Working Group 3**

At the formation of the Contact Group off the Coast of Somalia in January 2009, Working Group 3, also known as the Maritime Counterpiracy and Mitigation Operations Group, was originally established to collaborate with the commercial shipping industry in order to strengthen situational awareness of the shipping industry to help prevent Somali pirate attacks. It was first chaired by the US Coast Guard and Maritime Administration, though in 2012 the Republic of Korea took over chairmanship in an effort of the CGPCS to not rely primarily on only western chairmanships (European Union Institute for Security Studies, 2014, p. 41) In time, the Maritime Counterpiracy and Mitigation Operations Group evolved to focus on the more human aspects of the piracy and the shipping, specifically developing policy for the welfare of seafarers. Perhaps the most unique aspect of the Maritime Counterpiracy and Mitigation Operations Group was its multidimensional array of members which included regional states, commercial shipping industry experts, a major collaboration with the International Maritime Organization (IMO), and NGO's (2014, p. 41).

#### *-Conditions*

Two primary conditions were present which led to the Maritime Counterpiracy and Mitigation Operations Group to place focus on strengthening commercial shipping

awareness for counter-piracy purposes and protecting crew members against the dangers of pirate attacks. First, there were economic costs to the scourge of Somali piracy, some of which were direct damages to the shipping industry, while others can be seen as more indirect costs to the global economy as a whole.

In 2013, The World Bank published its comprehensive report entitled, “The Pirates of Somalia: Ending the Threat, Rebuilding a Nation,” which documented such economic costs (World Bank, 2013). The report estimates \$18 billion as the average economic cost of piracy annually (calculated in 2010). This number is primarily calculated from the trade costs of piracy, of which there are direct and hidden costs involved. Direct costs involve the counter-piracy measures shipping companies were forced to take themselves, primarily during the rise of Somali piracy. Measures such as increasing ship speed through pirate-infested waters, fortifying ships in case of attacks, and re-routing commercial ships on lengthier routes to avoid pirate attacks all increased costs of trade significantly. In addition, since the onset of Somali piracy in 2005, the average annual ransom payment is averaged to be \$55 million (2013, p. 25).

Hidden costs, or costs incurred secondary, can be found in a variety of industries which affect the surrounding region of East Africa, undermining many of its already deteriorating economies. In 2006, the tourism industry in East Africa, for example, saw a 25% slower growth in its industry when compared with the tourism industries in West Africa (2013, p. 25). Additionally since the onset of Somali piracy in 2005, fishing industries have likewise suffered. In 2006, the exports of the fishing industry within piracy-affected countries dropped by 23.8% (2013, p. 25).

In addition to economic costs, the second primary condition which prompted the work of the Maritime Counterpiracy and Mitigation Operations Group was the human cost of piracy. The human cost of piracy involves taking into consideration the physical and psychological suffering of crew members who are hijacked, along with the anguished experience by worried family members. In the working paper by Jon Huggins entitled, “The Cost of Piracy: Moving from Mitigation to Investment” the human cost of piracy is outlined, reporting that in 2012, 851 crew members of various ships were violently attacked with weapons. From these, 351 came in close contact with pirates on board ships and 349 of these crew members were taken hostage, kept in the most deplorable of conditions for lengths at a time (Huggins, 2013). Such numbers from 2012 were similar to previous years, highlighting the ongoing and dire need for the suffering of crew members and their families to be addressed.

#### *-Activities*

The activities of the Maritime Counterpiracy and Mitigation Operations Group did not initially correspond to its present goals of strengthening commercial shipping awareness for counter-piracy purposes and protecting crew members against the dangers of pirate attacks. In its second communique dated March 17, 2009, the Maritime Counterpiracy and Mitigation Operations Group did not have clear objectives assigned to them besides being asked to, “coordinate on issues pertaining closely to the work of Working Group 1 (“Archive,” 2014, Second Communique). It was not until the third communique on May 29, 2009, that the chairmanship of the CGPCS proposed to the Maritime Counterpiracy and Mitigation Operations Group its two primary activities. First it asked

the Group to review quarterly the progress of the documentation of any lessons learned from the commercial ship owners, operators, crew, and the military members involved in pirate attacks. Using this documentation the chairman tasked the Group with communicated such lessons learned to any maritime advisors and/or vessel owners (“Archive,” 2014, Third Communique).

The second proposed activity assigned to the Maritime Counterpiracy and Mitigation Operations Group was in recognition of the human cost of Somali piracy. The CGPCS, in the third communique, also tasked the Group with identifying these labor issues and to develop labor related guidance surrounding the human cost of piracy to support not only crew training, but also any post-hijacking activities (2014).

*-Outcomes*

The Maritime and Counterpiracy and Mitigation Operations Group knew the urgency of the need to complete its before-mentioned objectives. The fourth communique of the CGPCS cited one outcome of commercial shipping fulfilling its assigned duties to research best practices. Twelve shipping organizations, which composed the majority of commercial shipping stakeholders in the Indian Ocean region, developed their own best practices through collaboration with each other and began communicating these best practices to regional shipping stakeholders. The International Maritime Organization, additionally, also began collaboration with the maritime and Counterpiracy and Mitigation Operations Group at this point as they held a first meeting to discuss the welfare of crewmembers involved in pirate attacks, both during and after the attacks (“Archive,” 2014, Fourth Communique).

### *-Impacts*

The impact of such a meeting held by the IMO in late 2009 indeed increased the pressure to reform current labor practices across industry lines, but also led to shipping industry experts to begin a vast undertaking of a standardizing best practices for the commercial shipping industry. The Maritime and Counterpiracy and Mitigation Operations Group collaborated with not only the IMO but also the International Chamber of Shipping. The ICS, as quoted from their webpage, “Is the principal international trade association for merchant ship-owners and operators, representing all sectors and trades and over 80% of the world merchant fleet (ICS, 2016).” Together these organizations helped to development best management practices which aimed to provide current and future deterrence against piracy.

### *-Goals and Objectives Evaluation*

The early goals of the Maritime and Counterpiracy and Mitigation Operations Group evolved over time, though the primary goals and objectives stayed the same. The post evolution of the logic model shows the first goal of strengthening commercial shipping awareness for counter-piracy purposes to have subsequent objectives evolving with each proceeding communique. Prior to the fourth Communique, the commercial shipping industry, represented by the IMO, voiced concerns that flag states--or the country of origin in which a ship was registered to--should take more responsibility to

adopt their recommendations of best practices. This subsequent objective of the shipping industry was achieved through the “New York Declaration” (Zach et al., 2013, p. 25).

The New York Declaration, signed a day prior to the fourth Communique of the CGPCS, stated its official commitment to best management practices to “avoid, deter or delay acts of piracy” and signatory states were expected to adhere to such principles. These countries also agreed to ensure that all ships on their respective registries would adopt and follow plans to regulate self-protection as mandated by a pre-existing industry best practice, the International Ship and Port Facility Security Code. The signatories to this Declaration included the following countries at its original signing in 2009: the United States, Japan, the Republic of Cyprus, the Republic of Singapore, and the United Kingdom of Great Britain and Northern Ireland (Department Of State. The Office of Website Management, 2009 and (Oceans Beyond Piracy, 2016a).

The second goal of the Maritime Counterpiracy Mitigation Operations Group, emphasizing the need to address the human cost to piracy by protecting crew members against the dangers of pirate attacks, was addressed primarily beginning in 2012 due to increased pressure from various NGOs. Due to the CGPCS’s commitment to its multidimensional nature including an array of members, one NGO in particular headed this more humanitarian goal of protecting seafarers (Zach et al., 2013, p. 25). The formation of the Maritime Piracy Humanitarian Response Program satisfied the second goal and objective of the Maritime Counterpiracy Mitigation Operations Group as its mission statement aims, “To assist seafarers and their families with the humanitarian

aspects of a traumatic incident caused by a piracy attack, armed robbery or being taken hostage (“Maritime Piracy Humanitarian Response Programme,” 2016”).

*-Process Evaluation*

The first process of evaluating the Maritime Counterpiracy Mitigation Operations Group’s commitment to strengthening commercial shipping’s awareness of counterpiracy begins with analyzing the document entitled, “Best Management Practices for Protection against Somalia Based Piracy”, which was adhered to by all signatory states of the New York Declaration (International Chamber of Shipping et al., 2011). This document, now in its fourth version, details ways in which to avoid becoming a victim of piracy. The “Aide Memoire” within the document outlines the objectives of the document. First, it instructs not to be alone, or to reinforce traveling commercial ships with partners in the region by contacting the United Kingdom Marine Trade Operations (UKMTO) along with registering with the Maritime Security Center off the Horn of Africa (MSCHOA). The UKMTO originally deployed with the US to the Middle East after September 11, 2001 in order to provide trade and industry partners in the region with a point of contact. In April 2007, its scope of focus changed to emphasize point of contact capabilities among the trade industry off the Horn of Africa in order to support counterpiracy operations (Oceans Beyond Piracy, 2016, UKMTO). Likewise, the MSCHOA, established by EU NAVFOR, is the primary contact center for vessels traveling through the Horn of Africa and provides security communication capabilities to such vessels (EU NAVFOR, 2016). Finally, as a part of reinforcing traveling ships with regional partners, the “Aide Memoire” instructs signatories to only navigate using the Internationally

Recommended Transit Corridor. Secondly, the “Aide Memoire” insists on deterring detection by pirate groups through the monitoring of all navigational warnings issued by military and/or law enforcement groups and using the minimal amount of navigational light as needed. Next, it recommended increasing vigilance and avoiding surprise through expanding radar, manned lookouts, and operating closed caption television monitoring systems at all times. Avoiding vulnerability is paramount according to the “Aide Memoire.” This is achieved by using visible and protective ship measures, such as barbed wire lining ship railings and--if deemed necessary by the flag state--manning the vessel with private military contractors (PMCs). Next, to avoid being boarded, increasing a vessel’s speed and training on evasive maneuvers will assist seafarers with escape. Finally, the “Aide Memoire” stresses the need to not be controlled if boarded by following all rehearsed drills and denying pirates tools, equipment, and access routes on the ship (International Chamber of Shipping et al., 2011).

The second process involving the need to address the human cost to piracy by protecting crew members against the dangers of pirate attacks is seen best in the doings of the Maritime Piracy Humanitarian Response Program. This NGO has developed its initiatives through the collaborations of international experts, who research needs by performing interviews with both families of seafarers and the seafarers themselves. They document the specific hardships experienced by crews during a hijacking such as lack of food, deplorable conditions, and heat-stroke related to dehydration. Additionally, advisory consultants work with the group to prepare its responders, promoting best industry practices such as those seen in “Best Management Practices for Protection



against Somalia Based Piracy” (“Maritime Piracy Humanitarian Response Programme,” 2016).

*-Outcome Evaluation*

An evaluation of the first process involving the publishing of “Best Management Practices for Protection against Somalia Based Piracy” primarily reveals the outcome of increased debate over the use of private military contractors (PMCs). These PMCs, though hired individually at the discretion of a vessel’s flag state, bring certain political risks to fruition even with their valid use. PMCs often utilize “floating armories” or the use of a separate fortified vessel located at sea filled with firearms and ammunition for use. These floating armories are not regulated by international law, and therefore some are more fortified than others. With these armories located in pirate-infested waters, regional coastal states worry that they are a prime target for pirates with the bounty being lucratively traded in small-arms trade circles. The benefits and consequences to using PMCs are still being discussed among maritime stakeholders today (Zach et al., 2013).

Evaluating the second process of initiatives taken by the Maritime Piracy Humanitarian Response Program to ensure the welfare of seafarers reveals an outcome of various reports published by them including one unique report entitled, “After the Release: The Long-Term Behavioral Impact of Piracy on Seafarers and Families” which highlighted key findings of the psychological effects endured by seafarers that are past victims of past pirate hijackings. The report shows that seafarers who are hijacked are indeed resilient, though 25.77% of them do eventually show signs of post-traumatic stress disorder with the primary cause of the disorder being traumatic experiences due to being

held hostage. Additionally, family members of these affected seafarers themselves show behavioral changes after experiencing the hostage situation of their loved one. Overall, the Maritime Piracy Humanitarian Program found that less than 50% of families felt they were provided with regular and updated information on the status of their kidnapped loved one which led to anxiety and a decline in their quality of living (Seyle, 2016, "Key Findings").

#### *-Impact Evaluation*

Critically evaluating the overall impact of the Maritime Counterpiracy and Mitigation Operations Group can be analyzed through their two primary goals and objectives. The first goal of strengthening commercial shipping awareness for counterpiracy purposes was quite successful with the eventual development of the comprehensive document entitled, “Best Management Practices for Protection against Somalia Based Piracy” (International Chamber of Shipping et al., 2011). The document itself is very practical, accessible to all types of seafarers, and is regularly updated with the latest best practices within the maritime industry. Furthermore, enforcement of best practices among the commercial shipping industry was viable with the participation of the International Maritime Organization. It has influence over the shipping industry through events such as its conventions. Neither the IMO, although, nor the CGPCS have enforcement power to require officially the adherence to best industry practices against piracy.

Perhaps a major success of the Maritime Counterpiracy and Mitigation Operations Group though, was its efforts to address the human cost to piracy by protecting crew members against the dangers of pirate attacks. Such human costs are often overlooked when analyzing impacts of transnational issues like piracy since they are often difficult to quantify. Perhaps this is even noticeable with the failure of the CGPCS itself to not address the issue until roughly 2012. Nonetheless, the work of the Maritime Counterpiracy and Mitigation Operations Group collaborating with multidimensional stakeholders like the Maritime Piracy Humanitarian Response Program shows major progress in highlighting the increased attention given to the human cost of piracy. This, arguably, has just as many negative effects to both primary and secondary maritime stakeholders as do the more publicized economic costs of piracy.

#### **The CGPCS Group for Raising Public Awareness – Working Group 4**

Working Group 4 of the CGPCS, also known as the CGPCS Group for Raising Public Awareness, was founded at the onset of the CGPCS in January 2009 and was first chaired by Egypt. The CGPCS Group for Raising Public Awareness was one of the first CGPCS Working Groups to reach its objectives and subsequently be concluded. It had two primary goals in regards to awareness. Firstly, the group sought to keep the international community informed of its activities and events related to pirate attacks. Secondly, the CGPCS Group for raising Public Awareness wanted to not only influence Somalis living in their home country, but also the diaspora community to reject piracy and support the global efforts to combat piracy in Somalia (European Union Institute for Security Studies, 2014, p. 50).

*-Conditions*

In regards to the conditions which brought about such objectives for the Group, piracy had to be viewed as both a transnational problem affecting various parts of the world along with a societal problem which permeated a majority of Somalia's society. The CGPCS knew of the importance of communicating such a transnational threat to the global community as it had dire economic and human costs. Piracy, in the transnational view, affected other parts of the world making it all the more necessary to spread counterpiracy messages. For example, beginning in 2004, Japan poured resources into its political, military, and law enforcement responses to maritime piracy reflecting Japan's piracy involvement from a non-issue to a securitized issue in line with the Copenhagen School of Thought within international relations (Bradford, 2004, p. 481).

The Copenhagen School of Thought, first theorized by Barry Buzan, suggests that security is a societal problem constructed through socialized discourse which can frame certain issues to be a non-issue, a politicized issue, or a securitized issue (as cited in Bradford, 2004, p. 481). When an item becomes politicized, it enters the political realm and frames policy discussion. Moving past politicization, although, when an item becomes securitized, it is seen as a threat to the state and is given usually an unprecedented (and sometimes unregulated) amount of resources to address the issue (2004, p. 481). With piracy being so embedded in Somali society along with its appearance in other parts of the world, the CGPCS Group for Raising Public Awareness knew that piracy needs to, at the very least, become politicized, reaching policy-level debates throughout the international community.

### *-Activities*

There were numerous activities taken by the CGPCS Group for Raising Public Awareness in order to address the before mentioned conditions of need for public diplomacy. In the first Communique of the CGPCS, the CGPCS identified six focus areas of counterpiracy from which the subsequent Working Groups were developed. “Pursuing improved diplomatic and public information efforts” was the specific identified focus area in which the CGPCS Group for Raising Public Awareness was created from (“Archive,” 2014, First Communique). Consequently, in the second Communique of the CGPCS, the Group (then chaired by Egypt) aimed to: develop a communication strategy for the CGPCS; find ways to disseminate the desired message to target audiences while emphasizing the role of the UN Political Office in Somalia; and finally to develop a position for a Press and Media Officer within the Secretariat of the CGPCS (“Archive,” 2014, Second Communique).

### *-Outcomes and Impacts*

The proposed outcomes and impacts of this strategy aimed ultimately to resonate with Somalis on a sociological and cultural level. The original chair of the CGPCS Group for Raising Public Awareness, Egypt, was strategically chosen for the task of public diplomacy due to its nearby location to Somalia, shared religious ties, and more similar culture than some western CGPCS counterparts. Additionally, Egypt had vested interest as a state in combating Somali piracy due to its coastal location on the Red Sea. As a result, Egypt appointed high ranking diplomats to assume the positions of the CGPCS

Group for Raising Public Awareness and consequently execute its proposed activities (European Union Institute for Security Studies, 2014, p. 50-51).

*-Goals and Objectives Evaluation*

With the proposed conditions, activities, outcomes, and impacts of the CGPCS Group for Raising Public Awareness developed in accordance with the logic model, the evaluation of its goals and objectives will reveal its evolutions and shortcomings. As stated, the two goals and objectives of the CGPCS Group for Raising Public Awareness were to keep the international community informed of its activities and events related to pirate attacks and to influence to reject piracy and support the global efforts to combat piracy in Somalia. Such efforts were early on recognized to be quite difficult for the group to fulfill given the lack of resources available. Efforts such as developing social media capabilities along with creating a website seemed to fall short of the goals, recognizing perhaps too broadly the defined original goals. Developing a sound communication strategy became the primary objective of the CGPCS Group for Raising Public Awareness (European Union Institute for Security Studies, 2014, p. 51).

*-Process Evaluation*

The process in which the CGPCS Group for Raising Public Awareness accomplished its narrowed objective involved pooling resources with other stakeholders. It was in the fifth Communique of the CGPCS in January 2010 during which the CGPCS recognized the resource scarcity of the CGPCS Group for Raising Public Awareness and consequently invited the United Nations to collaborate with the Group. This collaboration was ideal and the UN Political Office for Somalia (UNPOS) and the UN Office on Drugs

and Crime (UNDOC) began submitting proposals to the CGPCS Trust Fund in order to gain funding for new communication strategies (“Archive,” 2014, Fifth Communique and European Union Institute for Security Studies, 2014, p. 51).

In May 2011, after the CGPCS Group for Raising Public Awareness partnered with the UNPOS, UNDOC, and a small NGO in Somalia named the Puntland Development and Research Centre (PDRC), the multidimensional team developed a report entitled, “Utilizing Media to Prevent and Combat Piracy”. The report showed to have four sections: engaging the media, outreach activities, civic education, and information regarding education and communication (as cited in Gilmer, 2016).

The report itself was considered to be a decent success and viewed as a part of a larger communication strategy, though unfortunately achieving the broader goals of the CGPCS Group for Raising Public Awareness seemed to fall short, especially in comparison to the accomplishments of the other Working Groups. For this reason, the US State Department, an NGO called “Oceans Beyond Piracy, and the Foreign and Commonwealth Office of the UK planned a counterpiracy workshop in London which aimed to reevaluate the goals of the CGPCS Group for Raising Public Awareness (European Union Institute for Security Studies, 2014, p. 52).

#### *-Outcome Evaluation*

Three outcomes were concluded from this meeting in London. The first outcome states that the CGPCS, due to its international and multidimensional structure, should be the chief advocate for the communication of counterpiracy messages across the globe. Secondly, as recognition to the original resource scarcity of the CGPCS Group for

Raising Public Awareness, the CGPCS recommended that the Group synchronize their messaging campaign with the assistance of other Working Groups for burden sharing purposes. Finally, the London workshop suggested to the CGPCS Group for Raising Public Awareness to develop “Talking Points” as a way to communicate counterpiracy messages to the international community (2014, p. 52).

Further outcomes were concluded in regards to the original shortcomings of the CGPCS Group for Raising Public Awareness’s. During the twelfth Communique in July 2012, the CGPCS recognized numerous new objectives for continued and effective counterpiracy communication strategy. Firstly, the CGPCS cited that there needed to be a distinct separation between the goal to communicate counterpiracy messages to the international community and the goal to reach both the domestic and diaspora Somali population. Secondly, there was emphasis placed on communicating the right message, at the right time, to the right population. The importance of effectively messaging the right population with cultural sensitivity was stressed as the CGPCS recognized the various non-state actors in Somalia. Consequently, the United Arab Emirates volunteered to translate the existing CGPCS website--then headed by the Republic of Korea--into Arabic as a way to connect better culturally and linguistically with regional residents. Responding to perhaps a new insight, the CGPCS accentuated the need for not only combating the narrative of Somali pirates, but also providing effective alternatives for the Somali people to turn to instead of piracy. Furthermore, the CGPCS adopted “Effective Counter-Piracy Messaging with Somali Audiences”, which was a framework based on the successes and failures of the CGPCS counterpiracy communications strategy within



Somalia. This report served as a guide for future organizations who sought to develop similar counterpiracy communication strategies aimed at both residents of Somalia along with the Somalia diaspora. Finally at the twelfth Communique, the CGPCS deemed it necessary that all other Working Groups funnel any counterpiracy messaging of their own through the CGPCS Group for Raising Public Awareness in order to ensure uniformity and transparency (“Archive,” 2014, Twelfth Communique).

#### *-Impact Evaluation*

According to the fifteenth Communique from November 2013, the CGPCS Group for Raising Public Awareness officially came to a close with its goals and objectives fully recognized as complete. The overall impact of the group, when critically evaluated from its inception, shows how a lack of resources with broadly defined goals and little initial guidance hindered the Egyptian chairmanship from effectively pursuing public diplomacy.

Jon Huggins, the Director of the NGO, “Oceans Beyond Piracy”, believes there are four ways in which the CGPCS Group for Raising Public Awareness could have been more effective in its original campaign. First, he believes, there should be increased transparency about who is being messaged and with what content specifically. This suggestion parallels the findings of the CGPCS in its twelfth Communique when the stakeholders emphasize the need to separate and properly delegate the two goals of

communicating to an international audience versus communicating to Somali's both domestically and to the diaspora population (Zach et al., 2013, p. 26).

The second suggestion from the Director involves the unraveling of consulted counter piracy messages which are being broadcast from an array of stakeholders each with varying interests at heart. In the book, "Getting to Yes: Negotiating Agreement Without Giving in" by William Ury, Roger Fisher, Bruce Patton, a major theme discussed during conflicts between parties is that of discovering underlying interests rather than only placing focus on surface-level positions. In the same way, Huggins is suggesting that Somalia--with a history of tribal conflict, warlordism, and a diaspora population--will inherently have populations which should be each individually targeted with counterpiracy messaging. For example, in Puntland where Somali piracy classically thrived, residents are likely to be much more connected with the business-side of piracy and, therefore, developing communication strategies based on analyzing the motivations of piracy among this specific population would be more useful than supplying all of Somalia with a generic counterpiracy messaging theme (Roger Fisher, Ury, & Patton, 1991).

Furthermore, the CGPCS Group for Raising Public Awareness could have made better efforts to reach out to local leaders in Somalia to better understand what motivates their respective populations. In tandem with CGPCS stakeholders themselves, the CGPCS Group for Raising Public Awareness could have invited all participants to a workshop modeled off the practical "Problem Solving Workshop" model found in conflict resolution theory. According to Barbra Hill in her analysis of conflict resolution

techniques, researchers originally developed such a model for two primary reasons. The first was to provide researchers with the dynamics of a prolonged international conflict. The second reason was to provide a safe setting in which the parties in conflict could come together and learn techniques which would eventually lead to a peaceful resolution of the presented problem. Within the context of counter piracy messaging, the CGPCS Group for Raising Public Awareness could have adapted this model a bit to bring together various leaders from Somali non-state actors. They could not only analyze their underlying interests and motivations for piracy, but also allow parties to meet and exchange suggestions, resources, and ideas on how to take ownership of effective counterpiracy messaging within their own communities (Hill, 1982, p. 111 and Zach et al., 2013, p. 26).

The third and fourth suggestion from Director Huggins are to better coordinate and to better generate messaging which supports the overall group's counter piracy strategy, respectively. Such recommendations are well taken as the CGPCS itself recognized such shortcomings in the Twelfth Communique. With better coordination and adequate resources from its inception, the CGPCS Group for Raising Public Awareness could have possibly had more success, though when viewed as one part to a greater whole, this Working Group indeed contributed to the CGPCS's overall objective of eradicating Somali piracy.

## **The CGPCS Group for Disrupting Pirate Networks Ashore – Working Group 5**

Due to the collaborative efforts of each CGPCS Working Group, Somali piracy as a transnational issue began to dwindle in late 2011. During that year ransom payments made by commercial shipping companies to pirates ranged between US\$ 151 million and 156 million; though by 2012 a significant drop in ransom payments, amounting to only US\$ 13 million, demonstrated the effectiveness of the multidimensional framework of the CGPCS (as cited in European Union Institute for Security Studies, 2014, p. 56). The recognition of pirates' financial flows such as ransom payments was important for the CGPCS since stakeholders knew that simply combating the pirates at sea was not a sustainable long-term solution. If piracy were to be eradicated for good, the source of piracy originating in Somalia had to be addressed. More specifically, the financial networks of pirates, contributing to the continually struggling Somali economy, needed to be interrupted in order to begin to unravel any hope of sustainability for Somali pirates. It is for this reason that the CGPCS agreed to form a fifth working group in July 2011 named, the CGPCS Group for Disrupting Pirate Networks Ashore (European Union Institute for Security Studies, 2014, p. 56).

#### *-Conditions*

The conditions that gave rise to the need of tracking the financial flows of piracy lie in the piracy business model since its framework inherently perpetuates Somali piracy. The business model of piracy revolve around three factors of production: manpower, financial resources, and political capital. These three resources are often found to be uniquely contributed from an array of individuals. For example, political capital and financial resources may come from a single politician who can contribute both. Similarly,

an influential clan leader could contribute political capital to help persuade corrupt politicians to ignore the illicit recruitment by pirates of young males from that particular clan. In this way that clan leader is funding piracy efforts with his own political capital along with his personal influence over manpower (World Bank, 2013, p. 110).

Once risk factors such as death, being arrested, or returning empty handed are accounted for by would-be pirates, the three production factors of the Somali piracy business model are essentially vulnerable to the same market conditions that all industry face: i.e. supply and demand. It is inherently these same market factors which counterpiracy operations like the CGPCS Group for Disrupting Pirate Networks Ashore wish to manipulate. For example, by providing potential pirate recruits with alternatives to piracy, the CGPCS Group for Disrupting Pirate Networks is effectively disrupting the opportunity cost of the illicit trade (World Bank, 2013, p. 110).

#### *-Activities*

Activities which led up to the formation of the CGPCS Group for Disrupting Pirate Networks included the composition of the “Lang Report,” a 2011 report from the United Nations Security Council. In 2010, piracy was still on the rise off the coast of West Africa and this report was undertaken in an attempt to identify additional counterpiracy actions which could be taken (Lang, 2011). The Lang Report describes how 2010 was a unique year in that Somali piracy became more violent, with hostages being held for much lengthier periods of time. Furthermore, the epicenter of piracy activity in Puntland, located in northern Somalia, brought an increasingly destabilizing

effect to the local market and international energy economy as a whole (Lang, 2011, p. 2).

*-Outcomes and Impacts*

The outcomes and impacts of the Lang Report included a proposal to rejuvenate past successful industries. Firstly the report suggests the rebuilding of the fishing industry, particularly in Puntland within northern Somalia where piracy thrives. The sale of fishing licenses would bring in revenue which could potentially surpass the revenue of piracy in Somalia. For example, the United Nations found that in 2009, the total amount of ransom money paid due to Somali piracy was US\$ 82 million. In 2010, although, the total amount of money which was lost in fishing exports due to illicit or unregulated fishing activity was US\$ 95 million (as cited in Lang, 2011, p. 29). In other words, with security by regional naval activities provided, the successful rebuilding of fishery infrastructure should inherently bring in more revenue than pirate activity brought into Somalia, even during the height of piracy activity (Lang, 2011, p. 29).

Secondly, the reestablishment of port activities in Somalia will bring needed investment opportunities back to Somalia. The two main ports in Somalia, as cited in the Lang Report, are Bosaso and Berbera. These two ports have the infrastructure already present to re-continue the export of livestock. One of the primary hurdles to overcome is that of the lack of electricity in the region. With the establishment of solar energy panels, though, the two ports could be powered sufficiently to draw private investors back to the area, thus compounding any revenue streams. Furthermore, the Special Police Unit found in northern Somalia could have its jurisdictional boundaries expanded to coastal waters,

ensuring the protection of any UN capacity building workers (Lang, 2011, p. 30). With functioning port activity, the livestock export themselves would improve dramatically which is essential to capacity building efforts as, in the past, livestock exports amounted to 40% of Somalia's Gross Domestic Product and roughly 65% of Somalia's workforce (2011, p. 30)

Finally, the Lang Report suggests the regulation of the telecommunications sector as not only a way to reintroduce profits to the region, but also for the deterrence of piracy and other criminal activities. Such communication resources can and have been exploited by criminals such as using telecommunications for wire transfers of illicit money. With more than US\$ 390 million privately invested within this industry over the past decade, the enhancement and regulation of telecommunications in Somalia is an effective way to: bring jobs to Somalia; introduce legal revenues back into the region; reestablish private investment; and ultimately provide alternative job opportunities to an unskilled workforce in Somalia which might otherwise resort to criminal activities such as piracy (Lang, 2011, p. 30).

Documents citing an effective pirate business model such as the Lang Report of the United Nations laid the ground work for the recognition of the need by the CGPCS to create the 5<sup>th</sup> and final working group: the CGPCS Group for Disrupting Pirate Networks Ashore. The ninth Communique of the CGPCS cites the creation of the CGPCS Group for Disrupting Pirate Networks Ashore in July 2011 under the chairmanship of Italy and with the additional support from the Republic of Korea ("Archive," 2014, 9<sup>th</sup> Communique).

*-Goals and Objectives*

The CGPCS Group for Disrupting Pirate Networks Ashore developed three primary goals and objectives to begin their counterpiracy operations: firstly to identify, prosecute, and convict pirate leaders, organizers, financiers, and negotiators; secondly to reduce the amount of ransoms paid; and thirdly to track and recover ransom money more aggressively (European Union Institute for Security Studies, 2014, p. 58).

*-Process and Outcome Evaluation*

The processes and outcomes taken by the CGPCS while pursuing the first goal to identify, prosecute, and convict pirate leaders, organizers, financiers, and negotiators included that of evidence collection from actual pirate attacks. In order to ensure the proper handling of the evidential aspects of a pirate attack crime scene, INTERPOL (the International Criminal Police Organization with 190 member countries) deployed investigative training teams to the West Africa regional states. The development of the Evidence Exploitation Initiative (EVEXI) was a way to train regional and local police in intelligence gathering, collection of evidence, and information sharing. The program is now active in Tanzania, the Seychelles, the Maldives, and in Madagascar, with additional operations ramping up in Oman and Kenya (Interpol, 2016).

Working closely with Working Group 2, the Legal Forum of the CGPCS, in 2014 the CGPCS Group for Disrupting Pirate Networks Ashore collaborated with the United States Department of Justice to form the “Law Enforcement Task Force” (LETF) to provide more expertise when prosecuting head pirates. A former US Attorney, Kenneth Scott, notes in his report entitled, “Prosecuting Pirates: Lessons Learned and Continuing



Challenges”, the lack of practical expertise in prosecution methods due to an excess of academics and foreign diplomats involved in such matters. Thus, having such expertise through the LETF will do well for the CGPCS Group for Disrupting Pirate Networks Ashore to prosecute pirate leaders in Somalia (Scott, 2013, p. 29).

The second goal and objective of the CGPCS Group for Disrupting Pirate Networks Ashore to reduce the amount of ransoms paid included processes and outcomes which essentially destroyed the financial flow of the pirate business model. The thirteenth Communique of the CGPCS notes the development, headed by the United Kingdom, of the International Task Force on Piracy Ransom (ITFPR) which was essentially designed to be a think tank to develop policy ideas surrounding ransom payments to pirates. Two opposing ideas emerged from the ITFPR. First, the proposal to allow the UN to develop international law banning the payment of pirate ransoms was suggested. This suggestion was viewed from a purely financial perspective as an effective way to communicate the message to pirates that ransoms will no longer be provided, thus deterring the main driver behind such pirate activities. The opposing view, mainly adopted by the maritime industry, focused primarily on the human cost of piracy, rather than the economic. If a ransom ban was endorsed and such payments became illegal under international law, then obviously any crews that were held captive at the time, or any crews that were kidnapped in the future would be at risk with any payment refusal by their shipping company. As cited by the thirteenth Communique although, such a ban was never enacted due to the dramatic decrease of Somali piracy by 2012 (“Archive,” 2014, 13<sup>th</sup> Communique and European Union Institute for Security Studies, 2014, p. 60).

Lastly, the tracking and recovering of ransom money by the CGPCS Group for Disrupting Pirate Networks Ashore was pursued by such processes and outcomes including the World Bank's entitled, "Pirate Trails: Tracking the Illicit Financial Flows from Piracy off the Horn of Africa." The key findings of this report included the acknowledgement that ransom money from Somali piracy was, contrary to popular belief, invested back into the pirate industry, thus continuing the vicious business cycle. Furthermore, most financial transactions occurred using Somali's unique money transfer systems which utilized hard-to-trace cellular phone wire transfers. Additional funds which were not invested back into piracy, were often invested into other criminal pursuits such as human trafficking or the drug-trade involving the sale of Somali khat, a powerful stimulant (Roos et al., 2013, Key Findings).

In order to combat such difficulties, the CGPCS Group for Disrupting Pirate Networks Ashore is continuing to develop regional capacity involving the tracking of the cross boarder drug trade and the regulation of re-emerging financial intuitions. For example, the Financial Action Task Force was founded at the G7 Summit in 1989 of which its objectives are:

*"To set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. (as cited in Oceans Beyond Piracy, 2016b, Financial Action Task Force)."*

This task force began motioning Somali piracy in 2011 and has since collaborated with the CGPCS to strengthen its Financial Intelligence Units (FIU's) within Somalia to

provide better contributions during financial investigations (European Union Institute for Security Studies, 2014, p. 61).

*-Impact Evaluation*

Critically evaluated, the impact of the CGPCS Group for Disrupting Pirate Networks Ashore was quite positive, though it is still ongoing. Perhaps the most constructive aspect of the Group will be its positive residual effect it has on the rebuilding of industry infrastructure within Somalia. Essentially, the CGPCS Group for Disrupting Pirate Networks Ashore's primary goal is to attack the business model of piracy. While pursuing this offensive, although, the Group is, by default, rebuilding critical industry and energy capabilities ultimately drawing back private investors to the country which will benefit Somalia in the long-term.

Additionally, the emphasis on the prosecution of pirate leaders attacks Somali piracy at its core. In collaboration with the Legal Forum of the CGPCS, continued strides are being made by the CGPCS Group for Disrupting Pirate Networks Ashore to benefit not only counterpiracy operations off the Horn of Africa, but to also combat maritime piracy around the world. For example, the United Nations Interregional Crime and Justice Research (UNICRI) database documents decisions of courts in regards to piracy and provides further legislative assistance to prosecutors researching maritime crime (Oceans Beyond Piracy, 2016a, CGPCS). Perhaps the only criticism of the CGPCS Group for Disrupting Pirate Networks Ashore would be its delayed establishment, as overall the Group has added a most important contribution in attempting to disrupt Somali piracy at its origins.



## CHAPTER 5: COMPREHENSIVE SWOT ANALYSIS



**Figure 5-SWOT Diagram 2 (self-constructed)**

### *Strengths*

The CGPCS and its five subsequent Working Groups have various strengths which have allowed it to be an effective and multidimensional intervention strategy to fight piracy off the coast of Somalia. Firstly, the CGPCS's greatest strength was revealed to be its multidimensional nature. The power to draw insight from various actors including militaries, NGOs, private industry experts, and regional partners has been the

invaluable hallmark of the CGPCS since its inception. This distinct aspect of CGPCS separates it from most intervention strategies in that it is both short and long term.

Incorporation of joint-military operations such as EU NAVFOR, allowed for the CGPCS to act as an interventionist in to Somalia piracy in the short term, though it recognized the unsustainable aspect of such a strategy. For example in 2011, 1.27 billion US\$ were spent on naval operations by the international community. Furthermore in the same year, 2.7 billion Dollars were spent on increasing ships speed to avoid attacks, with another 1.16 billion dollars spent on the physical security of ships (Kane-Hartnett & Madsen, 2013). The CGPCS knew such costs were unsustainable, and thus efforts were made to a long term time horizon. This multidimensional atmosphere allowed the emergence of an ongoing consensus among participants leading to a comprehensive strategy.

Related to the above example, the second strength is a simple cost analysis. In 2012, a report from Oceans Beyond Piracy estimated the indirect costs of Somali piracy to be between US\$ 5.1 and US\$ 6.1 billion (as cited in European Union Institute for Security Studies, 2014, p. 56). Measured against a World Bank estimation of US\$ 18 billion global cost for piracy (of which Somali-related represents the overwhelming majority), the savings are approximately triple the cost. Although military intervention has initial high costs, a policy without naval operations would, in the long term, potentially cost significantly more. For example in 2012, military operations cost approximately US\$ 1.2 billion (Bellish, 2012, p. 1). This is significantly less than the economic cost of piracy; the ongoing successful suppression by the CGPCS will continue to be cost effective and bring the losses down. See chart:

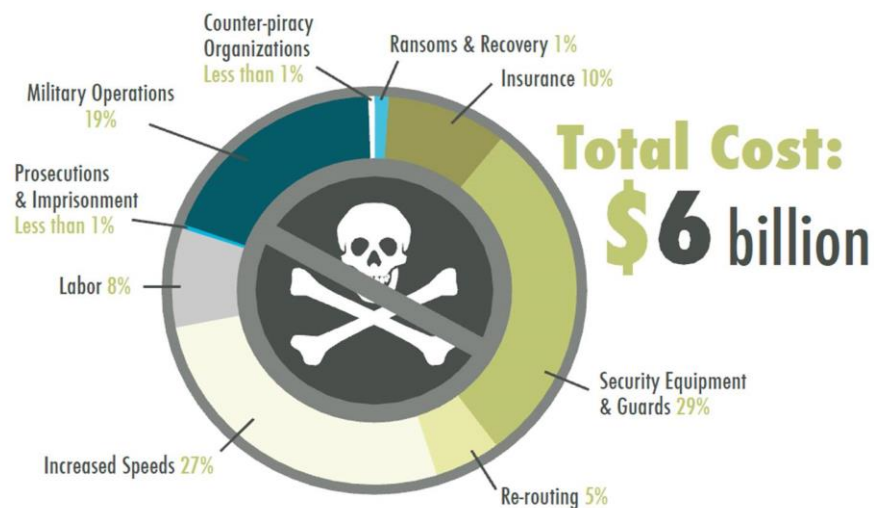


Figure 6-Piracy Cost Diagram (2012, p. 1)

Finally, the participants of the CGPCS designed its mandate to be flexible, disbanding only when it achieved its goal to assist in the rebuilding of Somalia through the eradication of Somali piracy. With the achievement of this goal in sight, the CGPCS is not handcuffed to a preemptive date—like the American military’s exit from Iraq was predetermined to December 2011 by the Bush Administration in 2004—but, instead, has been allowed to achieve its goal of suppressing Somali piracy (Al Jazeera, 2010).

*Weaknesses*

An inherent weakness of the CGPCS, particularly at its inception, was the length of time required to achieve consensus on goals and coordinate outcomes. With the rise of Somali piracy in 2005, the meeting to organize the CGPCS was not coordinated until 2008 and only realistically began engaging in its efforts a year later (“Archive,” 2014). Given the World Bank’s estimate of US\$ 18 billion cost of piracy per year and the Somali crisis’s overwhelming percentage in the first year of the CGPCS operations, the four year delayed start resulted in tens of billions of dollars being lost prior to any concerted action. See map:



Figure 7-Piracy Map Diagram (Rampell, 2009)



Additionally, the inherent multidimensional aspect of military intervention could not be plausibly shared equally among state stakeholders of the CGPCS. Specifically, western navies such as the United States, Great Britain, and Italy supplied the majority of warships and firepower, raising the possibility of neocolonial or imperialist appearances being exploited by violent non-state actors such as Al-Shabaab. Thus, the most effective tactics may not have been utilized for fear of seeming disproportionate. Similarly, establishment of permanent or semi-permanent militarized bases on mainland Somalia may have been avoided due to past failures such as the “Black Hawk Down” incident which has become indicative of the UNISOM II failure.

Lastly, the *ad hoc* nature of the CGPCS strongly implies that upon its completion, it will dissolve. Thus, the years of experience gained toward consensus building and cooperation by otherwise rivals (such as the American and Chinese navies or military structures and humanitarian NGOs) would be lost. International momentum for future regional cooperation will evaporate forcing all participants, even if many were stakeholders to the CGPCS, to start anew (Bueger, 2016).

### *Opportunities*

The CGPCS’s formation was influenced by the existing transnational intervention strategy in Southeast Asia, the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) (2016). However, ReCAAP was only multilateral—purely state-based—whereas the CGPCS was truly multidimensional with its diverse membership. Thus, the CGPCS’s success and framework could be

applied back to ReCAAP showing the inclusion of other actors including both NGO's and the private sector. Similarly, useful lessons from the CGPCS's success may influence attempts to ease the ongoing Libyan and/or Syrian failing states.

Furthermore, regional states such as Kenya, Djibouti, and the Seychelles served as key participants in curbing piracy off the Horn of Africa demonstrating appropriate participation by small states in regional capacity building. The CGPCS could serve as a potential model for small-state participation in regional problem solving such as climate change, drug interdiction efforts, and human smuggling issues. Given the failure of various global, top-down initiatives such as UNISOM I and II, the enhanced role of small-state actors and limited objectives makes success more attainable.

Finally, the utility of the United Nations has been enhanced by its endorsement of the CGPCS rather than its adoption of the initiative as one of its official functions. Previous disastrous UN missions such as the genocidal acts in Rwanda or the introduction of cholera to Haiti by UN peacekeeping troops besmirched the institutions reputation when it was actually trying to protect people (Barnett, 1997, p. 552 and Tappero & Tauxe, 2011, p. 9). Modulating its role appropriately and knowing its own limitations is a pathway for the UN to restore an effective role. It has shown that it can be less responsible by endorsing the multidimensional structure of the CGPCS while not seeking full oversight; the UN achieved its desire to do good while not causing additional suffering.

### *Threats*

Threats to the CGPCS may lie in external political considerations rearing favorable throughout the course of its mission. The reversal of political leadership in the domestic politics of any of its stakeholders leaves the CGPCS vulnerable to disengage abruptly. American elections can see the overturning of political commitments made by one administration at the direction of a subsequent one. For example, the reversal of American policy towards Vietnam in 1975 as informed by the Church Committee on FBI Intelligence led to an abrupt abandonment of long standing international policy commitments (Johnson, 2004, p. 5).

A second threat is the ever-present possibility of mission creep. While arguably successful examples of this tendency in international affairs exist, the previous American failures in Somalia—most relevantly UNISOM I and II—form a sharp contrast. For example, proponents of the UN's mission in Darfur have endorsed the evolution of an initial humanitarian mission into an improved security initiative, meeting with some clear successes (Appiah-Mensah, 2006, p. 3). A more problematic example is the evolution of intervention in Haiti. The deployment of American and French military troops to end disorder there following President Aristide's 2004 exile grew into a formal UN peacekeeping role that currently has begun engaging in nation-building activities. With no exit strategy and a list of UN-sponsored mistakes, the well-intended Hattian initiative's success questionable. The CGPCS's unusual discipline demonstrated by hewing closely to its original mission may mislead subsequent well-intended parties to undertake a future program that becomes unmanageable.

Perhaps the most onerous threat to CGPCS is the appearance of total success. The statistical present-day collapse of Somali piracy and the pending dissolution of the CGPCS does not guarantee that Somali piracy may not reemerge in the near future. The survival of violent non-state actors such as Al-Shabaab in the face of continual state suppression may promote the reemergence of a hardened pirate remnant in collaboration with transnational terrorist organizations such as ISIS/ISIL or Al-Qaeda. If this were to occur, there is no guarantee that the CGPCS could be reformed or that their multidimensional structure would be effective again.

## CHAPTER 6: CONCLUSION

The logic model coupled with the SWOT analysis indicate the clear success of the CGPCS in meeting its articulated goals and objectives. However each Working Group demonstrated its own level of success, ranging from the Legal Forum of the CGPCS's celebrated establishment of a counterpiracy legal framework to the modest achievement of the CGPCS Group for Raising Public Awareness and its subsequent cessation. The decline in successful acts of piracy off the coast of Somalia and in the western Indian Ocean serves as a testament to utilizing a multidimensional approach within a transnational intervention strategy.

However, various factors specific to the piracy off the Horn of Africa crisis shaped the likelihood of success for the CGPCS. The history of international failure to successfully intervene in Somalia—UNISOM I and II—within the recent past constrained goals and prevented the gradual expansion of the CGPCS's responsibilities. Additionally, the lopsided cost analysis strongly favored military expenditures when contrasted with economic losses across the globe; a condition usually not found in strictly humanitarian interventions.

Furthermore, the political will to form a collaborative multidimensional framework was fortunately present. Each category of constituency—including western military powers, small regional states, NGOs, private sector stakeholders, and the

transnational organizations (such as the UN)—benefitted from the CGPCS’s creation and successful operation. The CGPCS was contingent upon the absence of any recognized political threat that could responsibly oppose the global community.

While it is appropriate to praise the many good works of the CGPCS and apply the effective lessons supporting multidimensional transnational intervention strategies, recognizing their limited applicability to wider global concerns or intensely localized concerns (such as global warming or Haitian development). Nonetheless the achievements of The *Contact Group on Piracy off the Coast of Somalia* should be viewed as genuine because they responded to transnational threat appropriately.

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David Lanigan graduated from Christian Brothers High School in 2007. He received both his Bachelor of Arts and Master of Business Administration from Christian Brothers University in 2011 and 2014 respectively. In 2015 after living overseas for a year, He received his Masters of Arts in Mediterranean Security from the University of Malta and his Masters of Science in Conflict Analysis and Resolution from George Mason University.